

NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by first submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for making, amending, or repealing any rule. (A.R.S. §§ 41-1013 and 41-1022)

NOTICE OF PROPOSED RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 23. BOARD OF PHARMACY

PREAMBLE

- 1. Sections Affected**

	<u>Rulemaking Action</u>
R4-23-110	Amend
R4-23-205	Amend
R4-23-301	Amend
R4-23-302	Amend
R4-23-303	Amend
R4-23-304	Amend
R4-23-305	Amend
- 2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statutes: A.R.S. § 32-1904(A)(1) and (5) and (B)(7) and (10)
Implementing statutes: A.R.S. §§ 32-1923, 32-1924(C), 32-1925(A), (B), (C), and (E)(2), and 32-1926(A) and (C)
- 3. A list of all previous notices appearing in the Register addressing the proposed rule:**

Notice of Rulemaking Docket Opening: 6 A.A.R. 4758, December 22, 2000
- 4. The name and address of agency personnel with whom persons may communicate regarding the rule:**

Name: Dean Wright, Compliance Officer
Address: Board of Pharmacy
4425 W. Olive Ave., Suite 140
Glendale, AZ 85302
Telephone: (623) 463-2727, ext. 131
Fax: (623) 934-0583
E-mail: rxcop@qwest.net
- 5. An explanation of the rule, including the agency's reasons for initiating the rule:**

Beginning in May of 1994, discussions within the agency centered on what to do with pharmacy intern preceptors. Before 1985, the Board issued pharmacy intern preceptor wall certificates. Since 1986 the Board has issued no preceptor wall certificates and has had no formal preceptor approval or recognition procedure. Basically the Board has not enforced any standards for pharmacy intern preceptors or monitored preceptor's practices. Existing rule R4-23-302 mentions a pharmacy intern preceptor application, but no such form exists. A docket was opened in March of 1995 to draft proposed rules for interns and pharmacy intern preceptors. The draft rule has experienced many changes involving input from pharmacists, educators, and the agency. The proposed rule is a result of that effort. A lack of agreement between the Board, both Arizona colleges of pharmacy and interested pharmacists and other rulemaking priorities resulted in the automatic termination of the docket in August 1999 and again in November 2000. A new docket was opened on December 22, 2000. The rule addresses format, style, and grammatical changes necessary

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under the current Administrative Procedure Act and other necessary language changes to provide a clear, concise, and understandable document.

The rule amends the definition of “supervision” in R4-23-110 by adding the term “graduate intern” and specific reference to supervision relating to intern training. Existing rule defines the pharmacy intern fee of \$10.00 in R4-23-205(E)(1)(b). The proposed rule increases the fee to \$20.00 for initial licensure and \$20.00 for licensure renewal. The pharmacy intern wall certificate fee of \$10.00 in subsection R4-23-205(E)(1)(b) is repealed and the issuance of a wall certificate is included with initial licensure. The increase in fee is necessary to provide a rapid licensure process. R4-23-301 addresses intern licensure, and under the Administrative Procedure Act, any licensing activity requires implementing time-frame rules. However, the APA allows an agency to forego establishing separate time-frame rules, if the time-frame is seven days or less. Board staff determined that a licensure time-frame of less than seven days was possible and desirable. The intern fee has not been increased in over 20 years. The new fee which includes a wall certificate will offset the increased staff time to quickly process intern applications and the increase in postage necessary to comply with the under seven days time-frame. Other changes to R4-23-301 address the prerequisites for licensure as a pharmacy intern and graduate intern, experiential training, and notification of training.

The heading of R4-23-302 is amended to read: Training Site and Pharmacy Intern Preceptors. In addition to necessary format, style, and grammar changes, R4-23-302 is amended to establish the qualifications and requirements of an intern training site and establish the qualifications, privileges, and responsibilities of a pharmacy intern preceptor.

R4-23-303 is amended by adding necessary format, style, and grammar changes.

The proposed rule amends R4-23-304 to add the designation “graduate intern” where applicable and deletes the preceptor’s final report. Quarterly intern training report requirements are established in subsection (B).

The rule amends R4-23-305 by adding necessary citations to other Sections and other necessary format, style, and grammar changes.

The Board believes that approval of these rules will benefit the public health and safety by establishing clear standards governing pharmacy interns, graduate interns, and pharmacy intern preceptors. The Board further believes that regulation and enforcement are necessary to produce confident, well-trained pharmacists.

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

Not applicable

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

Not applicable

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

The principal impact will be on pharmacy interns, graduate interns, and pharmacies. The majority of the changes to the rule do not have any economic impact, but rather provide more clear, concise, and understandable language.

For pharmacy interns and graduate interns, the main economic impact is the increase in licensure fee. This small increase of \$10.00 to an already small fee is offset by the benefit of almost immediate licensure. This allows an intern to start work almost immediately, thus increasing the intern’s income. By being able to work several days earlier than before, the intern can earn back several times the increased cost of the licensure fee. Under existing rule, the initial cost of intern licensure was \$10 for licensure fee and \$10 for wall certificate fee or a total initial cost of \$20, and the total cost of intern licensure renewal was \$10 for the licensure fee. The proposed rule imposes a total initial intern licensure cost of \$20 and involves no actual fee increase over existing rule. The proposed rule imposes a \$10 fee increase for renewal of an intern license over existing rule. There has been no increase in the intern licensure fee in over 20 years, and the Board does not feel this small increase is outrageous or burdensome. Under the Administrative Procedure Act, any licensing activity requires implementing time-frame rules. However, the APA allows an agency to forego establishing separate time-frame rules, if the time-frame is seven days or less. Board staff determined that a licensure time-frame of less than seven days was possible and desirable. The small increase in renewal fee will offset the increased staff time to quickly process intern applications and the increase in postage necessary to comply with the under seven day time-frame.

The rule has no economic impact on pharmacy intern preceptors. It just clarifies the preceptor’s qualifications, privileges, and responsibilities.

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The citizens of Arizona will benefit from minimum standards of training for pharmacists that should produce more confident newly licensed pharmacists.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Dean Wright, Compliance Officer
Address: Board of Pharmacy
4425 W. Olive Ave., Suite 140
Glendale, AZ 85302
Telephone: (623) 463-2727, ext. 131
Fax: (623) 934-0583
E-mail: rxcop@qwest.net

10. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

Comments may be written or presented orally. Written comments must be received by 5:00 p.m., Monday, September 17, 2001. An oral proceeding is scheduled for:

Date: September 17, 2001
Time: 10:00 a.m.
Location: 4425 W. Olive Ave., Suite 140
Glendale, AZ 85302

A person may request information about the oral proceeding by contacting the person listed in item #9.

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

Not applicable

12. Incorporations by reference and their location in the rules:

None

13. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 23. BOARD OF PHARMACY

ARTICLE 1. ADMINISTRATION

Section
R4-23-110. Definitions

ARTICLE 2. PHARMACIST REGISTRATION

Section
R4-23-205. Fees

ARTICLE 3. INTERN TRAINING AND PHARMACY INTERN PRECEPTORS

Section
R4-23-301. ~~General~~ Intern Licensure
R4-23-302. ~~Training place~~ Site and Pharmacy Intern Preceptors
R4-23-303. Training Time
R4-23-304. Reports
R4-23-305. Miscellaneous Intern Training Provisions

ARTICLE 1. ADMINISTRATION

R4-23-110. Definitions

“Supervision” means a pharmacist is present, assumes legal responsibility, and has direct oversight of activities relating to acquiring, preparing, distributing and selling prescription medications by pharmacy interns, graduate interns, pharmacy technicians, or certified pharmacy technicians and when used in connection with the intern training requirements shall mean that, in a pharmacy where intern training occurs, a pharmacy intern preceptor assumes the primary responsibility of teaching the intern obtaining practical experience during the entire period of such training.

ARTICLE 2. PHARMACIST REGISTRATION

R4-23-205. Fees

- A. Licensure fees:**
1. Pharmacist:
 - a. Initial licensure [Prorated according to A.R.S. § 32-1925(B)]: \$110.
 - b. Licensure renewal: \$110.
 2. Pharmacy or graduate intern:
 - a. Initial licensure [prorated according to A.R.S. § 32-1925(B)]: \$4020.
 - b. Licensure renewal: \$20.
- B. Reciprocity fee:** \$300.
- C. Examination fees:**
1. AZPLEX:
 - a. Initial: \$100.
 - b. Retake: \$50.
 2. NAPLEX: specified by and made payable to NABP according to R4-23-202(B)(4).
- D. Vendor permit fees (Resident and nonresident):**
1. Pharmacy: \$300 biennially. (Including community, hospital, and limited service.)
 2. Drug wholesaler or manufacturer:
 - a. Manufacturer: \$1000 biennially.
 - b. Full service drug wholesaler: \$1000 biennially.
 - c. Nonprescription drug wholesaler: \$500 biennially.
 3. Drug packager or repackager: \$1000 biennially.
 4. Nonprescription drug, retail:
 - a. Category I (30 or fewer items): \$100 biennially.
 - b. Category II (more than 30 items): \$200 biennially.
 5. Compressed medical gas distributor: \$200 biennially.
 6. Compressed medical gas supplier: \$100 biennially.
- E. Other Fees:**
1. Wall certificate.
 - a. Pharmacist: \$20.
 - b. ~~Pharmacy intern: \$10.~~
 - e-b. Relief pharmacist: \$10.
 2. Duplicate of any Board-issued license, registration, certificate, or permit: \$10.
 3. Certification of electronic security system: \$25.
- F. Fees are not refunded under any circumstances except for the Board’s failure to comply with its established licensure or permit time-frames under A.R.S. § 41-1077.**
- G. Penalty fee.** Renewals submitted after expiration date are subject to penalty fees as provided in A.R.S. § 32-1925.

ARTICLE 3. INTERN TRAINING AND PHARMACY INTERN PRECEPTORS

R4-23-301. General Intern Licensure

- A. ~~In general: Registration as a pharmacy intern may only be granted by the Board so the applicant may obtain practical experience in the practice of pharmacy. Registration as a pharmacy intern shall not be granted beyond the time necessary to complete the minimum practical experience as a pharmacy intern, as required by R4 23 303(A), unless such permission is specifically granted by the Board. Licensure as a pharmacy intern or graduate intern is for the purpose of complementing the didactic education in preparation for licensure as a pharmacist. Request for special consideration or treatment relating to intern licensure shall be presented in person to the Board at an open meeting.~~**
- B. The prerequisites for licensure as a pharmacy intern are:**
1. Current enrollment, in good standing, in a Board-approved college or school of pharmacy; or
 2. Graduation from a non-Board-approved college or school of pharmacy; and

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3. Present proof that the applicant received:
 - a. A passing score on a preliminary equivalency examination approved by the Board; or
 - b. Acceptance to take a preliminary equivalency examination approved by the Board; or
4. By order of the Board.
- C.** If a pharmacy intern licensee stops attending pharmacy school classes before graduation, the licensee shall surrender the pharmacy intern license no later than 30 days after the date of the last attended class. A student re-entering a pharmacy program shall reapply for licensure as a pharmacy intern.
- D.** The prerequisites for licensure as a graduate intern are:
 1. Graduate from a Board-approved college or school of pharmacy, and
 2. Apply for licensure as a pharmacist by examination or reciprocity, or
 3. By order of the Board.
- ~~**B.E.**~~ Practical experience: ~~Experiential training.~~ Practical experience in intern training activities shall include, but not be limited to, the activities and services encompassed by the term "practice of pharmacy" as defined in A.R.S. § 32-1901, pertaining to drugs devices and medical care: distribution, dispensing, manufacturing, providing information, monitoring, modifying, keeping records, making reports and experience in clinical pharmacy.
- ~~**C.E.**~~ Out-of-state experience: ~~experiential training.~~ Practical experience in intern training received in a state other than Arizona may be allowed by the Board if in the opinion of the Board the requirements of the state in which the experience was received are equal to the minimum standards for intern training in Arizona. The applicant seeking out-of-state pharmacy internship for such credit in intern training shall furnish a transcript certified copy of the records of intern training from the Board of Pharmacy of the state in which the experience was obtained or the recognized intern licensing agency of another jurisdiction or in a jurisdiction without a recognized intern licensing agency, the director of the applicant's Board-approved college or school of pharmacy's experiential training program.
- ~~**D.G.**~~ Management required to verify intern's qualifications: ~~The An~~ owner, manager, or pharmacist-in-charge shall not permit a person to act as a pharmacy or graduate intern until there has been verification ~~the~~ owner, manager, or pharmacist-in-charge has verified that the person is currently registered licensed by the Board as a pharmacy or graduate intern.
- E.** Registration: An applicant for registration as a pharmacy intern shall not be approved until the applicant shall have been accepted for registration in an accredited college of pharmacy.
- ~~**F.H.**~~ Intern application: An applicant for registration licensure as a pharmacy intern or graduate intern shall:
 1. Ensure that the applicant's college or school of pharmacy provides documentation of the applicant's current enrollment or graduation; and
 2. File an application on a form furnished by the Board, that includes:
 - a. Applicant's name, address, mailing address, if different, telephone number, and social security number;
 - b. Name and address of college or school of pharmacy attending or attended, degree anticipated or received, and anticipated date or date of graduation;
 - c. Whether the applicant has ever been convicted of an offense involving moral turpitude, a felony offense, or any drug-related offense or has any currently pending felony or drug-related charges, and if so, indicate charge, conviction date, jurisdiction, and location;
 - d. Whether the applicant has ever had an intern license revoked, suspended, or denied in this state or any other jurisdiction, and if so, indicate where and when;
 - e. A recent photograph of the applicant that is no larger than 2-1/2" x 3" with the applicant's signature on the front;
 - f. If the applicant graduated from an unapproved domestic or foreign college or school of pharmacy, a verification of acceptance to take the Foreign Pharmacy Graduate Equivalency Examination (FPGEE) or an original Foreign Pharmacy Graduate Equivalency Committee (FPGEC) Certification document;
 - g. Date signed and applicant's verified signature; and
 - h. The initial licensure fee specified in R4-23-205. If accepted, the applicant shall pay a biennial registration fee prorated from date of registration to June 30 of even-numbered years. The fee is not refunded under any circumstances. The intern certificate shall be kept in good standing by payment of a biennial fee July 1 of even-numbered years, provided, however, the intern training time shall be no longer than six years from the time of enrollment in a college of pharmacy, without providing proof to the Board that he is intending and working toward becoming a pharmacist.
- I.** Licensure. Within seven business days of receipt of a completed application, fees, and other information specified in subsection (H), the Board shall issue a license number and mail a current renewal receipt to an applicant. An applicant who is issued a license number may begin practice as a pharmacy intern or graduate intern. The initial licensure fee shall include the issuance of a wall certificate. The Board Office shall mail the wall certificate within 14 days of issuing the license number.
- ~~**G.I.**~~ License renewal. An intern license shall be kept in good standing by payment of a biennial renewal fee specified in R4-23-205. If a pharmacy intern fails to complete pharmacy education within six years, the intern is not eligible for relicensure as an intern without Board approval according to A.R.S. § 32-1923(E). ~~Failure to pay renewal fee: If the biennial renewal fee is not paid by July 1 November 1 of an even-numbered the renewal year specified in A.R.S. § 32-1925, the~~

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intern registration license is delinquent suspended and a penalty as provided in A.R.S. §§ 32-1925 and 32-1931 is required to vacate the suspension.

H-K. Notification of training:

1. A pharmacy intern who is employed as an intern outside the experiential training program of a Board-approved college or school of pharmacy or a graduate intern shall notify the Board within ten days of starting or terminating training, or changing place of training site, in accordance with A.R.S. § 32-1926(A).
2. The director of a Board-approved college or school of pharmacy's experiential training program shall provide the Board an intern training report as specified in R4-23-304(B)(3).

R4-23-302. Training place Site and Pharmacy Intern Preceptors

A. Training place: To receive credit for intern training hours, a pharmacy or graduate intern shall train in a site that:

1. A pharmacy operating under a pharmacy credit from the Board, employing a pharmacy intern preceptor Holds a valid Arizona pharmacy permit and employs a pharmacy intern preceptor; or
2. Other pharmaceutical specialties, such as wholesale drug companies, drug manufacturers, medical care clinics and others Is an alternative training site established and monitored by a Board-approved college or school of pharmacy or other site, where practical experience in pharmacy may be obtained as listed in subsection (B) of related activities are performed and where interns gain experience as specified in R4-23-301(E).

B. Cancellation of approval of training place: Revocation of training site privileges. The Board may disapprove or cancel approval of revoke a pharmacy, alternative, or other place training site's privilege to train pharmacy or graduate interns if in the opinion of the Board finds that a the pharmacy, alternative, or other place of training training site fails to comply with provide experiential training as specified in subsection (E) or violates state or federal drug laws and regulations law.

C. Pharmacy intern preceptor. To be a pharmacy intern preceptor, a pharmacist shall:

1. A pharmacist who has been actively engaged in the practical experience of pharmacy in Arizona for one year as listed in R4-23-301(B) may make application, on a form to be provided by the Board, to be a pharmacy intern preceptor. Hold a current unrestricted pharmacist license;
2. Have a minimum of one year's experience as an actively practicing pharmacist before acting as a pharmacy intern preceptor;
- 2-3. Receive Board approval before acting as a pharmacy intern preceptor, if the pharmacist Any preceptor applicant who has been found guilty of violations of the laws and regulations pertaining to drugs, devices or poisons, or of gross immorality, shall be eligible as a pharmacy preceptor only by special permission from the Board: violating any federal or state law relating to the practice of pharmacy, drug or device distribution or recordkeeping, or unprofessional conduct; and
4. Hold a faculty position in the experiential training program of a Board-approved college or school of pharmacy; or
5. Receive specific approval as a pharmacy intern preceptor from the Board.

D. Cancellation Revocation of preceptorship privileges. The right to be a pharmacy intern preceptor may be revoked Board may revoke a pharmacy intern preceptor's privilege to train pharmacy or graduate interns if the Board finds that the a pharmacy intern preceptor has failed to comply with fails to provide experiential training as specified in R4-23-301(E) or violates state or federal drug laws and regulations law.

E. Intern to notify Board. An intern must notify the Board when he begins training and when he leaves his training position.

F. Supervision defined: The term "supervision" as used in connection with the intern training requirements shall mean that, in the pharmacy where intern training is being obtained, a pharmacy preceptor shall be in personal contact with, and actually giving instructions to, the intern obtaining practical experience during the entire period of such training.

G-E. Preceptor-intern ratio: The ratio of intern to full-time pharmacy preceptor employed in any Intern Training Place, where more than one intern is employed must not be greater than one intern to each pharmacy preceptor at any one time. A preceptor may train more than one pharmacy intern at different times. Pharmacist-intern ratio. A pharmacy intern preceptor may supervise the training of more than one pharmacy or graduate intern during a calendar quarter. The ratio of pharmacist to intern shall not exceed one pharmacist to two interns except in a noncommunity pharmacy practice setting directed by a Board-approved college or school of pharmacy experiential training program or by specific authority of the Board.

H. Willingness to train interns: Evaluation of training. The owner and pharmacy preceptor in an Intern Training Place shall cooperate with the Board of Pharmacy in developing intern training and shall report to the Board from time to time as requested by the Board on the progress and aptitude of any intern under their supervision.

I-E. Preceptor responsibilities: The Board holds the pharmacy preceptor responsible for the actions of the pharmacy intern he is training. Therefore, the preceptor should determine the degree of skill possessed by the intern and develop a training program whereby the intern will be able to improve upon and develop his ability in the actual practice of pharmacy. A licensed pharmacist acting as a pharmacy intern preceptor assumes the responsibilities of a teacher in addition to those of a pharmacist. A preceptor shall thoroughly review pharmacy policy and procedure with each intern. The Board holds a preceptor responsible for the pharmacy related actions of an intern during the specific training period. A preceptor's role is that of mentor and teacher. A preceptor has a responsibility to give an intern the opportunity for skill development and provide an intern with timely and realistic feedback regarding their progress.

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- ~~J.~~ Sufficient time to instruct: The pharmacy preceptor shall allow sufficient time to instruct the intern in the practical aspects of pharmacy and to review and discuss his progress frequently.
- ~~K.~~ Preceptor continuing education: The preceptor shall continue his own professional education by reading the available pharmacy journals, magazines and other trade publications. He shall also attend seminars, meetings or other functions which may, in the opinion of the Board, be required to remain an informed and competent pharmacy preceptor

R4-23-303. Training time

- A. Training: The minimum hours of internship training required for licensure by examination shall be 1,500 hours, all of which must be accumulated. A pharmacy intern shall accumulate all 1500 hours of internship training after the intern has been enrolled enrolling in a college of pharmacy as prescribed in R4-23-301(D) and after the receiving a Board-issued pharmacy intern license has accepted the intern's application. Time spent in college clinical programs or demonstration projects which have been approved by the Board shall be credited. The Board shall credit a pharmacy intern no more than 500 hours of internship training will be approved for one per calendar quarter. (See R4-23-304 for reports required.)
- B. Start of training and limitation of credit: Practical experience as a pharmacy intern shall be computed from the date of registration as a pharmacy intern. To receive credit as internship training, the practical experience shall be credited only when it has been obtained take place in a pharmacy, alternative, or other place approved and authorized by the Board for training interns training site as specified in R4-23-302(A) and under an approved the supervision of a pharmacy intern preceptor, except for a non-pharmacy site as part of a Board-approved college or school of pharmacy experiential training program. In no event The Board shall credit no more than 500 hours practical experience as a pharmacy or graduate intern be approved for training received in any pharmacy specialty other than an approved intern training place in an alternative training site or other training site specified in R4-23-302(A)(2).

R4-23-304. Reports

- A. Change of employment or mailing address: A pharmacy intern or graduate intern shall notify the Board within ten 10 days of change of employment or mailing address.
- B. Quarterly reports:
 - 1. A pharmacy intern who is a graduate of an unapproved domestic or foreign college or school of pharmacy or a graduate intern shall file on forms supplied by provide the Board quarterly intern training reports of such training for the duration of his training. Such reports A quarterly intern training report shall be filed October 1, January 1, April 1 and July 1 for the preceding quarter, whether the intern was in training or not during the quarter. The A quarterly intern training report reports shall be is delinquent if not received at the Board's office 30 days after being due. The Board will shall write the intern to acknowledge receipt of the reports and notify the intern the remaining hours of training required. A quarterly intern training report shall include:
 - a. Intern's name, address, and license number;
 - b. Training site name and address;
 - c. Pharmacy intern preceptor's name and license number;
 - d. Whether the report is for the 1st quarter (Jan.-Mar.), 2nd quarter (Apr.-June), 3rd quarter (July-Sept.), or 4th quarter (Oct.-Dec.);
 - e. Number of intern training hours per week, specified by week ending date (month, day, year) and total number of intern training hours for the quarter; and
 - f. Date signed and pharmacy intern preceptor's signature verifying that the pharmacy intern preceptor has been actively engaged in the practice of pharmacy for at least 1 year and that the pharmacy intern preceptor supervised the intern training of the pharmacy or graduate intern identified in the quarterly intern training report.
 - 2. A pharmacy intern seeking credit for intern hours received outside an approved college or school of pharmacy's experiential training program shall provide the Board a quarterly intern training report as specified in subsection (B)(1)
 - 3. After graduation and before sitting for the NAPLEX or AZPLEX, a pharmacy intern who is a graduate of a Board-approved college or school of pharmacy shall ensure that the director of the Board-approved college or school of pharmacy's experiential training program provides the Board an intern training report that includes:
 - a. A list of all training sites where training occurred during the entire training program including addresses and telephone numbers;
 - b. The dates and number of training hours experienced, by training site and total;
 - c. The name of the pharmacy intern preceptor, if applicable, for each training site; and
 - d. The date signed and experiential training program director's signature verifying that the pharmacy intern successfully completed the experiential training program.
- ~~C.~~ Preceptor's final report: Upon completion of the year's intern training, the last preceptor under whom this experience was obtained shall file a report describing this training and giving the preceptor's opinion on the ability of the intern to practice pharmacy without supervision. If the preceptor's report is not satisfactory, the Board may require further training before allowing the intern to take the practical examination.

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R4-23-305. Miscellaneous intern training provisions

Experience in lieu of intern training: Intern training is ordinarily only credited for experience gained while training under a pharmacist, or limited credit given for training in wholesale drug companies, drug manufacturers, and other pharmaceutical specialties which may not be under a pharmacist. However, the Board may accept three years' experience as a pharmacist in another jurisdiction as the equivalent of the 1,500 hours of intern training required. To prevent losing a loss of intern hour credit and before beginning training, an intern should ask the Board whether the if a training place is approved and if credit will be given hour credit for hour trained site meets the requirements specified in R4-23-301(E) and R4-23-302(A). Note: Intern training should be practical; research and college studies are not considered that kind of "practical".

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TITLE 15. REVENUE

CHAPTER 10. DEPARTMENT OF REVENUE

GENERAL ADMINISTRATION

PREAMBLE

- 1. Sections Affected**

Article 5	<u>Rulemaking Action</u>
R15-10-501	New Article
R15-10-502	New Section
R15-10-503	New Section

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

Authorizing statute: A.R.S. § 42-1005

Implementing statutes: A.R.S. §§ 42-1103.03, 42-1105, 42-1105.01, 42-1105.02, 42-1125.01

- 3. A list of all previous notices appearing in the Register addressing the proposed rule:**

Notice of Rulemaking Docket Opening: 7 A.A.R. 3491, August 10, 2001

Notice of Rulemaking Docket Opening: 7 A.A.R. 3613, August 17, 2001

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

Name:	Robyn Cotrona, Chief Income Tax Counsel
Address:	Department of Revenue 1600 W. Monroe Phoenix, AZ 85007
Telephone:	(602) 542-4542
Fax:	(602) 542-3258
E-mail:	CotronaR@revenue.state.az.us

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

R15-10-501 supplements the definitions enacted in Chapter 191 of the Laws of 2001. R15-10-502 provides the authorization allowed by the Legislature in A.R.S. § 42-1105(F). R15-10-503 lists the methods by which an electronically filed return of individual income tax may be signed by a taxpayer. The Department is proposing these rules to assist in the administration of the electronic filing program.

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

None

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

Not applicable

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

It is expected that the benefits of the rules will be greater than the costs. The Department will incur the costs associated with the rulemaking process. Taxpayers are not expected to incur any expense with the adoption of these rules. Electronic return preparers may incur minimal cost associated with the recordkeeping requirements of R15-10-502.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Robyn Cotrona, Chief Income Tax Counsel
Address: Department of Revenue
1600 W. Monroe
Phoenix, AZ 85007
Telephone: (602) 542-4542
Fax: (602) 542-3258
E-mail: CotronaR@revenue.state.az.us

10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

Date: September 17, 2001
Time: 10:00 a.m.
Location: Department of Revenue North Valley Office
2902 West Agua Fria Freeway, Suite 1020
Phoenix, AZ 85027
Nature: Public hearing on proposed rulemaking

A person may submit written comments regarding the proposed rulemaking action by submitting the comments no later than 5:00 p.m., September 17, 2001, to the person listed in item #4.

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

None

12. Incorporations by reference and their location in the rules:

None

13. The full text of the rules follows:

TITLE 15. REVENUE

**CHAPTER 10. DEPARTMENT OF REVENUE
GENERAL ADMINISTRATION**

ARTICLE 5. ELECTRONIC FILING PROGRAM

Section

R15-10-501. Definitions
R15-10-502. Recordkeeping Requirements
R15-10-503. Electronic Signatures for Individual Income Tax

ARTICLE 5. ELECTRONIC FILING PROGRAM

R15-10-501. Definitions

In addition to the definitions provided in A.R.S. §§ 42-1103.01, 43-1103.02, 43-1103.03 and 42-1105.02, unless the context provides otherwise, the following definitions apply to this Article and to A.R.S. Title 42, Chapter 2:

1. "Electronic return, statement or other document" means all data entered into a return, statement or other document that is prepared using computer software and is transmitted electronically to the Department.
2. "Electronic return transmitter" includes a person who is part of the chain of transmission of an electronic return, statement or other document from the taxpayer or electronic return preparer to the Department even though the person did

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not receive the transmitted return, statement or other document directly from the taxpayer or electronic return preparer.

R15-10-502. Recordkeeping Requirements

For each electronic return of individual income tax filed with the Department, the electronic return preparer shall keep the documents listed in A.R.S. § 42-1105(F) for 4 years following the later of the return's due date or the date the return was filed with the Department.

R15-10-503. Electronic Signatures for Individual Income Tax

- A.** If a taxpayer electronically signs the taxpayer's federal individual income tax return, the taxpayer may elect to use the electronic signature from the federal return to sign the taxpayer's Arizona individual income tax return. By electing to use the federal electronic signature for the Arizona electronic return, the taxpayer is declaring, under penalties of perjury, that the electronic return is, to the best of the taxpayer's knowledge and belief, true, correct, and complete.
- B.** A taxpayer makes an election under subsection (A) by doing the following:
1. If the taxpayer is preparing the taxpayer's Arizona electronic return, the taxpayer makes the election by signifying the election during the electronic filing process.
 2. If the taxpayer uses an electronic return preparer to prepare the taxpayer's Arizona electronic return, the taxpayer makes the election by:
 - a. Signifying the election during the electronic filing process, or
 - b. Authorizing, in writing on a form prescribed by the Department, the electronic return preparer to make the election on behalf of the taxpayer.
- C.** A taxpayer that does not elect to electronically sign the taxpayer's federal income tax return shall not electronically sign the taxpayer's Arizona electronic return.

NOTICE OF PROPOSED RULEMAKING

TITLE 17. TRANSPORTATION

**CHAPTER 4. DEPARTMENT OF TRANSPORTATION
TITLE, REGISTRATION, AND DRIVER LICENSES**

PREAMBLE

- 1. Sections affected:** R17-4-506
Rulemaking Action: Amend
- 2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
Authorizing statute: A.R.S. § 28-366
Implementing statutes: A.R.S. §§ 28-3051 and 3153(A)(11)
- 3. A list of all previous notices appearing in the Register addressing the proposed rule:**
Notice of Rulemaking Docket Opening: 7 A.A.R. 1779, April 27, 2001
Notice of Recodification: 7 A.A.R. 3477, August 10, 2001
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
Name: George R. Pavia, Department Rules Supervisor
Address: Department of Transportation
Administrative Rules Unit, Mail Drop 507M
3737 N. 7th Street, Suite 160
Phoenix, AZ 85014-5017
Telephone: (602) 712-8446
Fax: (602) 241-1624
E-mail: gpavia@dot.state.az.us
Please visit the ADOT web site to track progress of this rule and any other agency rulemaking matters:
www.dot.state.az.us/about/rules.

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

R17-4-522 is the rule that sets forth the neurological standards for receiving a driver license. This rulemaking action arises from a five-year review report approved by the Governor's Regulatory Review Council on June 23, 2000 (F-00-0603). The Department is planning to update the rule's language for clarity.

Note: Since the initiation of rulemaking on this Section, the agency has recodified Title 17. R17-4-522 was recodified to R17-4-506.

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

None

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

Not applicable

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

This rulemaking will mainly affect people who have neurological disorders and the doctors who will conduct medical examinations to determine if a condition would prevent a person from being able to drive safely. The costs to these groups are expected to be small, especially in comparison to the public safety benefit this rule will provide.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Interested persons may contact the Department official listed in item #4 regarding the economic, small business, and consumer impact statement.

10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

No public hearing is planned for this rulemaking. Oral comments and oral requests for a public hearing may be made Monday through Friday, 8:00 a.m. to 4:30 p.m., at the phone number in item #4. Written comments may also be sent to address in item #4. All comments must be received by 4:30 p.m. on Wednesday, September 19, 2001, at which time the public record will close.

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

None

12. Incorporations by reference and their location in the rules:

None

13. The full text of the rules follows:

TITLE 17. TRANSPORTATION

**CHAPTER 4. DEPARTMENT OF TRANSPORTATION
TITLE, REGISTRATION, AND DRIVER LICENSES**

ARTICLE 5. SAFETY

Section

R17-4-506. Neurological Standards

ARTICLE 5. SAFETY

R17-4-506. Neurological Standards

A. Definitions:

1. "Altered consciousness" means 1 or more of the following conditions:
 - a. The sudden and unanticipated partial or complete loss of awareness,
 - b. Partial or complete loss of mental contact with the environment,
 - c. Sudden confusion,
 - d. The sudden inability to recollect immediate events.
2. "Aura" means a sensation experienced before the onset of a neurological disorder.

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3. ~~“Isolated occurrence” means a single event which a physician concludes with reasonable medical certainty will not recur in the future.~~
4. ~~“Episode” means, in the context of this rule, any incident or segment of time involving altered consciousness and/or loss of body control.~~
4. ~~“Neurological disorder” means a malfunction or disease of the nervous system.~~
5. ~~“Seizure” means a neurological disorder characterized by a sudden alteration in consciousness, sensation, motor control, or behavior, due to an abnormal electrical discharge in the brain.~~

B. Standard:

1. ~~A person shall not be issued or allowed to maintain a driver license, or maintain nonresident driving privileges, if not seizure free for a 3 month period from the date of the most recent occurrence of a seizure.~~
2. ~~Exceptions to the standard:~~
 - a. ~~The seizure was due to a change in anticonvulsant medication ordered by the physician and the physician concludes that seizure control has been established with reasonable medical certainty.~~
 - b. ~~The physician concludes that the seizure was an isolated occurrence and that another seizure is unlikely to occur with reasonable medical certainty.~~
 - c. ~~The physician concludes that seizures are likely to occur or have an established pattern of occurring only during sleep.~~
 - d. ~~The physician concludes that seizures have an established pattern of an aura of sufficient duration to allow an individual to safely and immediately cease operating a motor vehicle upon the onset of the aura.~~

C. Reporting requirements:

1. ~~An applicant who has experienced a seizure within the 3 months immediately prior to the date of application shall submit to a medical examination in accordance with the provisions of R17-4-520.~~
2. ~~A licensee who experiences a seizure shall make a report to the Department pursuant to the provisions of R17-4-520(D)(3).~~
3. ~~The medical examination shall set forth the following:~~
 - a. ~~Age at onset of seizures, diagnosis, and history.~~
 - b. ~~Aftereffects of seizures.~~
 - c. ~~EEG findings, if any.~~
 - d. ~~Description, cause, frequency, duration, and date of most recent seizure.~~
 - e. ~~Current medications, including dosage, side effects, and serum level.~~
 - f. ~~Whether the seizure meets any of the exceptions set forth in subsections (B)(2)(a) through (B)(2)(d) herein.~~
4. ~~Persons experiencing seizures shall be required to submit follow-up medical examination reports to the Department within 1 year of the seizure, or a shorter time if recommended by the physician.~~

A. Definitions:

1. “Aura” means a sensation experienced before the onset of a neurological disorder.
2. “Department” means the Arizona Department of Transportation, Motor Vehicle Division.
3. “Medical examination report” means a summary of the results of a medical examination that includes the following information:
 - a. Age at onset of seizures, diagnosis, and history.
 - b. Aftereffects of seizures.
 - c. EEG findings, if any.
 - d. Description, cause, frequency, duration, and date of most recent seizure.
 - e. Current medications, including dosage, side effects, and serum level.
 - f. The physician’s medical opinion as to whether or not the neurological disorder will affect the person’s ability to operate a motor vehicle. A neurological disorder does not affect a person’s ability to operate a motor vehicle if any of the following are true:
 - i. Any seizure occurring within the last three months was due to a change in anticonvulsant medication ordered by a physician and whether or not seizure control after the change in medication has been established with reasonable medical certainty.
 - ii. Any seizure occurring within the last three months was a single event which a physician concludes with reasonable medical certainty will not recur in the future.
 - iii. If the seizures are likely to occur or have an established pattern of occurring only during sleep.
 - iv. If the seizures have an established pattern of an aura of sufficient duration to allow an individual to safely and immediately cease operating a motor vehicle upon the onset of the aura.
4. “Neurological disorder” means a malfunction or disease of the nervous system.
5. “Seizure” means a neurological disorder characterized by a sudden alteration in consciousness, sensation, motor control, or behavior, due to an abnormal electrical discharge in the brain.

B. Driver licence application

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1. A person who has had a seizure in the three months prior to applying for a driver license shall have a medical examination as provided in R17-4-520.
 2. After the medical examination, the person or the person's physician shall submit a medical examination report to the Department.
 3. The Department shall not issue a driver license to a person if the medical examination report shows the person has a neurological disorder that affects the person's ability to operate a motor vehicle.
- C.** A person with a driver license or non-resident driving privileges who experience a seizure shall:
1. Have a medical examination as provided in R17-4-520 and submit a medical examination report to the Division.
 2. Have a follow-up medical examination within one year after the occurrence of the seizure or within a shorter time as recommended by a physician.
 3. After each medical examination, the person or the person's physician shall submit a medical examination report to the Department.
- D.** The Division shall revoke a person's driver license or nonresident driver privileges if the medical examination report shows the person has a neurological disorder that affects the person's ability to operate a motor vehicle.

NOTICE OF PROPOSED RULEMAKING

TITLE 18. ENVIRONMENTAL QUALITY

CHAPTER 9. DEPARTMENT OF ENVIRONMENTAL QUALITY

WATER POLLUTION CONTROL

PREAMBLE

<u>1. Sections Affected</u>	<u>Rulemaking Action</u>
Article 9	New Article
Part A	New Part
R18-9-A901	New Section
R18-9-A902	New Section
R18-9-A903	New Section
R18-9-A904	New Section
R18-9-A905	New Section
R18-9-A906	New Section
R18-9-A907	New Section
R18-9-A908	New Section
R18-9-A909	New Section
R18-9-A910	New Section
Part B	New Part
R18-9-B901	New Section
R18-9-B902	New Section
R18-9-B903	New Section
R18-9-B904	New Section
R18-9-B905	New Section
R18-9-B906	New Section
R18-9-B907	New Section
Part C	New Part
R18-9-C901	New Section
R18-9-C902	New Section
R18-9-C903	New Section
R18-9-C904	New Section
Article 10	Amend
R18-9-1001	Amend
R18-9-1002	Amend
R18-9-1003	Amend
R18-9-1004	Amend
R18-9-1005	Amend
R18-9-1006	Amend
R18-9-1007	Amend

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R18-9-1008	Renumber
R18-9-1008	New Section
R18-9-1009	Renumber
R18-9-1009	New Section
R18-9-1009	Amend
R18-9-1010	Renumber
R18-9-1010	New Section
R18-9-1010	Amend
R18-9-1011	Renumber
R18-9-1011	New Section
R18-9-1011	Amend
R18-9-1012	Renumber
R18-9-1012	New Section
R18-9-1012	Amend
R18-9-1013	Renumber
R18-9-1013	New Section
R18-9-1013	Amend
R18-9-1014	Renumber
R18-9-1014	New Section
R18-9-1014	Amend
R18-9-1015	New Section
R18-9-1015	Amend
Appendix A	Amend

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

Authorizing statutes: A.R.S. §§ 49-203, 49-255.01(B), 49-255.02(A), 49-255.03(A)

Implementing statutes: A.R.S. §§ 49-255.01, 49-255.02, 49-255.03

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

Notice of Recodification: 7 A.A.R. 2522, June 15, 2001

Notice of Rulemaking Docket Opening: 7 A.A.R. 2777, June 29, 2001

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

Name: Shirley J. Conard

Address: Department of Environmental Quality
3033 N. Central Avenue, M0401A-422
Phoenix, AZ 85012-2809

Telephone: (602) 207-4632 (Metro-Phoenix area) or 1-800-234-5677, extension 4632 (other areas)

Fax: (602) 207-4674

E-mail: conard.shirley@ev.state.az.us

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

This rulemaking implements HB2426, passed in the 2001 legislative session, by establishing an Arizona Pollutant Discharge Elimination System (AZPDES) program that is consistent with but not more stringent than the NPDES program and the requirements of sections 402(b) (state permit programs) and 402(p) (municipal and industrial storm-water discharges) of the Clean Water Act. The rules also include requirements consistent with section 307(b) (toxic and pretreatment effluent standards) and requirements for the control of discharges consistent with sections 318 (aquaculture) and 405(a) (disposal and use of sewage sludge).

Background

The National Pollutant Discharge Elimination System (NPDES) program has achieved significant reductions in pollutant discharges since it was established by the Federal Water Pollution Control Act Amendments of 1972. The development of this permitting program has, in turn, resulted in tremendous improvement to the quality of this country's water resources.

Twenty-five years ago, only a third of the nation's waters were safe for fishing and swimming. Wetland losses were estimated at 460,000 acres annually. Agricultural runoff resulted in the erosion of two and a quarter billion tons of soil and the deposit of large amounts of phosphorus and nitrogen into many waters. Sewage treatment plants served only 85 million people.

Over the last 25 years, the quality of rivers, lakes, and bays has improved dramatically as a result of the cooperative efforts by federal, state, tribal, and local governments and communities to implement the public health and pollution control programs. Today, two-thirds of the nation's surveyed waters are safe for fishing and swimming. Wetland losses are estimated at 70,000 to 90,000 acres annually. The amount of soil lost due to agricultural runoff has been reduced by one billion tons annually, and phosphorus and nitrogen levels in water sources have decreased. The number of people served by modern wastewater treatment facilities has more than doubled to 173M people.

After the initiation of the Water Pollution Control Act in 1948, which focused on protection of human health rather than the environment, Congress passed the Water Quality Act of 1965. This Act represented a major regulatory advance in water pollution control by requiring states to develop water quality standards for interstate waters. The Water Quality Act also called for states to develop wasteload allocations to quantify pollutant loadings that could be discharged without exceeding the water quality standards. Only about half of the states developed water quality standards by 1971 and enforcement of the federal legislation was minimal because the regulatory agencies had to prove that pollutant loadings had an impact on human health or violated water quality standards in order to take action. Additionally, there were no criminal or civil penalties to enforce the regulation.

The lack of success in developing water quality standards, along with the growing concern about the environment, prompted the President to form the United States Environmental Protection Agency (EPA) in 1970 to enforce environmental compliance and consolidate federal pollution control activities.

In November 1972, Congress passed a comprehensive remodification and revision of the federal water pollution control law, known as the Federal Water Pollution Control Act Amendments of 1972, marking a distinct change in the philosophy of water pollution control in the United States. The Amendments maintained the requirements for water quality-based controls, but added an equal emphasis on technology-based, or end-of-pipe, control strategies. The goals of these Amendments were:

- To eliminate the discharge of pollutants into navigable waters by 1985;
- By July 1, 1983, achieve water quality that provides for the protection and propagation of fish, shellfish, and wildlife, and for recreation in and on the water; and
- Prohibit the discharge of toxic pollutants in toxic amounts.

The Federal Water Pollution Control Act Amendments contained four other important principles:

1. The discharge of pollutants to navigable waters is not a right;
2. A discharge permit is required to use public resources for waste disposal and limits the amount of pollutants that may be discharged;
3. Wastewater must be treated with the best treatment technology economically achievable, regardless of the condition of the receiving water; and
4. Effluent limits must be based on treatment technology performance, but more stringent limits may be imposed if the technology-based limits do not prevent violations of water quality standards in the receiving water.

Evolution of the NPDES Program

Title IV, Permits and Licenses, of the Federal Water Pollution Control Act created the system for permitting wastewater discharges known as the National Pollutant Discharge Elimination System (NPDES). Under NPDES, all facilities that discharge pollutants from any point source into waters of the United States are required to obtain a permit. The permit provides two levels of control: technology-based limits (based on the ability of dischargers in the same industrial category to treat wastewater) and water quality-based limits (if technology-based limits are not sufficient to provide protection of the receiving waterbody).

When the first round of permits was developed, there were no nationally uniform effluent limits for removal of traditionally regulated pollutants. Rather than a corps of professionals combining their expertise to set national limits for an industry, a single permit writer developed discharge limits based on knowledge of the industry and the specific discharge.

The 1977 Amendments to the Clean Water Act shifted the emphasis from controlling “conventional” pollutants to controlling toxic discharges. Eventually 126 pollutants and classes of pollutants were listed in 40 CFR 401.15 as *priority pollutants*. The Clean Water Act recognized that the technology-based limits were not always able to prevent the discharge of toxic substances in toxic amounts in all waterways. The EPA initiated a national policy in February 1984 to control toxics based on a water quality approach. On February 4, 1987, Congress amended the Clean Water Act with the Water Quality Act of 1987 which outlined a strategy to accomplish the goal of meeting water quality standards set by states.

EPA has estimated about 30 percent of known pollution to our nation’s waters is attributable to stormwater runoff. The Water Quality Act also established schedules for industrial and municipal stormwater discharges to be regulated by NPDES permits. In addition to meeting water quality-based standards, industrial stormwater discharges must meet the equivalent of Best Available Technology Economically Achievable (BAT) and Best Conventional Pollutant Control Technology (BCT) effluent quality standards. Discharges from municipal separate storm sewer systems (MS4s) are required to have controls to reduce pollutant discharges to the “maximum extent practicable.”

Under the NPDES program, all facilities that discharge *pollutants* from any *point source* into *waters of the United States* are required to obtain an NPDES permit. Understanding how each of the key terms (“pollutant,” “point source,” and “waters of the United States”) have been defined and interpreted by the regulations is the key to defining the scope of the NPDES Program.

Pollutant

The term *pollutant* is defined very broadly by the NPDES regulations and litigation and includes any type of industrial, municipal, and agricultural waste discharged into water. For regulatory purposes, pollutants have been grouped into three general categories under the NPDES Program: *conventional*, *toxic*, and *non-conventional*. There are five *conventional pollutants*: (1) Five-day biochemical oxygen demand (BOD₅), (2) Total suspended solids (TSS), (3) pH, (4) Fecal coliform, and (5) Oil and grease (O&G). *Toxic pollutants*, or *priority pollutants*, are those defined in section 307(a)(1) of the Clean Water Act and include metals and manmade organic compounds. *Non-conventional pollutants* are those that do not fall under either of the previous categories, and include parameters such as ammonia, nitrogen, phosphorus, chemical oxygen demand (COD), and whole effluent toxicity (WET).

Point source

Pollutants can enter waters of the United States from a variety of pathways including agricultural, domestic, and industrial sources. For regulatory purposes these sources are generally categorized as either *point sources* or *non-point sources*. Typical *point source* discharges include discharges from publicly owned treatment works (POTWs), discharges from industrial facilities, and discharges associated with stormwater runoff. While provisions of the NPDES program do address certain specific types of agricultural activities such as concentrated animal feeding operations, (CAFOs), the majority of agricultural facilities are defined as *non-point sources* and are exempt from NPDES regulation.

Pollutant contributions to waters of the United States may come from both *direct* and *indirect* sources. *Direct* sources discharge wastewater directly into the receiving waterbody, whereas *indirect* sources discharge into a POTW, which in turn discharges into the receiving waterbody. Under the national program, NPDES permits are issued only to direct point source dischargers. Industrial and commercial indirect dischargers are addressed by the National Pretreatment Program.

The primary focus of the NPDES permitting program is municipal and non-municipal (industrial) direct discharges. Within these major categories of dischargers, however, there are a number of more specific types of discharges that are regulated under the NPDES Program.

Municipal sources are POTWs that receive primarily domestic sewage from residential and commercial customers. Larger POTWs will also typically receive and treat wastewater from industrial facilities (indirect dischargers) connected to the POTW sewage system. The types of pollutants treated by a POTW will always include conventional pollutants, and may include non-conventional pollutants and toxic pollutants depending on the unique characteristics of the commercial and industrial sources discharging to the POTW.

Non-municipal sources, which include industrial, mining, and commercial facilities, are unique with respect to the products and processes present at the facility. Unlike municipal sources, at non-municipal facilities the types of raw materials, production processes, treatment technologies used, and pollutants discharged vary widely and are dependent on the type of industry and specific facility characteristics.

Waters of the United States

EPA defines the term *waters of the United States*, to include:

- Navigable waters;
- Tributaries of navigable waters;
- Interstate waters; and
- Intrastate lakes, rivers, and streams which are:
 - Used by interstate travelers for recreation and other purposes;
 - Sources of fish or shellfish sold in interstate commerce; or
 - Used for industrial purposes by industries engaged in interstate commerce.

This definition has been interpreted to include virtually all surface waters in the United States, including wetlands and ephemeral streams. As a general matter, groundwater is not considered a water of the United States; therefore, discharges to groundwater are not subject to NPDES requirements.

NPDES Program Areas

The NPDES program includes provisions that address several different types of discharges from municipal and non-municipal sources.

Process and Non-Process Wastewater Discharges

Direct discharges are regulated by permits. Permit conditions are developed depending on the source of the water, the treatment technology and the receiving water.

The treatment provided by POTWs typically includes physical separation and settling such as screening, grit removal, and primary settling; biological treatment such as trickling filters and activated sludge; disinfection such as chlorination, UV, and ozone; and solid treatment processes such as centrifuge dewatering or sodium hydroxide sludge conditioning. These processes produce the treated effluent (wastewater) and a biosolids (processed sewage) residual, which is managed under the Municipal Sewage Sludge Program. A number of municipalities have MS4s that are also subject to NPDES requirements.

The operations at industrial facilities are generally carried out within a clearly defined plant area; thus, the collection systems are typically less complex than those for POTWs. In addition, industrial facilities may have stormwater discharges contaminated by manufacturing activities, contact with raw materials or product storage activities, and may have non-process wastewater discharges such as non-contact cooling water.

Municipal Stormwater Program

EPA has determined that stormwater runoff from major metropolitan areas is a significant source of pollutants discharged to waters of the United States. While rainfall and snow are natural events, the nature of runoff and its impact on receiving waters is highly dependent on human activities and use of the land. Runoff from lands modified by human activities such as metropolitan areas, can affect surface water resources in two ways: (1) natural flow patterns can be modified, and (2) pollution concentrations and loadings can be elevated.

To address these discharges, the 1987 Amendment to the Clean Water Act added a provision that directed EPA to establish NPDES requirements for stormwater discharges. Section 402(p) of the Clean Water Act identifies discharges covered under the Stormwater Program, includes discharges associated with industrial activity and from MS4s serving a population of 100,000 or more, and identifies the standards for MS4 permits. These standards mark the significant difference in permits that address stormwater discharges from MS4s versus permits that address other more traditional sources such as POTWs and non-municipal sources.

EPA regulations addressing stormwater discharges define an MS4 as any conveyance or system of conveyances that is owned or operated by a state or local government entity designed for collecting and conveying stormwater. Under Phase I of the Stormwater Program, only those MS4s that served a population of 100,000 or more were required to apply for an NPDES permit. Unlike permits that are developed and issued to individual POTWs, permits that address stormwater discharges from MS4s may be issued on a jurisdiction-wide basis to the operator of the stormwater collection system such as a county or city public works department.

The term MS4 does not solely refer to municipally-owned storm sewer systems, but rather is a term of art with a much broader application that can include, in addition to local jurisdictions, state departments of transportation, uni-

versities, local sewer districts, hospitals, military bases, and prisons. An MS4 also is not always just a system of underground pipes – it can include roads with drainage systems, gutters, and ditches.

Any MS4 covered by an automatic nationwide federal designation, or designated by the Department on a case-by-case basis as contributing to the impairment of a receiving waterbody, must establish a stormwater discharge management program that (1) reduces the discharge of pollutants to the “maximum extent practicable,” (2) protects water quality, and (3) satisfies the appropriate water quality requirements of the Clean Water Act.

The operators are required to submit:

- Best management practices for each of the following six minimum control measures:
 1. Public education and outreach on stormwater impacts,
 2. Public participation/involvement,
 3. Illicit discharge detection and elimination,
 4. Construction site stormwater runoff control,
 5. Post-construction stormwater management in new development and redevelopment, and
 6. Pollution prevention/good housekeeping for municipal operations.
- Measurable goals for each minimum control measure;
- Estimated months and years in which actions to implement each measure will be undertaken, including interim milestones and frequency; and
- The person or persons responsible for implementing or coordinating the stormwater program.

The program allows for a great deal of flexibility in how an operator of a regulated small MS4 is authorized to discharge under an AZPDES permit, by providing various options for obtaining permit coverage and satisfying the required minimum control measures.

In addition, the Phase I permit for MS4s requires larger cities to develop a stormwater management program, track and oversee industrial facilities regulated under the NPDES stormwater program, conduct some monitoring, and submit periodic reports.

The second phase of the stormwater program (Phase II, which is effective in 2003), expands the existing program to include discharges of stormwater from smaller municipalities in urbanized areas and from construction sites that disturb between one and five acres of land. (An urbanized area (UA) is a land area comprising one or more places – central place(s) and the adjacent densely settled surrounding area – urban fringe – that together have a residential population of at least 50,000 and an overall population density of at least 1,000 people per square mile. It is a calculation used by the Bureau of the Census to determine the geographic boundaries of the most heavily developed and dense urban areas.) Certain sources may be excluded from the national program based on a demonstrable lack of impact on water quality. The program also allows other sources not automatically regulated on a national basis to be designated for inclusion based on increased likelihood for localized adverse impact on water quality.

Phase II requires operators of small MS4s and small construction sites in urban areas to control polluted stormwater runoff, and reduce the negative impacts to water quality and aquatic habitat by controlling the sources of stormwater discharges. Phase II establishes a cost-effective approach for reducing environmental harm caused by stormwater discharges from unregulated point sources.

Once the official 2000 Census listings are published by the Bureau of the Census, (August 2001) operators of small MS4s located within the revised boundaries of former 1990 UAs, or in any newly defined 2000 UAs, become regulated small MS4s and must develop a stormwater management plan. Once a small MS4 is designated into the Phase II stormwater program based on the UA boundaries, it cannot be waived from the program if in a subsequent UA calculation the small MS4 is no longer within the UA boundaries. An automatically designated small MS4 will remain regulated unless, or until, it meets the criteria for a waiver.

National Pretreatment Program.

The national pretreatment program regulates the discharges of wastewater from non-domestic (industrial and commercial) facilities that discharge to POTWs (indirect discharges). The pretreatment program requires industrial and commercial indirect dischargers to “treat” their wastes, as necessary, before discharging to POTWs, to prevent interference or upset to the operation of a POTW. The federal program also requires many indirect dischargers to meet

technology-based requirements similar to those for direct dischargers. The pretreatment program is generally implemented directly by the POTW receiving indirect discharges, under authority granted through the NPDES permit. The federal regulations specifying which POTWs must have pretreatment programs, and authorities and procedures that must be developed by the POTW before program approval are found in 40 CFR 403. The implementation of a local pretreatment program is typically included as a special condition in NPDES permits issued to POTWs.

Municipal Sewage Sludge Program.

Section 405 of the Clean Water Act requires that all NPDES permits issued to POTWs and other treatment works treating domestic sewage contain conditions implementing 40 CFR 503, standards for the use and disposal of sewage sludge. POTWs and other treatment works treating domestic sewage must submit permit applications for their sludge use or disposal practices. Treatment works treating domestic sewage include sewage sludge incinerators, sewage sludge surface disposal sites, and facilities that do not discharge to waters of the United States (sludge-only facilities such as sludge composting facilities that treat sewage sludge).

Combined Sewer Overflows.

Combined sewer systems (CSS) are wastewater collection systems designed to carry sanitary wastewaters (commercial and industrial wastewaters) and stormwater through a single conduit to a POTW. As of 1995, CSSs serve about 43 million people in approximately 1,100 communities nationwide. During dry weather, CSSs collect and convey domestic, commercial, and industrial wastewater to a POTW; however, during periods of rainfall or snowmelt, these systems can become overloaded. When this occurs, the CSS overflows at designated relief points, discharging a combination of untreated sanitary wastewaters and stormwater directly to a surface waterbody. These overflows, called combined sewer overflows (CSOs), can be a major source of water pollution in communities served by CSSs. CSOs often contain high levels of suspended solids (SS), pathogenic microorganisms, toxic pollutants, floatables, nutrients, and other pollutants, causing exceedances of water quality standards. There are no CSSs in Arizona.

Industrial Stormwater Program

In addition to the development of effluent limits and conditions for discharges of process and non-process wastewater from direct dischargers, the NPDES program also includes provisions for control of stormwater discharges from industrial sources.

All stormwater discharges associated with industrial activity that discharge through MS4s or that discharge directly into the waters of the United States are required to obtain NPDES permit coverage, including those that discharge through MS4s located in municipalities with a population of less than 100,000. Discharges of stormwater to a sanitary sewer system or to a POTW are excluded.

EPA regulations define stormwater discharges associated with industrial activity as discharges from any conveyance used for collecting and conveying stormwater directly related to manufacturing, processing, or raw materials storage areas at an industrial plant. The following 11 industrial categories require an NPDES permit for stormwater discharges:

1. Facilities subject to stormwater effluent limitations guidelines, new source performance standards, or toxic pollutant effluent standards under 40 CFR, Subchapter N;
2. Certain heavy manufacturing facilities such as lumber, paper, chemicals, petroleum refining, leather tanning, stone, clay, glass, concrete, and ship construction;
3. Active and inactive mining operations and oil and gas operations with contaminated stormwater;
4. Hazardous waste treatment, storage, or disposal facilities, including Resource Conservation and Recovery Act (RCRA) Subtitle C facilities;
5. Landfills, open dumps, and RCRA Subtitle D facilities;
6. Recycling facilities, including metal scrapyards, battery reclaimers, salvage yards, and automotive junkyards;
7. Steam electric power generating facilities, including coal handling sites
8. Transportation facilities that have vehicle maintenance shops, equipment cleaning operations, or airport deicing operations;
9. Major POTW sludge handling facilities, including onsite application of sewage sludge;
10. Construction activities that disturb five acres or more; and

11. Light industrial manufacturing facilities.

The program conditionally excludes stormwater discharges from industrial facilities that have “no exposure” of industrial activities or materials to stormwater. The person responsible for a point source discharge from a “no exposure” industrial source must meet the conditions of the “no exposure” exclusion, and complete, sign, and submit the certification to the Department for tracking and accountability purposes.

The “no exposure” provision makes stormwater discharges from all classes of industrial facilities eligible for exclusion, except stormwater discharges from regulated construction activities. Regulated construction activities cannot claim “no exposure” because the main pollutants of concern such as sediment, generally cannot entirely be sheltered from stormwater.

The “no exposure” provision provides a simplified method for complying with the Clean Water Act for all industrial facilities that are entirely indoors. This includes facilities that are located within a large office building, or at which the only items permanently exposed to precipitation are roofs, parking lots, vegetated areas, and other non-industrial areas or activities. Stormwater discharges from parking lots, roof tops, lawns, and other non-industrial areas are not directly regulated because they are not “stormwater discharges associated with industrial activity.”

Types of Permits

A permit is typically a license for a facility to discharge a specific amount of a pollutant into a receiving water under certain conditions; however, permits may also authorize facilities to process, incinerate, landfill, or beneficially use biosolids. The two basic types of NPDES permits issued are individual and general permits.

Individual Permits

An individual permit is a permit specifically tailored to an individual facility. Once a facility submits the appropriate application, the Department develops a permit for that particular facility based on the information contained in the permit application such as type of activity, nature of discharge, and receiving water quality. The Department issues the permit to the facility for a specific time period (not to exceed five years) with a requirement that the facility reapply before the expiration date.

The Individual Permit is used when the general permit requirements do not accurately represent the activity at their facility and a permit is customized to the site. An individual permit may be necessary if the Limitations on Coverage section of the general permit does not allow the facility’s discharge to be covered within the general permit. For example, if the stormwater discharge from the facility adversely affects an endangered species, an individual permit is required.

General Permits

A general permit covers multiple facilities within a specific category. General permits offer a cost-effective option for the Department because of the large number of facilities that can be covered under a single permit. 40 CFR 122.28, states that general permits may be written to cover categories of point sources having common elements such as:

- Stormwater point sources;
- Facilities that involve the same or substantially similar types of operations;
- Facilities that discharge the same type of waste or engage in the same types of sludge use or disposal practices;
- Facilities that require the same effluent limits, operating conditions, or standards for sewage sludge use or disposal; and
- Facilities that require the same or similar monitoring.

General permits, however, may only be issued to dischargers within a specific geographical area such as city, county, or state political boundaries; designated planning areas; sewer districts or sewer authorities; state highway systems; standard metropolitan statistical areas; or urbanized areas.

EPA offers the following general permits for Arizona dischargers:

1. The Concentrated Animal Feeding Operations General Permit,
2. The Construction General Permit, and
3. The Multi-Sector General Permit.

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Concentrated Animal Feeding Operations (CAFOs). Animal feeding operations are agricultural facilities that confine feeding activities, thus concentrating animal populations and manure. Animal waste, if not managed properly, can run off farms and pollute nearby waterbodies. Agricultural runoff has been linked to dangerous toxic microorganisms such as *Pfiesteria piscicida*, which is widely believed to be responsible for major fish kills and disease events in several mid-Atlantic states.

Existing EPA regulations, issued in the 1970s, required discharge permits for the largest animal feeding operations (about 6,600 out of 450,000 total facilities nationwide). However, EPA acknowledged that compliance and enforcement of these permit rules was poor and that the regulations themselves are outdated. For example, they do not reflect changed waste management practices or address the need for management plans dealing with land application of manure.

EPA Region 9 developed a general permit for discharges from CAFOs in Arizona that was published in the *Federal Register* at 66 FR 38266, July 23, 2001. The permit is effective on August 27, 2001. CAFOs needing a permit that do not qualify for general permit coverage will need to apply for an individual permit.

Construction. Stormwater discharges generated during construction activities can cause an array of physical, chemical, and biological water quality impacts. Specifically, the biological, chemical, and physical integrity of the waters may become severely compromised. Water quality impairment results, in part, because a number of pollutants are preferentially absorbed onto mineral or organic particles found in fine sediment. The interconnected process of erosion (detachment of the soil particles), sediment transport, and delivery is the primary pathway for introducing key pollutants, such as nutrients (particularly phosphorus), metals, and organic compounds into aquatic systems.

Stormwater runoff from construction sites can include pollutants other than sediment, such as phosphorous and nitrogen, pesticides, petroleum derivatives, construction chemicals, and solid wastes that may become mobilized when land surfaces are disturbed. Generally, properly implemented and enforced construction site ordinances effectively reduce these pollutants. In many areas, however, the effectiveness of ordinances in reducing pollutants is limited due to inadequate enforcement or incomplete compliance with local ordinances by construction site operators.

The operator of the construction site as with any operator of a point source discharge, is responsible for obtaining coverage under an NPDES permit. The operator could be the owner, the developer, the general contractor, or individual contractor. When responsibility for operational control is shared, all operators must apply.

In addition, in 2003, operators of regulated small MS4s will be required to develop, implement, and enforce a pollutant control program to reduce pollutants in any stormwater runoff from construction activities that result in land disturbance of one or more acres. Construction activity on sites disturbing less than one acre must be included in the program if the construction activity is part of a larger common plan of development or sale that would disturb one acre or more. (A larger common plan of development or sale means a contiguous area where multiple separate and distinct construction activities are planned to occur at different times on different schedules under one plan such as a housing development of five 1/4 acre lots.) The construction runoff control program of the regulated small MS4 must include an ordinance or other regulatory mechanism to require erosion and sediment controls to the extent practicable and allowable under law. The program must also include, at a minimum: requirements for construction site operators to implement appropriate erosion and sediment control BMPs such as silt fences, temporary detention ponds and diversions; procedures for site plan review by the small MS4 that incorporate consideration of potential water quality impacts; requirements to control other waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site that may adversely impact water quality; procedures for receipt and consideration of information submitted by the public to the MS4; and procedures for site inspection and enforcement of control measures by the small MS4.

EPA's construction general permit regulates the discharge of stormwater associated with construction activity on five or more acres (Phase 1). Smaller municipalities and construction sites that disturb at least one acre but less than five acres are expected to be regulated under other general permits.

Multi-Sector General Permit. The key issue in developing a workable regulatory program for controlling pollutants in stormwater discharges associated with industrial activity is the proper use and coordination of limited regulatory resources. This is especially important when addressing the appropriate role of municipal operators of large and medium MS4s in the control of pollutants in stormwater associated with industrial activity which discharges through MS4s.

The Multi-Sector General Permit authorizes stormwater discharges associated with industrial activity. It consists of generic requirements plus industry-specific requirements, including information concerning the specific types of operations that are present at the different types of industrial facilities, potential sources of pollutants at the facilities,

industry-specific best management practices that are available, and monitoring data from the different type of facilities.

The volume and quality of stormwater discharges depend on the industrial activities occurring at the facility, the nature of the precipitation, and the degree of surface imperviousness. Industrial plants can control or reduce pollutants in stormwater discharges by eliminating pollution sources, implementing best management practices to prevent pollution, using traditional stormwater management practices, and providing end-of-pipe treatment.

Permitting Process

The primary focus of the process wastewater NPDES permitting program is municipal/domestic and non-domestic (industrial) direct dischargers. The sources of pollutants and the type of discharger determines the type of application form and information needed.

While the limits and conditions in an individual NPDES permit are unique to the permittee, the process used to develop the limits and conditions and issue the permit generally follows a common set of steps. The order of these steps may vary depending on whether the permit is an individual or general permit.

Individual Permits

The major steps for developing and issuing an individual NPDES permit are:

1. Receive application from permittee;
2. Review application for completeness and accuracy;
3. Request additional information as necessary;
4. Develop technology-based effluent limits using application data and other sources;
5. Develop water quality-based effluent limits using application data and other sources;
6. Compare water quality-based effluent limits with technology-based effluent limits and choose the more stringent of the two as the effluent limits for the permit;
7. Develop monitoring requirements for each pollutant;
8. Develop special conditions;
9. Develop standard conditions;
10. Consider variances and other applicable regulations;
11. Prepare the fact sheet, summarizing the principal facts and the significant factual legal, methodological and policy questions considered in preparing the draft permit including public notice of the draft permit, and other supporting documentation;
12. Publish notice of the draft permit;
13. Analyze public comments;
14. Complete the review and issuance process;
15. Issue the final permit;
16. Ensure permit requirements are implemented.

General Permits

The process for developing and issuing general NPDES permits is similar to the process for individual permits, however, there are certain differences in the order of events. EPA first identifies the need for a general permit by collecting data demonstrating that a group, or category, of dischargers has similarities that warrant a general permit. In deciding whether to develop a general permit, the Department considers the following:

- Are there a large number of facilities to be covered?
- Do the facilities have similar production processes or activities?
- Do the facilities generate similar pollutants?
- Do only a small percentage of the facilities have the potential for violations of water quality standards?

The remaining steps of the permit process are the same as for individual permits. The Department develops the draft permit and fact sheet, issues a public notice, addresses public comments, documents the issues for the administrative record, and issues the final permit. After the general permit has been issued, facilities that wish to be covered under the general permit generally submit a Notice of Intent (NOI) to the Department. The Department may then either request additional information describing the facility, notify the facility that it is covered by the general permit, or require the facility to apply for an individual permit.

Watershed Planning

EPA and the Department have been focusing on implementing water quality programs on a watershed basis. The goal is to integrate the Department's regulatory, monitoring, permitting, and planning efforts with other government agencies and with the needs of communities within the watershed.

The Department divided the state along the natural watershed boundaries and is focusing resources on a rotational basis throughout those watersheds. Working closely with the local communities, the Department is conducting a detailed assessment of the water quality in the watershed. Over the course of a watershed cycle, problems and concerns are identified, prioritized, and developed into a plan to address them. At the end of the cycle, another detailed assessment will determine the success of the effort, identify new issues and begin again.

An important aspect of the watershed management process is scheduling permitting activities at the appropriate time in the cycle. EPA and the Department are gaining insight into the best ways to refine the NPDES program to incorporate water quality information into NPDES permitting decisions based on a watershed analysis and to engage local leadership in planning for pollution control of both point and nonpoint sources. Since 1996, EPA and the Department have tried to coordinate the renewal of NPDES permits with the watershed rotation schedule. Adherence to this schedule depends on programmatic factors including prioritization of total maximum daily loads (TMDLs), local issues, and EPA commitments.

Roles and Responsibilities of the Federal and State Authorities

EPA is authorized under the Clean Water Act to directly implement the NPDES program. EPA, however, may authorize states, territories, or tribes to implement all or parts of the national program. States, territories, or tribes applying for authorization may seek the authority to implement the base program such as issuing individual NPDES permits for industrial and municipal sources, and additional parts of the national program including:

- Permitting of federal facilities,
- Administering the National Pretreatment Program, and
- Administering the Municipal Sewage Sludge Program.

In general, once a state, territory, or tribe is authorized to issue permits or administer a part of the program, EPA no longer conducts these activities. However, EPA has an opportunity to review each permit issued by the state, territory, or tribe and may formally object to elements that conflict with federal requirements. Once a permit is issued through a government agency, it is enforceable by the approved state, territorial, tribal and federal agencies (including EPA) with legal authority to implement and enforce the permit, and also enforceable by private citizens (in federal court).

AZPDES Program

Arizona is one of only six states that have not obtained EPA approval to implement the NPDES program. To secure primacy, Arizona must demonstrate it has appropriate statutory authority to administer the program, rules to implement the program, and a Memorandum of Agreement with EPA on how the program will be managed, including financial and technical resources.

HB 2426, passed in the 2001 legislative session, adds a new article (3.1) in Chapter 2, of Title 49 authorizing a state NPDES program. This legislation establishes Department authority to adopt rules for an Arizona Pollution Discharge Elimination System (AZPDES) program that is consistent with, but not more stringent than the NPDES program and the requirements of sections 402(b) (state permit programs) and 402(p) (municipal and industrial stormwater discharges) of the Clean Water Act. The legislation also specifies that the program must include requirements consistent with section 307(b) (toxic and pretreatment effluent standards) and requirements for the control of discharges consistent with sections 318 (aquaculture) and 405(a) (disposal and use of sewage sludge) of the Clean Water Act. (A.R.S. § 49-255.01(B).)

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The legislation provides the authority to adopt rules for a pretreatment program consistent with sections 307 (toxic and pretreatment effluent standards), 308 (records and reports, inspections), and for a sludge program consistent with sections 402 and 405 (disposal or use of sewage sludge) of the Clean Water Act.

The Department is implementing section 405 of the Clean Water Act through its administration of the biosolids rules, which were recodified from 18 A.A.C. 13, Article 15, Land Application of Biosolids, to 18 A.A.C. 9, Article 10, Arizona Pollutant Discharge Elimination System – Disposal, Use, and Transportation of Biosolids. This rulemaking updates this Article by adding R18-9-1008, which contains the management practices and application of biosolids to reclamation sites, prohibiting the incineration of biosolids, specifying the requirements for surface disposal of biosolids, and makes miscellaneous technical and clarifying corrections.

This rulemaking establishes a state program that governs all facilities that discharge pollutants from a point source into navigable waters (waters of the United States). The rules incorporate by reference specific Code of Federal Regulations (CFRs) relating to NPDES program standards; revises and modifies CFR language for clarity and understanding; establishes an application process based on 40 CFR 122 and 40 CFR 124; and establishes a framework whereby both individual and general permits address water quality issues allowing for adjustments based on factors that vary geographically, including climate patterns and terrain. The AZPDES program mirrors the federal NPDES program through its incorporations by reference and the simple rewrite of the applicable regulations.

Permitting Process for General Permits

During the development of the AZPDES permitting program, questions were raised concerning whether any general permits authorized or issued by the Department must be contained in the Department's rules. After a review of relevant statutes, the Department concludes that the general permits themselves need not be in rule, but a process for issuing general permits, which is consistent with procedures required by the Clean Water Act and Arizona law, must be developed in rule.

State law includes Department authority to adopt by rule a permit program for the point source discharge of pollutants into navigable waters, for example, the state program under which Arizona may administer the NPDES permit program required under section 402 of the Clean Water Act, 33 U.S.C. 1342. A.R.S. § 49-203(A)(2). In the 2001 legislative session, HB2426 was adopted which provided additional detailed authority in certain areas such as enforcement. Under the new Article 3.1, the Department may adopt rules to implement the statutory authority, guided by the requirement that the program be consistent with applicable provisions of the Clean Water Act and that any requirement adopted be no more stringent than, or conflict with, any requirement of the Clean Water Act.

Express authority to issue general permits is found in A.R.S. § 49-255.01(C)(1), which provides: “[t]he rules adopted by the Director shall provide for: [i]ssuing, authorizing, denying, modifying, suspending or revoking individual or general permits.” This provision states that the rules shall provide for both types of permits but does not limit how these permits might be issued or authorized. Additional authority is found in A.R.S. § 49-203(A)(7), which authorizes the adoption of discharge limitations and various management and performance standards “by rule or as permit conditions.” Use of the disjunctive “or” means that the legislature has authorized the Department to choose one option or the other, as appropriate and reasonable. Thus, within the statutory guidelines enacted, the Department may issue general permits that are not contained in rules.

The issuance of general permits that are not promulgated as rules is consistent with the practice of the EPA, which is the agency responsible for implementing and enforcing the federal NPDES program. The EPA adopted 40 CFR 122.28, which establishes criteria for coverage and administration of general permits. This rule is applicable to state NPDES programs. Permit conditions applicable to all permits, including general permits, are found in 40 CFR 122.41 and other regulations contain conditions specific to particular categories of discharges and procedures for establishing additional permit conditions to ensure that discharging facilities comply with applicable provisions of the Clean Water Act. The EPA applied these regulations when developing, and issuing by publication, a few general permits, including the Stormwater Discharges From Construction Activities General Permit, 63 CFR 7858, February 17, 1998, and the recently reissued Storm Water Multi-Sector General Permit for Industrial Activities, 65 FR 64746, October 30, 2000. The general permits themselves are not in rule. The Department intends to follow the EPA model for issuing general permits by publication, and therefore, is in compliance with the statutory mandate to adopt, by rule, a permit program that is consistent with the requirements of the Clean Water Act. See A.R.S. § 49-203 (A)(2).

Since the Department has chosen not to establish the general permits in rule, the rulemaking requirements of A.R.S. Title 41, Chapter 6, Articles 3 through 5 do not apply to development and issuance of these permits. Although a general permit is a type of license, the licensing time-frame statutes, A.R.S. §§ 41-1072 through 41-1079, and related Department rules do not apply because a general permit is not issued as a result of an application that requires an administrative completeness review or substantive review.

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The Department believes that the issuance of a general permit is not a rule, and therefore, is not subject to the rule-making process. The point of issuing a general permit is to provide a speedier means of permitting large number of sources and save dischargers and the Department time and effort. A general permit is effective only with respect to those dischargers who choose to be bound by the permit. Thus, unlike the typical rule, the general permit does not impose immediately effective obligations of general applicability. A discharger must choose to be covered by this general permit and so notify the Department. A discharger always retains the option of obtaining an individual permit. Relatedly, the terms of the general permit are enforceable only against dischargers who choose to make use of the permit.

Specific general permits are not covered in this rulemaking, however, the process for developing and issuing a general permit is. The process establishes public participation requirements so that a wide range of parties are notified of the draft general permit. The Department hopes that many dischargers will make use of a general permit. Because the Clean Water Act requires the Department to provide an opportunity for "a hearing" before issuance of a permit, the Department, in R18-9-C901(B), provides the public with notice of a draft general permit and an opportunity to comment on it. From public comments, the Department will learn how to better craft a general permit to make it appropriate for, and acceptable to, the largest number of potential permittees. This same process also provides an opportunity for the Department to consider the potential impact of general permit terms on small entities and how to craft the permit to avoid any undue burden on small entities. This process, however, is voluntary, and does not trigger rulemaking.

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

None

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

Not applicable

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

From the 1948 Water Pollution Control Act to the 1977 Clean Water Act to the Water Quality Act of 1987, the NPDES permitting program evolved from environmental legislation to control water quality degradation. Improvements to the quality of water in this country can be directly linked to the implementation of the NPDES program and the control of pollutants discharged from both municipal and non-municipal point sources into navigable waters (waters of the United States). Individual and general permits set technology-based and water quality-based effluent limits to maintain environmental standards than ensure safe water for the enjoyment of all.

I. Estimated Costs and Benefits to State Agencies.

Arizona Department of Environmental Quality.

Currently the Department assists EPA with the NPDES program by developing draft permit language and conditions, assisting with technical assistance and outreach efforts, conducting certain inspections, and offering limited compliance assistance. The Department also reviews final draft permits to certify that the permit conditions protect state water quality standards. Arizona currently has 155 individually permitted facilities and more than 6000 general permitted facilities.

The Department has 10 federally funded FTEs to provide assistance for the NPDES program. An additional nine FTEs were approved as part of the Department's FY 02-03 budget appropriations. These new positions will provide the Department with the resources necessary to fully operate the program and implement the final permitting and enforcement functions currently performed by EPA.

Additionally, the integration of all Clean Water Act efforts and activities in Arizona ensures protection of its rivers, streams, washes, and lakes.

Other State Agencies.

This rulemaking completes the EPA requirements for state management of the federal NPDES program and does not impose more stringent requirements upon regulated entities.

State agencies such as Department of Corrections, Game and Fish Department, State Parks, that are subject to NPDES program requirements will benefit from faster processing of applications and having to submit applications and monthly reporting data to the Department instead of both the Department and EPA.

II. Estimated Costs and Benefits to Political Subdivisions.

This rulemaking completes the EPA requirements for state management of the federal NPDES program and does not impose more stringent requirements upon regulated entities.

Political subdivisions will benefit from faster processing of applications and having to submit applications and monthly reporting data to the Department instead of both the Department and EPA.

III. Costs and Benefits to Businesses Directly Affected By the Rulemaking.

This rulemaking completes the EPA requirements for state management of the federal NPDES program and does not impose more stringent requirements upon regulated entities.

Businesses will benefit from faster processing of applications and having to submit applications and monthly reporting data to the Department instead of both the Department and EPA.

IV. Reduction of Impacts to Small Business.

This rulemaking incorporates most of the NPDES program requirements by reference. Only the permit application process and portions of the program that make the permitting process easier to understand are offered in rule language.

There are no new or additional financial burdens on small businesses. Currently small businesses do not pay for an NPDES permit and A.R.S. § 49-255.01(J) specifies that “. . .the department shall not charge a fee to issue, deny, modify, suspend or revoke a permit under this Article or to process permit applications.” Therefore, a permit will remain free of charge after Arizona gains primacy.

V. Estimated Costs and Benefits to Consumers and the Public.

This rulemaking continues the federal NPDES program and does not impose requirements or enforcement upon consumers or the public.

VI. Estimated Costs and Benefits to State Revenues.

This rulemaking has no impact on state revenues.

Requirements of § 41-1035.

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

HB2426, passed in the 2001 legislative session, specifies that the AZPDES program shall be consistent with but not more stringent than the NPDES program and the requirements of sections 402(b) (state permit programs) and 402(p) (municipal and industrial stormwater discharges) of the Clean Water Act. The legislation also specifies that the program must include requirements consistent with section 307(b) (toxic and pretreatment effluent standards) and requirements for the control of discharges consistent with sections 318 (aquaculture) and 405(a) (disposal and use of sewage sludge). (A.R.S. § 49-255.01(B).) The Department will continue to apply any flexibility that the federal program allows.

2. **Establish less stringent compliance or reporting schedules or deadlines for small businesses.**

The AZPDES program provides flexibility in setting reporting schedules and where necessary compliance schedules. The Department will take into account many factors such as the amount of the discharge, the characteristics of the discharge and the characteristics of the receiving water to determine the appropriate reporting schedule for individual permits. In addition, the Clean Water Act, provides less stringent compliance and reporting schedules for stormwater discharges from small businesses.

3. **Consolidate or simplify the rule’s compliance and reporting requirements for small businesses.**

Consolidation and simplification of the AZPDES program has been achieved for most, if not all, small business applicants with the development of the general permits issued by EPA. Most general permits require minimal monitoring requirements and no reporting requirements. This rulemaking establishes a process for the Department to follow to develop additional general permits that will benefit small businesses.

4. **Establish performance standards for small businesses to replace design and operational standards.**

The NPDES program is primarily a “performance-based” program. The performance targets are dependant on a variety of factors including the characteristics of the receiving water. This rulemaking develops a process for developing general permits. Most general permits will contain performance standards in addition to or in lieu of effluent limita-

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tions. If an applicant's activity qualifies for a general permit, the applicant should expect to experience an easy permitting process and simplified compliance activities.

5. Exempt small businesses from any or all requirements of the rule.

The facilities exempted from this program are listed under R18-9-A902(D). It is neither legal nor feasible to exempt any other discharging facility from the requirements of this rulemaking.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Shirley J. Conard
Address: Arizona Department of Environmental Quality
3033 N. Central Avenue, MO401A-422
Phoenix, AZ 85012-2809
Telephone: (602) 207-4632
Fax: (602) 207-4674
E-mail: conard.shirley@ev.state.az.us

10. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

Date: September 17, 2001
Time: 11:00 a.m.
Location: Arizona Game and Fish Department
3500 S. Lake Mary Road
Flagstaff, AZ 86001
Nature: Oral Proceeding

Date: September 18, 2001
Time: 11:00 a.m.
Location: State of Arizona Building
400 West Congress, Room 131
Tucson, AZ
Nature: Oral Proceeding

Date: September 19, 2001
Time: 10:00 a.m.
Location: Arizona Department of Environmental Quality
3033 N. Central Avenue, Room 1710
Phoenix, AZ 85012-2809
Nature: Oral Proceeding

Written comments on the proposed rules or preliminary economic, small business, and consumer impact statement must be received by 5:00 p.m., Thursday, September 20, 2001.

Persons with a disability may request a reasonable accommodation such as a sign language interpreter, by contacting the Department's coordinator, Katie Huebner, at (602) 207-4794 (voice) or 1-800-367-3839 (TDD Relay). Requests should be made as early as possible to allow time to arrange the accommodation.

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

None

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12. Incorporations by reference and their location in the rules:

R18-9-A905(1)(a)	40 CFR 122.7, July 1, 2001 edition
R18-9-A905(1)(b)	40 CFR 122.21 except (a) through (e), and (m) through (o), July 1, 2001 edition
R18-9-A905(1)(c)	40 CFR 122.22, July 1, 2001 edition
R18-9-A905(1)(d)	40 CFR 122.26, except 40 CFR 122.26(c)(2), 40 CFR 122.26(d), and 40 CFR 122.26(e)(2), July 1, 2001 edition
R18-9-A905(1)(e)	40 CFR 122.29, July 1, 2001 edition
R18-9-A905(1)(f)	40 CFR 122.32 through 40 CFR 122.35, July 1, 2001 edition
R18-9-A905(1)(g)	40 CFR 122.62, July 1, 2001 edition
R18-9-A905(2)(a)	40 CFR 122.41 through 40 CFR 122.45, July 1, 2001 edition
R18-9-A905(2)(b)	40 CFR 122.47, July 1, 2001 edition
R18-9-A905(2)(c)	40 CFR 122.48, July 1, 2001 edition
R18-9-A905(2)(d)	40 CFR 122.50, July 1, 2001 edition
R18-9-A905(3)	40 CFR 125, July 1, 2001 edition
R18-9-A905(4)	40 CFR 129, July 1, 2001 edition
R18-9-A905(5)	40 CFR 133, July 1, 2001 edition
R18-9-A905(7)(a)	40 CFR 401, July 1, 2001 edition
R18-9-A905(7)(b)	40 CFR 403 and Appendices A, D, and E, July 1, 2001 edition
R18-9-A905(8)	40 CFR 405 through 40 CFR 471, July 1, 2001 edition
R18-9-A905(9)	40 CFR 503, Subpart C, July 1, 2001 edition
R18-9-B904(A)(3)	40 CFR 122.26(d), July 1, 2001 edition
R18-9-1010(A)	“Environmental Regulations and Technology -- Control of Pathogens and Vector Attraction in Sewage Sludge,” EPA/625/R-92/013, published by the U.S. Environmental Protection Agency, Cincinnati, Ohio 45268, 1999 edition
R18-9-1012(G)	40 CFR 503.8, July 1, 2001 edition

13. Was this rule previously adopted as an emergency rule:

No

14. The full text of the rules follows:

TITLE 18. ENVIRONMENTAL QUALITY

**CHAPTER 9. DEPARTMENT OF ENVIRONMENTAL QUALITY
WATER POLLUTION CONTROL**

ARTICLE 9. ARIZONA POLLUTANT DISCHARGE ELIMINATION SYSTEM

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<u>R18-9-C904.</u>	<u>General Permit Transfer</u>

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ARIZONA POLLUTANT DISCHARGE ELIMINATION SYSTEM

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<u>R18-9-1002.</u>	<u>Applicability and Prohibitions</u>
<u>R18-9-1003.</u>	<u>General Requirements</u>
<u>R18-9-1004.</u>	<u>Applicator Registration, Bulk Biosolids</u>
<u>R18-9-1005.</u>	<u>Pollutant Concentrations</u>
<u>R18-9-1006.</u>	<u>Class A and Class B Pathogen Reduction Requirements</u>
<u>R18-9-1007.</u>	<u>Management Practices and General Requirements</u>
<u>R18-9-1008.</u>	<u>Management Practices, Application of Biosolids to Reclamation Sites</u>
R18-9-1008. <u>R18-9-1009.</u>	<u>Site Restrictions</u>
R18-9-1009. <u>R18-9-1010.</u>	<u>Vector Attraction Reduction</u>
R18-9-1010. <u>R18-9-1011.</u>	<u>Transportation</u>
R18-9-1011. <u>R18-9-1012.</u>	<u>Self-monitoring</u>
R18-9-1012. <u>R18-9-1013.</u>	<u>Recordkeeping</u>
R18-9-1013. <u>R18-9-1014.</u>	<u>Reporting</u>
R18-9-1014. <u>R18-9-1015.</u>	<u>Inspection, Compliance, and Enforcement</u>
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TITLE 18. ENVIRONMENTAL QUALITY

CHAPTER 9. DEPARTMENT OF ENVIRONMENTAL QUALITY

WATER POLLUTION CONTROL

ARTICLE 9. ARIZONA POLLUTANT DISCHARGE ELIMINATION SYSTEM

PART A. GENERAL REQUIREMENTS

R18-9-A901. Definitions

In addition to the definitions established in A.R.S. §§ 49-201 and 49-255, the following terms apply to this Article:

1. "Animal feeding operation" means a lot or facility, other than an aquatic animal production facility, where the following conditions are met:

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- a. Animals, other than aquatic animals, have been, are, or will be stabled or confined and fed or maintained for a total of at least 45 days in any 12-month period; and
- b. Crops, vegetation forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility.
2. “Aquaculture project” means a defined management water area that uses discharges of pollutants into that designated project area for the maintenance or production of harvestable freshwater plants and animals.
3. “Border area” means 100 kilometers north and south of the Arizona-Sonora, Mexico border.
4. “Bypass” means the intentional diversion of waste streams from any portion of a treatment facility.
5. “Concentrated animal feeding operation” means an animal feeding operation that meets the following criteria:
 - a. More than the numbers of animals specified in any of the following categories are confined:
 - i. 1,000 slaughter and feeder cattle,
 - ii. 700 mature dairy cattle (whether milked or dry cows),
 - iii. 2,500 swine each weighing over 25 kilograms (approximately 55 pounds),
 - iv. 500 horses,
 - v. 10,000 sheep or lambs,
 - vi. 55,000 turkeys,
 - vii. 100,000 laying hens or broilers (if the facility has continuous overflow watering),
 - viii. 30,000 laying hens or broilers (if the facility has a liquid manure system),
 - ix. 5,000 ducks, or
 - x. 1,000 animal units; or
 - b. More than the following number and types of animals are confined:
 - i. 300 slaughter or feeder cattle,
 - ii. 200 mature dairy cattle (whether milked or dry cows),
 - iii. 750 swine each weighing over 25 kilograms (approximately 55 pounds),
 - iv. 150 horses,
 - v. 3,000 sheep or lambs,
 - vi. 16,500 turkeys,
 - vii. 30,000 laying hens or broilers (if the facility has continuous overflow watering),
 - viii. 9,000 laying hens or broilers (if the facility has a liquid manure handling system),
 - ix. 1,500 ducks, or
 - x. 300 animal units; and either one of the following conditions are met: pollutants are discharged into navigable waters through a manmade ditch, flushing system or other similar man-made device; or pollutants are discharged directly into waters of the United States which originate outside of and pass over, across, or through the facility or otherwise come into direct contact with the animals confined in the operation.
 - c. No animal feeding operation is a concentrated animal feeding operation if the animal feeding operation discharges only in the event of a 25 year, 24-hour storm event.
6. “Concentrated aquatic animal production facility” means a hatchery, fish farm, or other facility that contains, grows, or holds aquatic animals in either of the following categories:
 - a. Cold water aquatic animals. Cold water fish species or other cold water aquatic animals (including the Salmonidae family of fish) in ponds, raceways, or other similar structure that discharge at least 30 days per year, but does not include:
 - i. A facility that produces less than 9,090 harvest weight kilograms (approximately 20,000 pounds) of aquatic animals per year; and
 - ii. A facility that feeds less than 2,272 kilograms (approximately 5,000 pounds) of food during the calendar month of maximum feeding.
 - b. Warm water aquatic animals. Warm water fish species or other warm water aquatic animals (including the Ameiuride, Centrachidae, and Cyprinidae families of fish) in ponds, raceways, or other similar structure that discharge at least 30 days per year, but does not include:
 - i. A closed pond that discharges only during periods of excess runoff; or
 - ii. A facility that produces less than 45,454 harvest weight kilograms (approximately 100,000) pounds) of aquatic animals per year.
7. “Daily discharge” means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the daily discharge is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the daily discharge is calculated as the average measurement of the pollutant over the day.
8. “Designated project area” means the portions of the navigable waters within which the permittee or permit applicant plans to confine the cultivated species, using a method or plan or operation, including physical confinement, which, on the basis of reliable scientific evidence, is expected to ensure that specific individual organisms comprising an

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- aquaculture crop will enjoy increased growth attributable to the discharge of pollutants, and be harvested within a defined geographic area.
9. “Draft permit” means a document indicating the Director’s tentative decision to issue or deny, modify, revoke and reissue, terminate, or reissue a permit.
 - a. A notice of intent to terminate a permit and a notice of intent to deny a permit are types of draft permits.
 - b. A denial of a request for modification, revocation and reissuance, or termination, or a proposed permit is not a draft permit.
 10. “EPA” means the U.S. Environmental Protection Agency.
 11. “General permit” means an AZPDES permit issued under 18 A.A.C. 9, Article 9, authorizing a category of discharges within a geographical area.
 12. “Individual permit” means an AZPDES permit for a single point source or a single facility.
 13. “Industrial materials and activities” includes material handling equipment or activities, industrial machinery, raw materials, intermediate products, by-products, final products, or waste products.
 14. “Large municipal separate storm sewer system” means all municipal separate storm sewers that are either:
 - a. Located in an incorporated place with a population of 250,000 or more as determined by the 1990 Decennial Census by the Bureau of the Census; or
 - b. Located in the counties with unincorporated urbanized areas with a population of 250,000 or more according to the 1990 Decennial Census by the Bureau of Census, except municipal separate storm sewers that are located in the incorporated places, townships or towns within the county; or
 - c. Owned or operated by a municipality other than those described in subsections (14)(a) and (14)(b) and that are designated by the Director under R18-9-B903(B)(2) as part of the large or medium municipal separate storm sewer system.
 15. “Log sorting and log storage facilities” means facilities whose discharge result from the holding of unprocessed wood, for example, logs or roundwood with bark or after removal of bark held in self-contained bodies of water or stored on land where water is applied intentionally on the logs.
 16. “Material handling activities” include storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, final product, or waste product.
 17. “Medium municipal separate storm sewer system” means all municipal separate storm sewers that are either:
 - a. Located in an incorporated place with a population of 100,000 or more but less than 250,000, as determined by the 1990 Decennial Census by the Bureau of the Census; or
 - b. Located in counties with unincorporated urbanized areas with a population greater than 100,000 but less than 250,000 as determined by the 1990 Decennial Census by the Bureau of the Census; or
 - c. Owned or operated by a municipality other than those described in subsections (17)(a) and (17)(b) and that are designated by the Director under R18-9-B903(B)(2) as part of the large or medium municipal separate storm sewer system.
 18. “MS4” means municipal separate storm sewer system.
 19. “Municipal separate storm sewer system” means all separate storm sewers defined as “large,” “medium,” or “small” municipal separate storm sewer systems or any municipal separate storm sewers on a system-wide or jurisdiction-wide basis as determined by the Director under R18-9-C902(A)(1)(f)(i) through R18-9-C902(A)(1)(f)(iv).
 10. “New discharger” includes an indirect discharger and means any building, structure, facility, or installation:
 - a. From which there is or may be a discharge of pollutants;
 - b. That did not commence the discharge of pollutants at a particular site before August 13, 1979;
 - c. Which is not a new source; and
 - d. Which has never received a finally effective NPDES or AZPDES permit for discharges at that site.
 21. “New source” means any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced:
 - a. After promulgation of standards of performance under section 306 of the Clean Water Act which are applicable to the source, or
 - b. After proposal of standards of performance in accordance with section 306 of the Clean Water Act which are applicable to the source, but only if the standards are promulgated under section 306 within 120 days of their proposal.
 22. “No exposure” means that all industrial materials and activities are protected by a storm resistant shelter to prevent exposure to rain, snow, snowmelt, and runoff.
 23. “NPDES” means the National Pollutant Discharge Elimination System, which is the national program for issuing, modifying, revoking, reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment and biosolids requirements under sections 307, 318, 402, and 405 of the Clean Water Act.
 24. “Pollutant” means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic

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Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.), heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water. It does not mean:

- a. Sewage from vessels; or
 - b. Water, gas, or other material which is injected into a well to facilitate production of oil or gas, or water derived in association with oil and gas production and disposed of in a well, if the well used either to facilitate production or for disposal purposes is approved by authority of the state in which the well is located, and if the state determines that the injection or disposal will not result in the degradation of ground or surface water resources. (40 CFR 122.2)
25. “POTW” means a publicly owned treatment works.
26. “Proposed permit” means an AZPDES permit prepared after the close of the public comment period (including EPA review), and any applicable public hearing and administrative appeal, but before final issuance by the Director. A proposed permit is not a draft permit.
27. “Pretreatment” means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater before or instead of discharging or otherwise introducing the pollutants into a POTW.
28. “Rock crushing and gravel washing facilities” means facilities that process crushed and broken stone, gravel, and riprap.
29. “Silviculture point source” means any discernible, confined, and discrete conveyance related to rock crushing, gravel washing, log sorting, or log storage facilities that are operated in connection with silvicultural activities and from which pollutants are discharged into navigable waters. The term does not include nonpoint source silvicultural activities such as nursery operations, site preparation, reforestation and subsequent cultural treatment, thinning, prescribed burning, pest and fire control, harvesting operations, surface drainage, or road construction and maintenance from which there is natural runoff.
30. “Small municipal separate storm sewer system” means all separate storm sewers that are:
- a. Owned or operated by the United States, a state, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to state law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under state law such as a sewer district, flood control district or drainage district, or similar entity, an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the Clean Water Act that discharges to navigable waters.
 - b. Not defined as “large” or “medium” municipal separate storm sewer systems or designated under R18-9-C902(A)(1)(f)(i) through R18-9-C902(A)(1)(f)(iv).
 - c. This term includes systems similar to separate storm sewer systems in municipalities such as systems at military bases, large hospital or prison complexes, universities, and highways and other thoroughfares. The term does not include separate storm sewers in very discrete areas such as individual buildings.
31. “Stormwater” means stormwater runoff, snow melt runoff, and surface runoff and drainage.
32. “Treatment works treating domestic sewage” means a POTW or any other sewage sludge or waste water treatment device or system, regardless of ownership (including federal facilities), used in the storage, treatment, recycling, and reclamation of municipal or domestic sewage, including land dedicated for the disposal of sewage sludge. This definition does not include septic tanks or similar devices. For purposes of this definition, “domestic sewage” includes waste and waste water from humans or household operations that are discharged to or otherwise enter a treatment works.

R18-9-A902. AZPDES Permit Transition, Applicability, and Exclusions

- A.** Upon the effective date of EPA approval of the AZPDES program, the Department shall, under A.R.S. Title 49, Chapter 2, Article 3.1 and Articles 9 and 10 of this Chapter, administer any permit authorized or issued under the NPDES program, including an expired permit which EPA has continued in effect under 40 CFR 122.6.
1. The Director shall give notice to all Arizona NPDES permittees, except NPDES permittees discharging on tribal lands, and shall publish notice of the following information in one or more newspapers of general circulation in the state. The notice shall contain:
 - a. The effective date of EPA approval of the AZPDES program;
 - b. The name and address of the Department;
 - c. The name of each facility and its permit number;
 - d. The name and address of the contact person to which the permittee will submit notification and monitoring reports;
 - e. The name, address, and telephone number of a person from whom an interested person may obtain further information about the transition.
 2. The Department shall provide the following entities with a copy of the notice:
 - a. Each county department of health, environmental services, or comparable department;

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- b. Each Arizona council of government, the states of Utah, Nevada, New Mexico, and California, and EPA Region 9;
- c. Any person who requested, in writing, notification of the activity; and
- d. The Mexican Secretaria de Medio Ambiente y Recursos Naturales.
- 3. If a timely application for an NPDES permit is submitted to EPA before approval of the AZPDES program, the applicant may continue the process with EPA or request the Department to act on the application. In either case, the Department shall issue the permit.
- 4. The terms and conditions under which the permit was issued remain the same until the permit is modified.
- B.** Articles 9 and 10 of this Chapter apply to any person who discharges a pollutant to a navigable water from a point source. Examples of point source categories requiring an AZPDES permit for discharges include:
 - 1. Concentrated animal feeding operations;
 - 2. Case-by-case designation of concentrated animal feeding operations;
 - a. The Director designates an animal feeding operation as a concentrated animal feeding operation based on the following criteria:
 - i. The size of the animal feeding operation and the amount of wastes reaching waters of the United States;
 - ii. The location of the animal feeding operation relative to waters of the United States;
 - iii. The means of conveyance of animal wastes and process waste waters into waters of the United States;
 - iv. The slope, vegetation, rainfall, and other factors affecting the likelihood or frequency of discharge of animal wastes and process waste waters into waters of the United States; and
 - v. Other relevant factors.
 - b. No animal feeding operation with less than the numbers of animals established in R18-9-A901(5) shall be designated as a concentrated animal feeding operation unless:
 - i. Pollutants are discharged into navigable waters through a manmade ditch, flushing system, or other similar manmade device; or
 - ii. Pollutants are discharged directly into navigable waters which originate outside of the facility and pass over, across, or through the facility or otherwise come into direct contact with the animals confined in the operation.
 - c. A permit application is not required from a concentrated animal feeding operation designated under this subsection until the Director has conducted an onsite inspection of the operation and determined that the operation should and could be regulated under the AZPDES program.
 - 3. Concentrated aquatic animal production facilities;
 - 4. Aquaculture projects;
 - 5. Manufacturing, commercial, mining, and silvicultural activities;
 - 6. POTWs;
 - 7. New sources and new dischargers;
 - 8. Treatment works treating domestic sewage;
 - 9. The use, application, generation, marketing, transportation, and disposal of biosolids; and
 - 10. Stormwater discharges,
 - a. Associated with industrial activity;
 - b. From a large municipal separate storm sewer system;
 - c. From a medium municipal separate storm sewer system;
 - d. From a small municipal separate storm sewer system;
 - e. From a construction activity, including clearing, grading, and excavation, except operations that result in the disturbance of less than five acres of total land area, unless the disturbance of less than five acres of total land area is a part of a larger common plan of development or sale that will ultimately disturb five acres or more.
 - f. From a small construction activity,
 - i. Including the discharge of stormwater from construction activities including clearing, grading, and excavating that result in land disturbance of equal to or greater than one acres and less than five acres;
 - ii. Including the disturbance of less than one acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one and less than five acres;
 - iii. Not including routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility.
 - g. Any discharge that the Director determines contributes to a violation of a water quality standard or is a significant contributor of pollutants to navigable waters, which may include a discharge from a conveyance or system of conveyances (including roads with drainage systems and municipal streets) used for collecting and conveying stormwater runoff or a system of discharges from municipal separate storm sewers.
- C.** General pretreatment regulations for existing and new sources of pollution.

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1. The reduction or alteration of a pollutant may be obtained by physical, chemical, or biological processes, process changes, or by other means, except as prohibited under 40 CFR 403.6(d), which is incorporated by reference in R18-9-A905(7)(b). Appropriate pretreatment technology includes control equipment such as equalization tanks or facilities, for protection against surges or slug loading that might interfere with or otherwise be incompatible with the POTW. However, where wastewater from a regulated process is mixed in an equalization facility with unregulated wastewater or with wastewater from another regulated process, the effluent from the equalization facility shall meet an adjusted pretreatment limit calculated under 40 CFR 403.6(e), which is incorporated by reference in R18-9-A905(7)(b).
 2. Pretreatment applies to:
 - a. Pollutants from non-domestic sources covered by pretreatment standards which are indirectly discharged to receiving waters, transported by truck or rail to a treatment works, or otherwise introduced into POTWs;
 - b. POTWs that receive wastewater from sources subject to national pretreatment standards; and
 - c. Any new or existing source subject to national pretreatment standards.
 3. National pretreatment standards do not apply to sources that discharge to a sewer that is not connected to a POTW.
- D.** Exclusions. The following discharges do not require an AZPDES permit:
1. Discharge of dredged or fill material into navigable waters that is regulated under section 404 of the Clean Water Act.
 2. The introduction of sewage, industrial wastes, or other pollutants into POTWs by indirect dischargers. Plans or agreements to switch to this method of disposal in the future do not relieve dischargers of the obligation to have and comply with permits until all discharges of pollutants to navigable waters are eliminated. This exclusion does not apply to the introduction of pollutants to privately owned treatment works or to other discharges through pipes, sewers, or other conveyances owned by the state, a municipality, or other party not leading to treatment works.
 3. Any discharge in compliance with the instructions of an on-scene coordinator under 40 CFR 300, The National Oil and Hazardous Substances Pollution Contingency Plan; or 33 CFR 153.10(e), Pollution by Oil and Hazardous Substances.
 4. Any introduction of pollutants from a nonpoint source agricultural or silvicultural activity, including stormwater runoff from an orchard, cultivated crop, pasture, rangeland, and forest land, but not discharges from a concentrated animal feeding operation, from a concentrated aquatic animal production facility, to an aquaculture project, and from a silvicultural point source.
 5. Return flows from irrigated agriculture.
 6. Discharges into a privately owned treatment works, except as the Director requires under 40 CFR 122.44(m), which is incorporated by reference in R18-9-A905(2)(a).
 7. Discharges from conveyances for stormwater runoff from mining operations or oil and gas exploration, production, processing or treatment operations, or transmission facilities, composed entirely of flows from conveyances or systems of conveyances, including pipes, conduits, ditches, and channels, used for collecting and conveying precipitation runoff and which are not contaminated by contact with or that have not come into contact with, any overburden, raw material, intermediate products, finished product, byproduct, or waste product located on the site of the operations.
 8. Discharges of:
 - a. Residential evaporative cooler bleed-off water,
 - b. Residential swimming pools, and
 - c. Charitable noncommercial car washes.
- E.** Conditional no exposure exclusion. Discharges composed entirely of stormwater are not considered stormwater discharges associated with industrial activity if there is no exposure, and the discharger satisfies the conditions under 40 CFR 122.26(g)(1) through (g)(4), which is incorporated by reference in R18-9-A905(1)(d).

R18-9-A903. Prohibitions

The Director shall not issue a permit:

1. When the conditions of the permit do not provide for compliance with the applicable requirements of A.R.S. Title 49, Chapter 2, Article 3.1; 18 A.A.C. 9, Articles 9 and 10; and the Clean Water Act;
2. Before resolution of an EPA objection to a draft or proposed permit;
3. When the imposition of conditions cannot ensure compliance with the applicable water quality requirements;
4. When, in the judgment of the Secretary of the U.S. Army, acting through the Chief of Engineers, the discharge will substantially impair anchorage and navigation in or on any navigable waters;
5. For the discharge of any radiological, chemical, or biological warfare agent or high-level radioactive waste;
6. For any discharge inconsistent with a plan or plan amendment approved under section 208(b) of the Clean Water Act;
7. To a new source or a new discharger, if the discharge from its construction or operation causes or contributes to the violation of a water quality standard. The owner or operator of a new source or new discharger proposing to discharge into a water segment that does not meet water quality standards or is not expected to meet those standards even after

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the application of the effluent limitations required under R18-9-A905(8) and for which the Department has performed a wasteload allocation for the proposed discharge, demonstrates, before the close of the public comment period, that:

- a. There are sufficient remaining wasteload allocations to allow for the discharge; and
- b. The existing dischargers into the segment are subject to schedules of compliance designed to bring the segment into compliance with water quality standards.

R18-9-A904. Effect of a Permit

- A.** Except for a standard imposed under section 307 of the Clean Water Act for a toxic pollutant that is injurious to human health and standards for sewage sludge use or disposal under Article 10 of this Chapter, compliance with an AZPDES permit during its term constitutes compliance, for purposes of enforcement, with the AZPDES program. However, the Director may modify, revoke and reissue, suspend, or terminate a permit during its term for cause under R18-9-B906.
- B.** The issuance of a permit does not convey any property rights of any sort, or any exclusive privilege.
- C.** The issuance of a permit does not authorize any injury to persons or property or invasion of other private rights, or any infringement of federal, state, or local law or regulations.

R18-9-A905. AZPDES Program Standards

Except as provided in subsections (6) and (10), the following 40 CFR sections and appendices, July 1, 2001 edition, are incorporated by reference, do not include any later amendments or editions of the incorporated matter, and are on file with the Department and the Office of the Secretary of State:

1. General program requirements.
 - a. 40 CFR 122.7
 - b. 40 CFR 122.21, except 40 CFR 122.21(a) through (e), and (m) through (o)
 - c. 40 CFR 122.22
 - d. 40 CFR 122.26, except 40 CFR 122.26(c)(2), 40 CFR 122.26(d), and 40 CFR 122.26(e)(2)
 - e. 40 CFR 122.29
 - f. 40 CFR 122.32 through 40 CFR 122.35
 - g. 40 CFR 122.62
2. Permit requirements and conditions.
 - a. 40 CFR 122.41 through 40 CFR 122.45
 - b. 40 CFR 122.47
 - c. 40 CFR 122.48
 - d. 40 CFR 122.50
3. Criteria and standards for the national pollutant discharge elimination system. 40 CFR 125
4. Toxic pollutant effluent standards. 40 CFR 129
5. Secondary treatment regulation. 40 CFR 133
6. Test procedures for the analysis of pollutants. 9 A.A.C. 14, Article 6
7. Effluent guidelines and standards.
 - a. General provisions. 40 CFR 401
 - b. General pretreatment regulations for existing and new sources of pollution. 40 CFR 403 and Appendices A, D, E, and G
8. Effluent limitations guidelines. 40 CFR 405 through 40 CFR 471
9. Standards for the use or disposal of sewage sludge. 40 CFR 503, Subpart C
10. The following substitutions apply to the incorporated material in subsections (1) through (5), and (7) through (9):
 - a. Substitute the term AZPDES for any reference to NPDES;
 - b. Except for 40 CFR 122.21(f) through (l) and (q), substitute R18-9-B901 and R18-9-C901 for any reference to 40 CFR 122.21;
 - c. Substitute Articles 9 and 10 of this Chapter for any general reference to 40 CFR 122;
 - d. Substitute R18-9-C901 for any reference to 40 CFR 122.28;
 - e. Substitute R18-9-B901 and R18-9-C901 for any reference to 40 CFR subpart B;
 - f. Substitute Articles 9 and 10 of this Chapter for any general reference to 40 CFR 123;
 - g. Substitute Articles 9 and 10 of this Chapter for any general reference to 40 CFR 124;
 - h. Substitute R18-9-B904 when 40 CFR 122.26(d) refers to permit reissuance;
 - i. Substitute R18-9-B901(B)(b) when 40 CFR 122.26(d) refers to an application;
 - j. Substitute R18-9-A906 for any reference to 40 CFR 124.56;
 - k. Delete the term "small" where it refers to "small" municipal separate storm sewer system;
 - l. Where 40 CFR 403.11(b) provides procedures for public notice or requesting and holding a public hearing, the Department shall instead publish notice of and hold a public hearing under R18-9-A907 and R18-9-A908;
 - m. Substitute R18-9-1006 for any reference to 40 CFR 503.32;
 - n. Substitute R18-9-1010 for any reference to 40 CFR 503.33;

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- o. Substitute A.R.S. 49-261 for any reference to administrative orders;
- p. Substitute A.R.S. 49-262 for any reference to civil penalties; and
- q. Substitute A.R.S. 49-263 for any reference to criminal penalties.

R18-9-A906. Fact Sheet

A. The Department shall prepare and send to the applicant, and to any other person on request, a fact sheet for every draft permit that incorporates a variance or other alternative to required standards under subsection (B)(6), or is subject to wide-spread public interest or raises major issues. The fact sheet shall:

- 1. Briefly establish the principal facts and the significant factual, legal, methodological, and policy questions considered in preparing the draft permit, or
- 2. For a notice of intent to deny or terminate, the reasons supporting the tentative decision.

B. The fact sheet shall include, when applicable:

- 1. A brief description of the type of facility or activity subject to the draft permit;
- 2. The type and quantity of wastes, fluids, or pollutants that are proposed to be or are being treated, stored, disposed of, injected, emitted, or discharged;
- 3. A brief summary of the basis for the draft permit conditions, including references to applicable statutory or regulatory provisions;
- 4. Reasons why any requested variance or alternative to required standards do or do not appear justified;
- 5. Any calculations or other necessary explanation of the derivation of specific effluent limitations and conditions, including a citation to the applicable effluent limitation determined under R18-9-A905(8), effluent guidelines or standards determined under R18-9-A905(7), and reasons why they are applicable or an explanation of how the alternate effluent limitations were developed;
- 6. When the draft permit contains any of the following limitations, an explanation of the reasons why the conditions are applicable:
 - a. Toxic pollutants;
 - b. Internal waste streams;
 - c. Indicator pollutants;
 - d. Case-by-case basis;
 - e. Indirect dischargers;
 - f. Sludge application, generation, transportation, use, marketing, or disposal;
 - g. A waiver from a monitoring requirement granted to a POTW under 40 CFR 122.44(a); or
 - h. A waiver from any application requirement under 40 CFR 122.21(j) or (q).
- 7. When appropriate, a sketch or detailed description of the location of the discharge described in the application;
- 8. A description of the procedures for reaching a final decision on the draft permit, including:
 - a. The comment period under R18-9-A908(A)(2) and the address where comments will be received;
 - b. The procedures for requesting a hearing and the nature of the hearing; and
 - c. Any other procedures by which the public may participate in the final decision.
- 9. The name and telephone number of a person to contact for additional information.

R18-9-A907. Public Notice

A. The Director shall publish a notice that a draft permit has been prepared, a permit application has been tentatively denied, or a petition has been received, in one or more newspapers of general circulation where the facility is located. The notice shall contain:

- 1. The name and address of the Department;
- 2. The name and address of the permittee or permit applicant and if different, the name of the facility or activity regulated by the permit;
- 3. A brief description of the business conducted at the facility or activity described in the permit application;
- 4. The name, address, and telephone number of a person from whom an interested person may obtain further information, including copies of the draft permit or draft general permit, the fact sheet, and the application;
- 5. A brief description of the comment procedures, the time and place of any hearing, including a statement of procedures to request a hearing (unless a hearing has already been scheduled), and any other procedure by which the public may participate in the final permit decision;
- 6. A general description of the location of each existing or proposed discharge point and the name of the receiving water, or for draft general permits, a map or description of the permit area; and
- 7. Any additional information considered necessary to the permit decision.

B. The Department shall provide the applicant with a copy of the draft permit.

C. Copy of the notice. The Department shall provide the following entities with a copy of the notice:

- 1. The applicant, permittee, or petitioner;
- 2. Any affected federal, state, local agency, or council of government;

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3. Each applicable county department of health, environmental services, or comparable department;
4. Any person who requested, in writing, notification of the activity; and
5. The Secretaria de Medio Ambiente y Recursos Naturales, when the Department is aware the effluent discharge is expected to reach Sonora, Mexico, either through surface water or groundwater.

R18-9-A908. Public Participation, EPA Review, EPA Hearing, Petitions

A. Public comment period.

1. The Director shall accept written comments from the public before a decision is made on any notice published under R18-9-A907(A).
2. The public comment period begins on the publication date of the notice and extends for 30 calendar days.
3. The Director may extend the comment period to provide commenters a reasonable opportunity to participate in the decision-making process.
4. If any data, information, or arguments submitted during the public comment period appear to raise substantial new questions concerning a permit, the Director may reopen or extend the comment period to provide interested persons an opportunity to comment on the information or arguments submitted. Comments filed during a reopened comment period are limited to the substantial new questions that caused its reopening.

B. Public hearing.

1. The Director shall provide notice and conduct a public hearing to address a draft permit or denial regarding a final decision if:
 - a. Significant public interest in a public hearing exists, or
 - b. Significant issues or information has been brought to the attention of the Director during the comment period that was not considered previously in the permitting process.
2. If, after publication of the notice, the Director determines that a public hearing is necessary, the Director shall schedule a public hearing and publish notice of the public hearing at least once, in one or more newspapers of general circulation where the facility is located. The notice for public hearing shall contain:
 - a. The date, time, and place of the hearing;
 - b. Reference to the date of a previous public notice relating to the proposed decision, if any; and
 - c. A brief description of the nature and purpose of the hearing, including reference to the applicable laws and rules.
3. The Department shall accept written public comment until the close of the hearing record as specified by the person presiding at the public hearing.

C. EPA review.

1. The Department shall send a copy of the draft permit to EPA.
2. If EPA objects to the draft permit within 30 days from the date of receipt of the draft permit, the EPA comment period is extended to 90 days from the date of receipt of the permit and the substantive review time-frame is suspended until EPA makes a final determination.
3. If, based on public comments, the Department revises the draft permit, the Department shall send EPA a copy of the proposed permit. If EPA objects to the proposed permit within 30 days from the date of receipt of the proposed permit, the EPA comment period is extended to 90 days from the date of receipt of the proposed permit and the substantive review time-frame is suspended until EPA makes a final determination.
4. If EPA withdraws its objection to the draft or proposed permit or does not submit specific objections within 90 days, the Director shall issue the permit.

D. EPA hearing. Within 90 days of receipt by the Director of a specific objection by EPA, the Director or any interested person may request that EPA hold a public hearing on the objection.

1. If no public hearing is held, or if following the public hearing EPA withdraws the objection, the Director shall issue the permit.
2. If no public hearing is held, or if following the public hearing, EPA reaffirms the original objection, or modifies the terms of the objection, and the Director does not resubmit a permit revised to meet EPA objection within 90 days of receipt of the objection, EPA may issue the permit.
3. If EPA issues the permit instead of the Director, the Department shall close the file.

E. At the same time the Department notifies a permittee or an applicant of the final permit determination, the Department shall send, through regular mail, a notice of the determination to any person who submitted comments or attended a public hearing on the final permit determination.

F. Petitions. A petition submitted under 40 CFR 122.26 and 40 CFR 122.28 shall contain:

1. The name, address, and telephone number of the petitioner;
2. The location of the facility;
3. The exact nature of the petition, and
4. Evidence of the validity of the petition.

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R18-9-A909. Reporting Requirements

- A.** A permittee shall comply with the reporting requirements under 40 CFR 122.21(f) through (l).
- B.** Planned changes. A permittee shall give notice to the Director as soon as possible of any planned physical alteration or addition to the permitted facility. Notice is required only when:
1. The alteration or addition to a permitted facility meets one of the criteria for determining whether a facility is a new source;
 2. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants that are not subject to effluent limitations in the permit or to notification requirements for existing manufacturing, commercial, mining, and silvicultural dischargers, or POTWs or MS4s; or
 3. The alteration or addition results in a significant change in the permittee's biosolids use or disposal practices, and the alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan.
- C.** Anticipated noncompliance. The permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity that may result in noncompliance with a permit requirement.
- D.** Monitoring reports. The permittee shall report monitoring results at the intervals specified in the permit. The permittee shall:
1. Report monitoring results on a Discharge Monitoring Report or other form provided or specified by the Director for reporting results of monitoring;
 2. Include the results of the monitoring in the calculation if a pollutant is monitored more frequently than required by the permit using test procedures approved under R18-9-A905(6); or for biosolids use or disposal, using test procedures approved under R18-9-A905(6) or as specified in Article 10 of this Chapter; or as specified in the permit under procedures approved by EPA; and
 3. Use an arithmetic mean for calculating the average monitoring results unless otherwise specified in the permit.
- E.** Schedules of compliance. The permittee shall submit reports of compliance or noncompliance with, or any progress report on, interim and final requirements contained in any compliance schedule of the permit no later than 14 days following each scheduled date.
- F.** Twenty-four hour reporting.
1. The permittee shall orally report to the Department any noncompliance that may endanger public health or the environment. The information shall be provided within 24 hours from the time the permittee becomes aware of the circumstances. (The report shall be in addition to and not instead of any other reporting requirement applicable to the noncompliance.) Examples of events requiring 24-hour notice:
 - a. Any unanticipated bypass that exceeds any effluent limitation in the permit;
 - b. Any upset that exceeds any effluent limitation in the permit; and
 - c. A violation of a maximum daily discharge limitation for any of the pollutants listed in the permit requiring reporting within 24 hours.
 2. Written report. A permittee shall submit a written report to the Director within 5 days after the permittee becomes aware of the noncompliance. The report shall contain:
 - a. A description of the noncompliance and its cause;
 - b. The period of noncompliance, including exact date and time, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and
 - c. Any steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
- G.** Other noncompliance. The permittee shall report to the Department all instances of noncompliance not reported under subsections (C), (E), and (F) at the time monitoring reports are submitted. The reports shall contain the monitoring information listed in subsection (D).
- H.** Other Information. If a permittee fails to submit a relevant fact in a permit application, or submitted incorrect information in the permit application or in a report, the permittee shall submit the corrections or additions to the Director as soon as the permittee becomes aware of the facts or information.

R18-9-A910. Recordkeeping

- A.** Record type and length of maintenance.
1. Except for information required in Article 10 of this Chapter, which shall be retained for at least five years from the date the application is signed, a permittee shall maintain for at least three years from the date of the sample, measurement, report, or application:
 - a. Records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation;
 - b. Copies of all reports required by the permit; and
 - c. Records of all data used to complete the application and any supplemental information submitted for the permit under Articles 9 and 10 of this Chapter.

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2. Records of monitoring information shall include:
 - a. The date, exact place, and time of sampling or measurements;
 - b. The name of the individual who performed the sampling or measurements;
 - c. The date and time the analysis was performed;
 - d. The name of the individual who performed the analysis;
 - e. The analytical technique or method used; and
 - f. The result of the analysis.
- B.** The permittee shall furnish to the Director, upon request, any information to determine whether cause exists for modifying, revoking and reissuing, or terminating a permit, or to determine permit compliance.
- C.** Except for confidential records authorized under 40 CFR 122.7, a permittee shall make all records, including a description of the stormwater management program, available to the public at reasonable times during regular business hours. The Department may assess a reasonable charge for copying, and may require a member of the public to provide advance notice.

PART B. INDIVIDUAL PERMITS

R18-9-B901. Individual Permit Application

- A.** Time to apply.
 1. Any person discharging a pollutant to a navigable water from a point source shall apply for an AZPDES individual permit at least 180 days before the date of the discharge or a later date if granted by the Director, unless:
 - a. The person is exempt under R18-9-A902(D).
 - b. Is covered by a general permit under Article 9, Part C of this Chapter, or
 - c. Is a user of a privately owned treatment works, unless the Director requires a permit under 40 CFR 122.44(m).
 2. Construction. Any person who proposes a construction activity under R18-9-A902(B)(10)(e) or (B)(10)(f) and wishes coverage under an individual permit, shall apply for the individual permit at least 90 days before the date on which construction is to commence.
- B.** Application. An individual permit applicant shall submit the following information on an application obtained from the Department. The Director may require more than one application from a facility depending on the number and types of discharges or outfalls.
 1. Discharges, other than stormwater.
 - a. The information required under 40 CFR 122.21(f) through (l);
 - b. The signature of the certifying official required under 40 CFR 122.22;
 - c. The name and telephone number of the operator, if the operator is not the applicant;
 - d. Whether the facility is located in the border area, and, if so:
 - i. A description of the area into which the effluent discharges from the facility may flow, and
 - ii. A statement explaining whether the effluent discharged is expected to cross the Arizona-Sonora, Mexico border.
 2. Stormwater. In addition to the information required in subsections (B)(1)(c) and (B)(1)(d):
 - a. A stormwater management program under 40 CFR 122.34, and
 - b. The application requirements under 40 CFR 122.33.
- C.** The Director may designate small MS4s other than those described in 40 CFR 122.32(a)(1) covered under the AZPDES stormwater permit program and require an AZPDES stormwater permit. The Director shall base this designation on whether a stormwater discharge results in or has the potential to result in exceedances of water quality standards, including impairment of designated uses, or other significant water quality impacts, including habitat and biological impacts; and shall apply to any small MS4s located outside of an urbanized area serving a population density of at least 1,000 people per square mile and a population of at least 10,000.
 1. Criteria used in designation include:
 - a. Discharges to sensitive waters,
 - b. Areas with high growth or growth potential,
 - c. Areas with a high population density,
 - d. Areas that are contiguous to an urbanized area,
 - e. Small MS4s that cause a significant contribution of pollutants to navigable waters,
 - f. Small MS4s that do not have effective programs to protect water quality by other programs, or
 - g. Any other appropriate criteria.
 2. The same requirements for small MS4s designated under 40 CFR 122.32(a)(1) apply to permits for designated MS4s not waived under subsection (D).
- D.** Waivers.
 1. Unless the Director grants a waiver under 40 CFR 122.32, a person operating a small MS4 is regulated under the AZPDES program.

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2. The Director shall review any waiver granted under subsection (D)(1) at least every five years, to determine whether any of the information required for granting the waiver has changed.

E. Phase in.

1. The Director may phase in permit coverage for a small MS4 serving a jurisdiction with a population under 10,000 if a phasing schedule is developed and implemented for approximately 20% annually of all small MS4s that qualify for the phased-in coverage.
 - a. If the phasing schedule is not yet approved for permit coverage, the Director shall, by December 9, 2002, determine whether to issue an AZPDES permit or allow a waiver under subsection (D) for each eligible MS4.
 - b. All regulated MS4s shall have coverage under an AZPDES permit no later than March 8, 2007.
2. The Director may provide a waiver under subsection (D) for any municipal separate storm sewage system operating under a phase-in.

F. Consolidation of permits.

1. The Director may consolidate two or more applications for any facility or activity that requires a permit under Articles 9 and 10 of this Chapter.
2. Whenever a facility or activity requires additional permits under Articles 9 and 10 of this Chapter, the Director may coordinate the expiration dates of the new permits with the expiration dates of the existing permits so that all permits expire simultaneously. The Department may then consolidate the processing of the subsequent applications for renewal permits.

R18-9-B902. Requested Coverage Under a General Permit

An owner or operator may request that an individual permit be revoked, if a source is excluded from a general permit solely because it already has an individual permit.

1. The Director shall grant the request for revocation of an individual permit upon determining that the permittee otherwise qualifies for coverage under a general permit.
2. Upon revocation of the individual permit, the general permit applies to the source.

R18-9-B903. Individual Permit Issuance or Denial

A. Once the application is complete, the Director shall tentatively decide whether to prepare a draft permit or to deny the application.

B. Permit issuance.

1. If, based upon the information obtained by or made available to the Department under R18-9-A901 and R18-9-A908, the Director determines that an applicant will comply with A.R.S. Title 49, Chapter 2, Article 3.1 and Articles 9 and 10 of this Chapter, the Director shall issue a permit, which is effective on the date of issuance.
2. The Director may designate an MS4 as part of a large or medium system due to the interrelationship between the discharges of designated storm sewer and the discharges from the municipal separate storm sewers described under R18-9-A901(14)(a) and (14)(b), or R18-9-A901(17)(a) or (17)(b), as applicable. In making this determination, the Director shall consider the following factors:
 - a. Physical interconnections between the municipal separate storm sewers;
 - b. The location of discharges from the designated municipal separate storm sewer relative to discharges from municipal separate storm sewers described in R18-9-A901(14)(a);
 - c. The quantity and nature of pollutants discharged to navigable waters;
 - d. The nature of the receiving waters; and
 - e. Other relevant factors; or
3. The Director may, upon petition, designate as a large or medium municipal separate storm sewer system, municipal separate storm sewers located within the boundaries of a region defined by a stormwater management regional authority based on a jurisdictional, watershed, or other appropriate basis that includes one or more of the systems described in R18-9-A901(14) or R18-9-A901(1), as applicable.

C. Permit denial.

1. If the Director tentatively decides to deny the permit application, the Director shall provide the applicant with a written notice of intent to deny the permit application. The written notification shall include:
 - a. The reason for the denial with reference to the statute or rule on which the denial is based;
 - b. The applicant's right to appeal the denial with the Water Quality Appeals Board under A.R.S. § 49-323, the number of days the applicant has to file a protest challenging the denial, and the name and telephone number of the Department contact person who can answer questions regarding the appeals process; and
 - c. The applicant's right to request an informal settlement conference under A.R.S. §§ 41-1092.03(A) and 41-1092.06.
2. The Director shall provide an opportunity for public comment under R18-9-A908, on a denial.

R18-9-B904. Individual Permit Duration, Reissuance, and Continuation

A. Permit duration.

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1. An AZPDES individual permit is effective for a fixed term not more than five years.
2. If the Director does not revoke and reissue a permit within the period specified in the permit, the permit expires.
3. If a permittee of a large or medium municipal separate storm sewer system allows a permit to expire by failing to reapply within the time period specified in subsection (B), the person shall submit a new application under R18-9-B901 and follow the application requirements under 40 CFR 122.26(d), which is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Department and the Office of the Secretary of State.

B. Reissuance.

1. A permittee shall reapply for a individual construction permit at least 90 days before the permit expiration date.
2. For all other individual permits, a permittee shall reapply at least 180 days before the permit expiration date.
3. Unless otherwise specified in the permit, an annual report submitted 180 days before the permit expiration date satisfies the reapplication requirement. The annual report shall contain:
 - a. The name, address, and telephone number of the municipal separate storm sewer system;
 - b. The name, address, and telephone number of the contact person;
 - c. The status of compliance with permit conditions, including an assessment of the appropriateness of the selected best management practices and progress toward achieving the selected measurable goals for each minimum measure;
 - d. The results of any information collected and analyzed, including monitoring data, if any;
 - e. A summary of the stormwater activities planned for the next reporting cycle;
 - f. A change in any identified best management practices or measurable goals for any minimum measure; and
 - g. Notice of relying on another governmental entity to satisfy some of the permit obligations.

C. Continuation. An NPDES or AZPDES individual permit may continue beyond its expiration date if:

1. The permittee has submitted a complete application for an AZPDES individual permit at least 180 days before the expiration date of the existing permit and the permitted activity is of a continuing nature; and
2. The Department is unable, through no fault of the permittee, to issue an AZPDES individual permit on or before the expiration date of the existing permit.

R18-9-B905. Individual Permit Transfer

A. A permittee may request the Director to transfer an individual permit to a new permittee. The Director may modify or revoke and reissue the permit to identify the new permittee, or make a minor modification to identify the new permittee.

B. Automatic transfer. The Director may automatically transfer an individual permit to a new permittee if:

1. The current permittee notifies the Director by certified mail at least 30 days in advance of the proposed transfer date and includes a written agreement between the existing and new permittee containing a specific date for transfer of permit responsibility, coverage, and liability between them; and
2. The Director does not notify the existing permittee and the proposed new permittee of the Director's intent to modify or revoke and reissue the permit. A modification under this subsection may include a minor modification specified in R18-9-B906(B).

R18-9-B906. Modification, Revocation and Reissuance, and Termination of Individual Permits

A. Permit modification, revocation and reissuance.

1. The Director may modify, or revoke and reissue an individual permit if the Director receives any information such as when inspecting a facility, information submitted by a permittee as required in the individual permit through a written request to modify a permit, or after review of a permit file, and determines one or more of the causes listed under 40 CFR 122.62 exists.
 - a. If the Director decides the written request is not justified, the Director shall send the requester a brief written response giving a reason for the decision.
 - b. The denial of a request for modification, revocation and reissuance, or termination is not subject to public notice, comment, or hearing under R18-9-A907 and R18-9-A908(A) and (B).
2. If the Director tentatively decides to modify or revoke and reissue an individual permit, the Director shall prepare a draft permit incorporating the proposed changes. The Director may request additional information and, in the case of a modified permit, may require the submission of an updated application.
 - a. Modified individual permit. The Director shall reopen only the modified conditions when preparing a new draft permit and process the modifications.
 - b. Revoked and reissued individual permit.
 - i. The permittee shall submit a new application.
 - ii. The Director shall reopen the entire permit just as if the permit had expired and was being reissued.

B. Minor modifications.

1. Upon consent of the permittee, the Director may make any of the following modifications to an individual permit:
 - a. Correct typographical errors;

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- b. Update a permit condition that changed as a result of updating an Arizona water quality standard;
 - c. Require more frequent monitoring or reporting by the permittee;
 - d. Change an interim compliance date in a schedule of compliance, provided the new date is not more than 120 days after the date specified in the existing permit and does not interfere with attainment of the final compliance date requirement;
 - e. Allow for a change in ownership or operational control of a facility where no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittees has been submitted to the Director;
 - f. Change the construction schedule for a new source discharger. The change shall not affect a discharger's obligation to have all pollution control equipment installed and in operation before the discharge;
 - g. Delete a point source outfall when the discharge from that outfall is terminated and does not result in a discharge of pollutants from other outfalls except under permit limits;
 - h. Incorporate conditions of a POTW pretreatment program approved under R18-9-A905(7)(b) as enforceable conditions of the permit, and
 - i. Annex an area by a municipality.
2. Any modification processed under subsection (B)(1) is not subject to public notice provision under R18-9-A907 or public participation procedures under R18-9-A908.
- C. Permit termination.**
1. The Director may terminate an individual permit during its term or deny reissuance of a permit for any of the following causes:
- a. The permittee's failure to comply with any condition of the permit;
 - b. The permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant fact;
 - c. The Director determined that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit modification or termination; or
 - d. A change occurs in any condition that requires either a temporary or permanent reduction or elimination of any discharge or sludge use or disposal practice controlled by the permit. For example, a plant closure or termination of discharge by connection to a POTW.
2. If the Director terminates a permit during its term, or denies a permit renewal application for any cause listed in subsection (C)(1), the Director shall issue a Notice of Intent to Terminate.
- a. Unless the permittee objects to the termination notice within 30 days after the notice is sent, the termination is final at the end of the 30 days.
 - b. If the permittee objects to the termination notice, the permittee shall respond in writing to the Director within 30 days after the notice is sent.
 - c. Expedited permit termination. If a permittee requests an expedited permit termination procedure, the permittee shall certify that the permittee is not subject to any pending state or federal enforcement actions, including citizen suits brought under state or federal law.

R18-9-B907. Individual Permit Variances

- A. The Director may grant or deny a request for any of the following variances:**
- 1. An extension under section 301(i) of the Clean Water Act based on a delay in completion of a POTW;
 - 2. After consultation with EPA, an extension under section 301(k) of the Clean Water Act based on the use of innovative technology;
 - 3. A variance under section 316(a) of the Clean Water Act for thermal pollution, or
 - 4. A variance under R18-11-122 for water quality standards.
- B. The Director may deny, forward to EPA with a written concurrence, or submit to EPA without recommendation a completed request for:**
- 1. A variance based on the economic capability of the applicant under section 301(c) of the Clean Water Act; or
 - 2. A variance based on water quality related effluent limitations under 302(b)(2) of the Clean Water Act.
- C. The Director may deny or forward to EPA with a written concurrence a completed request for:**
- 1. A variance based on the presence of fundamentally different factors from those on which an effluent limitations guideline is based; and
 - 2. A variance based upon water quality factors under section 301(g) of the Clean Water Act.
- D. If EPA approves the variance submitted under subsection (B) or (C), the Director shall prepare a draft permit incorporating the variance. Any public notice of a draft permit for which a variance or modification has been approved or denied shall identify the applicable procedures for appealing the decision.**

PART C. GENERAL PERMITS

R18-9-C901. General Permit Criteria

- A.** The Director may issue a general permit to cover one or more categories of discharges, sludge use or disposal practices, or facilities within a geographic area corresponding to existing geographic or political boundaries, if the sources within a covered category of discharges are either:
1. Stormwater point sources; or
 2. One or more categories of point sources other than stormwater point sources, or one or more categories of treatment works treating domestic sewage, if the sources, or treatment works treating domestic sewage within each category all:
 - a. Involve the same or substantially similar types of operations;
 - b. Discharge the same types of wastes or engage in the same types of sludge use or disposal practices;
 - c. Require the same effluent limitations, operating conditions, or standards for sludge use or disposal;
 - d. Require the same or similar monitoring; and
 - e. Are more appropriately controlled under a general permit than under an individual permit.
- B.** Permit issuance.
1. If the Director considers issuing a general permit applicable to a discharge under subsection (A), the Director shall publish a general notice of the draft permit in the Arizona Administrative Register. The general notice shall contain:
 - a. The name and address of the Department,
 - b. The name of the person to contact regarding the permit,
 - c. The general permit category,
 - d. A brief description of the proposed general permit,
 - e. The web site where the proposed general permit may be obtained, and
 - f. The ending date for public comment,
 2. The Director shall, under R18-9-A908(A), accept written comments from the public before a general permit is issued.
 3. The Director shall follow the review procedure for EPA comments in R18-9-A908(C).
 4. The Director shall follow the public hearing requirements in R18-9-A908(B), if a public hearing is required.
- C.** Any person seeking coverage under a general permit issued under subsection (B) shall submit a Notice of Intent on a form provided by the Department within the time-frame specified in the general permit and receive an authorization to discharge. The person shall not discharge before the time specified in the general permit.
- D.** Exemption from filing a Notice of Intent.
1. The Director may consider a Notice of Intent inappropriate for the discharge and authorize the discharge under a general permit without a Notice of Intent. In making this finding, the Director shall consider:
 - a. The type of discharge,
 - b. The expected nature of the discharge,
 - c. The potential for toxic and conventional pollutants in the discharge,
 - d. The expected volume of discharge,
 - e. Other means of identifying the discharges covered by the permit, and
 - f. The estimated number of discharges covered by the permit.
 2. The Director shall provide reasons for not requiring a Notice of Intent for a general permit in the public notice.
 3. The following dischargers are not exempt from submitting a Notice of Intent:
 - a. Discharges from POTWs;
 - b. Combined sewer overflows;
 - c. Municipal separate storm sewer systems;
 - d. Primary industrial facilities;
 - e. Stormwater discharges associated with industrial activity;
 - f. Concentrated animal feeding operation;
 - g. Treatment works treating domestic sewage; and
 - h. Stormwater discharges associated with small construction activity. A small construction activity discharger shall submit the Notice of Intent before March 8, 2003.
- E.** Notice of Intent. The Director shall specify the contents of the Notice of Intent in the general permit and the applicant shall submit information sufficient to establish coverage under the general permit, including, at a minimum:
1. The name, position, address, and telephone number of the owner of the facility;
 2. The name, position, address, and telephone number of the operator of the facility, if different than subsection (E)(1);
 3. The name and address of the facility;
 4. The type and location of the discharge;
 5. The receiving streams;
 6. A listing of any other federal or state environmental permits issued for or needed by the facility, including any AZP-DES individual permit or NPDES permit that may have previously authorized the discharge;
 7. The signature of the certifying official required under 40 CFR 122.22; and

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8. Any other information necessary to determine applicability with the AZPDES general permit.
- F.** The general permit shall contain:
 1. The expiration date; and
 2. The appropriate permit requirements, permit conditions, best management practices, and measurable goals under R18-9-A905(1) and (2) and determined by the Director as necessary and appropriate for the protection of navigable waters.
- G.** The Department shall inform a permittee if EPA requests the permittee's Notice of Intent.

R18-9-C902. Required and Requested Coverage Under an Individual Permit

A. Individual permit requirement.

1. The Director may require a person authorized by a general permit to apply for and obtain an individual permit because of the facility's contribution to water pollution. Cases where an individual permit may be required include:
 - a. A discharger or treatment works treating domestic sewage not in compliance with the conditions of the general permit;
 - b. A change occurred in the availability of demonstrated technology or practices for the control or abatement of pollutants applicable to the point source or treatment works treating domestic sewage;
 - c. Effluent limitation guidelines are promulgated for point sources covered by the general permit;
 - d. An Arizona Water Quality Management Plan containing requirements applicable to the point sources is approved;
 - e. Standards for sewage sludge use or disposal are promulgated for the sludge use and disposal practices covered by the general permit; or
 - f. The Director determines that the discharge is a significant contributor of pollutants. When making this determination, the Director shall consider:
 - i. The location of the discharge with respect to navigable waters,
 - ii. The size of the discharge,
 - iii. The quantity and nature of the pollutants discharged to navigable waters, and
 - iv. Any other relevant factor.
2. If an individual permit is required, the Director shall notify the discharger in writing of the decision. The notice shall include:
 - a. A brief statement of the reasons for the decision,
 - b. An application form,
 - c. A statement setting a deadline to file the application,
 - d. A statement that on the effective date of issuance or denial of the individual permit coverage under the general permit will automatically terminate,
 - e. The applicant's right to appeal the individual permit requirement with the Water Quality Appeals Board under A.R.S. § 49-323, the number of days the applicant has to file a protest challenging the individual permit requirement, and the name and telephone number of the Department contact person who can answer questions regarding the appeals process; and
 - f. The applicant's right to request an informal settlement conference under A.R.S. §§ 41-1092.03(A) and 41-1092.06.
3. The discharger shall apply for a permit within 90 days of receipt of the notice, unless the Director grants a later date. In no case shall the deadline be more than 180 days from the date of the notice.
4. If the permittee fails to submit the individual permit application within the time period established in subsection (A)(3), the applicability of the general permit to the permittee is automatically terminated at the end of the day specified by the Director for application submittal.
5. Coverage under the general permit shall continue until an individual permit is issued unless the permit coverage is terminated under subsection (A)(4).

B. Individual permit request.

1. An owner or operator authorized by a general permit may request an exclusion from coverage of a general permit by applying for an individual permit.
 - a. The owner or operator shall submit an individual permit application under R18-9-B901 and include the reasons supporting the request.
 - b. The Director shall grant the request if the reasons cited by the owner or operator are adequate to support the request.
2. When an individual permit is issued to an owner or operator otherwise subject to a general permit, the applicability of the general permit to the discharge is automatically terminated on the effective date of the individual permit.

R18-9-C903. General Permit Duration, Reissuance, and Continuation

A. General permit duration.

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1. An AZPDES general permit is effective for a fixed term not more than five years.
 2. If the Director does not reissue a general permit before the expiration date, the current general permit will be administratively continued and remain in force and effect until the general permit is reissued.
- B.** Continued coverage. Any permittee granted permit coverage before the expiration date automatically remains covered by the continued permit until the earlier of:
1. Reissuance or replacement of the permit, at which time the permittee shall comply with the Notice of Intent conditions of the new permit to maintain authorization to discharge; or
 2. The permittee has submitted a Notice of Termination; or
 3. The Director has issued an individual permit for the discharge; or
 4. The Director has issued a formal permit decision not to reissue the general permit, at which time the permittee shall seek coverage under an alternative general permit or an individual permit.

R18-9-C904. General Permit Transfer

If a change of ownership occurs for a facility operating under a general permit:

1. The permittee shall provide the Department with a Notice of Termination by certified mail within 30 days after the new owner or operator assumes responsibility for the facility.
 - a. The Notice of Termination shall include:
 - i. Any information that has changed from the original Notice of Intent, and
 - ii. Any other transfer requirements specified for the general permit.
 - b. A permittee shall comply with the permit conditions specified under A.R.S. Title 49, Chapter 2, Article 3.1, and Articles 9 and 10 of this Chapter, regardless of whether the permittee has sold or disposed of the facility, until the Director transfers the permit authorization.
2. New owner or operator.
 - a. The new owner or operator shall complete and file a Notice of Intent with the Department at least two days before taking over operational control of the facility.
 - b. The new owner or operator may file an amended Notice of Intent with the Department referencing the facility's assigned permit number to request a simple name change.
 - c. The new owner or operator shall certify and implement the old stormwater pollution prevention plan or develop, certify, and implement a modified stormwater pollution prevention plan.
 - d. The permittee shall provide the Department with a notice of termination, if a permitted facility ceases operation, or in the case of a construction site, construction is complete and final site stabilization is achieved.

**ARTICLE 10. ~~LAND APPLICATION OF BIOSOLIDS~~
ARIZONA POLLUTANT DISCHARGE ELIMINATION SYSTEM - DISPOSAL, USE,
AND TRANSPORTATION OF BIOSOLIDS**

R18-9-1001. Definitions

The terms used in this Article have the following meanings: In addition to the definitions established in A.R.S. § 49-255, the following terms apply to this Article:

1. "Aerobic digestion" means the biochemical decomposition of organic matter in biosolids into carbon dioxide and water by microorganisms in the presence of air.
2. "Agronomic rate" means the whole biosolids application rate on a dry-weight basis ~~which that~~ meets ~~both of~~ the following conditions:
 - a. The amount of nitrogen needed by existing vegetation or a planned or actual crop has been provided; and
 - b. The amount of nitrogen that passes below the root zone of the crop is minimized.
3. "Anaerobic digestion" means the biochemical decomposition of organic matter in biosolids into methane gas and carbon dioxide by microorganisms in the absence of air.
4. "Annual pollutant loading rate" means the maximum amount of a pollutant that can be applied to an acre or hectare of land during a 365-day period.
5. "Annual biosolids application rate" means the maximum amount of biosolids (dry-weight basis) that can be applied to an acre or hectare of land during a 365-day period.
6. "Applicator" means the person who arranges for and controls the site-specific land application of biosolids in Arizona.
7. "Biosolids" means sewage sludge, including exceptional quality biosolids, which is placed on, or applied to the land ~~in order~~ to use the beneficial properties of the material as a soil amendment, conditioner, or fertilizer. Biosolids do not include any of the following:
 - a. Sludge determined to be hazardous ~~in accordance with~~ under A.R.S. Title 49, Chapter 5, Article 2; and 40 CFR 261.;

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- b. Sludge with a concentration of polychlorinated biphenyls (PCBs) equal to or greater than 50 milligrams per kilogram of total solids (dry-weight basis);
- c. Grit (for example, sand, gravel, cinders, or other materials with a high specific gravity) or screenings generated during preliminary treatment of domestic sewage by a treatment works;
- d. Sludge generated during the treatment of either surface water or groundwater used for drinking water;
- e. Sludge generated by an industrial facility during the treatment of industrial wastewater, or industrial wastewater combined with domestic sewage;
- f. Commercial septage, industrial septage, or domestic septage combined with commercial or industrial septage;
- g. Special wastes, as defined and controlled under A.R.S. Title 49, Chapter 4, Article 9.
8. "Bulk biosolids" means biosolids that are transported and land-applied in a manner other than in a bag or other container holding biosolids of 1.102 short tons or 1 metric ton or less.
9. ~~"Business day" means Monday through Friday, between the hours of 8 a.m. and 5 p.m., except for state and federal holidays.~~ "Clean water act" means the federal water pollution control act amendments of 1972, as amended (P.L. 92-500; 86 Stat. 816; 33 United States Code sections 1251 through 1376). A.R.S. 49-201(6)
10. "Coarse fragments" means rock particles in the gravel-size range or larger.
11. "Coarse or medium sands" means a soil mixture of which more than 50% of the sand fraction ~~will be~~ is retained on a No. 40 (0.425 mm) sieve.
12. "Cumulative pollutant loading rate" means the maximum amount of a pollutant ~~that can ever be~~ applied to a land application site.
13. ~~"CWA" means the Clean Water Act, 33 U.S.C. 1251 et seq., as amended.~~
14. ~~"Department" means the Department of Environmental Quality.~~
- 15-13. "Domestic septage" means the liquid or solid material removed from a septic tank, cesspool, portable toilet, marine sanitation device, or similar system or device treating only domestic sewage. Domestic septage does not include commercial or industrial septage, or restaurant grease-trap wastes.
- 16-14. "Domestic sewage" means waste or wastewater from humans or household operations that is discharged to a publicly or privately owned treatment works. Domestic sewage also includes commercial and industrial wastewaters ~~which that~~ are discharged into a publicly-owned or privately-owned treatment works where the industrial or commercial wastewater combines with human excreta and other household and nonindustrial wastewaters ~~prior to~~ before treatment.
- 17-15. "Dry-weight basis" means the weight of biosolids calculated after the material has been dried at 105° C ~~until reaching and reached~~ a constant mass per volume.
- 18-16. "Exceptional quality biosolids" means biosolids ~~which meet and have been~~ certified under ~~R18-9-1012~~ R18-9-1013(A)(6) as meeting the pollutant concentrations in R18-9-1005 Table 2, Class A pathogen reduction in R18-9-1006, and ~~4 one~~ of the vector attraction reduction requirements in ~~R18-9-1009, paragraphs (1) through (8) subsections R18-9-1010(A)(1) through (A)(8).~~
- 19-17. "Feed crops" means crops ~~that are~~ produced for animal consumption ~~by animals~~.
- 20-18. "Fiber crops" means crops grown for their physical characteristics. Fiber crops, including flax and cotton, are not produced for human or animal consumption ~~by humans or animals, and include flax and cotton~~.
- 21-19. "Food crops" means crops ~~which are~~ produced for human consumption ~~by humans~~.
- 22-20. "Gravel" means soil predominantly composed of rock particles ~~of rock~~ that will pass through a 3-inch (75 mm) sieve and be retained on a No. 4 (4.75 mm) sieve.
23. ~~"Groundwater" means the water below the land's surface in the saturated zone which is sufficient to yield usable quantities of water to a well or spring.~~
- 24-21. "Industrial wastewater" means wastewater that is generated in a commercial, industrial, or manufacturing process.
- 25-22. "Land application," or "apply biosolids," or "biosolids applied to the land" means spreading biosolids on the surface of the land, injecting biosolids below the land's surface, or incorporating biosolids into the soil ~~in order to amend, condition, the soil or fertilize crops the soil~~.
- 26-23. "Monthly average" means the arithmetic mean of all measurements taken during a calendar month.
- 27-24. "Municipality" means a city, town, county, district, association, or other public body, ~~(including an intergovernmental agency of 2 two or more of the foregoing entities created by or under state law).~~ The ~~definition term~~ includes special districts such as water districts, sewer districts, sanitary districts, utility districts, drainage districts, or similar entities that have as a principal responsibility, the treatment, transport, use, or disposal of biosolids.
25. "Navigable waters" means the waters of the United States as defined by section 502(7) of the clean water act (33 United States Code section 1362(7)). A.R.S. § 49-201(21)
- 28-26. "Other container" means a bag, bucket, bin, box, carton, trailer, pickup truck bed, or a tanker vehicle or an open or closed receptacle with a load capacity of 1.102 short tons or ~~4 one~~ metric ton or less.
- 29-27. "Pathogen" means a disease-causing organism.
- 30-28. ~~"Person" has the meaning set out in A.R.S. §§ 49-701 and also includes an agent or employee of an organization.~~ "Person" means an individual, employee, officer, managing body, trust, firm, joint stock company, consortium, pub-

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lic or private corporation, including a government corporation, partnership, association or state, a political subdivision of this state, a commission, the United States government or a federal facility, interstate body or other entity. A.R.S. § 49-201(26)

- 34-29. ~~“Person who prepares biosolids” means either the person who generates the biosolids during the treatment of domestic sewage in a treatment works, packages the biosolids, or derives a new product from the biosolids either through processing or by combining it with another material, including blending several biosolids together.~~
- 32-30. “pH” means the logarithm of the reciprocal of the hydrogen ion concentration.
33. ~~“Pollutant” means an organic substance, an inorganic substance, a combination of organic and inorganic substances, or a pathogenic organism that, after release into the environment and upon exposure, ingestion, inhalation, or assimilation into an organism, either directly from the environment or indirectly by ingestion through the food chain, could cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including mal-function in reproduction) or physical deformities in either organisms or reproduced offspring.~~
- 34-31. “Pollutant limit” means:
- a. a numerical value that describes the mass or volume quantity of a pollutant allowed per in a unit of biosolids; such as milligrams per kilogram of total solids,
 - b. The quantity of a pollutant that can be applied to a unit area of land such as kilograms per hectare, or
 - c. the mass or volume of a pollutant biosolid that can be applied to an acre or hectare a unit area of land such as gallons per acre.
- 35-32. ~~“Privately owned treatment works” means a device or system owned by a non-governmental entity used to treat, including recycle, and or reclaim, either domestic sewage or a combination of domestic sewage and industrial waste which that is generated off-site.~~
- 36-33. ~~“Public contact site” means a park, sports field, cemetery, golf course, plant nursery, or other land with a high potential probability for public exposure to the biosolids.~~
- 37-34. ~~“Publicly owned treatment works” means a device or system owned by either a municipality or a state used to treat, including recycle and reclaim, either domestic sewage or a combination of domestic sewage and industrial waste.~~
“Publicly owned treatment works” means a treatment works owned by this state or a municipality of this state as defined in section 502(4) of the Clean Water Act. A.R.S. § 49-255(5)
- 38-35. ~~“Reclamation” means using biosolids to restore or repair mining or construction sites, landfill caps, or other drastically disturbed land.~~
- 39-36. ~~“Responsible official” means a principal corporate officer, general partner, proprietor, or, in the case of a municipality, a principal executive official; or any duly authorized agent thereof.~~
- 40-37. ~~“Sand” means soil that contains more than 85% grains in the size range that will pass through a No. 4 (4.75 mm) sieve and be retained on a No. 200 (0.075 mm) sieve.~~
38. “Runoff” means a rainwater, leachate, or other liquid that drains overland on any part of a land surface and runs off of the land surface.
- 41-39. ~~“Sewage sludge” or “sludge” means solid, semi-solid, or liquid residue generated by publicly-owned or privately-owned treatment works during the treatment of domestic sewage. Sewage sludge includes domestic septage, scum removed in the course of treatment, and any material derived from sewage sludge. Sewage sludge does not include ash generated during the firing of sewage sludge, or grit and screenings generated during preliminary treatment of domestic sewage in a treatment works.~~
“Sewage sludge”:
- (a) means solid, semisolid or liquid residue that is generated during the treatment of domestic sewage in a treatment works.
 - (b) includes domestic septage, scum or solids that are removed in primary, secondary or advanced wastewater treatment processes, and any material derived from sewage sludge.
 - (c) does not include ash that is generated during the firing of sewage sludge in a sewage sludge incinerator or grit and screenings that are generated during preliminary treatment of domestic sewage in a treatment works. A.R.S. § 49-255(6)
- 42-40. ~~“Specific oxygen uptake rate (SOUR)” means the mass of oxygen consumed per unit time per unit mass of total solids (dry-weight basis) in the biosolids.~~
- 43-41. ~~“Store or storage of biosolids” means the temporary holding or placement of biosolids on land prior to before land application.~~
44. ~~“Surface water” means a water of the United States and includes the following:~~
- a. ~~All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce;~~
 - b. ~~All interstate waters, including interstate wetlands;~~
 - e. ~~All other waters, such as intrastate lakes, reservoirs, ponds, rivers, streams (including intermittent and ephemeral streams), creeks, washes, draws, mudflats, sandflats, wetlands, sloughs, backwaters, prairie potholes, wet mead-~~

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ows, or playa lakes, the use, degradation or destruction of which would affect or could affect interstate or foreign commerce, including any such waters:

- i. Which are or could be used by interstate or foreign travelers for recreational or other purposes;
- ii. From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or
- iii. Which are used or could be used for industrial purposes by industries in interstate or foreign commerce;
- d. All impoundments of surface waters;
- e. Tributaries of surface waters; and
- f. Wetlands.

45-42. "Ton" means a net weight of 2000 pounds, ~~also~~ and is known as a short ton.

46-43. "Total solids" means the biosolids residue material that remain remains when the sewage sludge is dried at 103° to 105° C.

47-44. "Treatment of biosolids" means the thickening, stabilization, dewatering, and other preparation of biosolids for land application. Storage is not a treatment of biosolids.

48-45. "Treatment works" means a federally owned, publicly owned, or privately owned device or system used to treat, including recycle and reclaim, either domestic sewage or a combination of domestic sewage and industrial waste. "Treatment works" means any devices and systems that are used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature, the elements essential to providing a reliable recycled supply such as standby treatment units and clear well facilities, and any works that will be an integral part of the treatment process or that are used for residues resulting from that treatment. For the purposes of the programs required by sections 49-255.02 and 49-255.03, treatment works include intercepting sewers, outfall sewers, sewage collection systems, pumping, power and other equipment and any appurtenances, extensions, improvements, remodeling, additions and alterations. A.R.S. § 49-255(7)

49-46. "Unstabilized solids" means the organic matter in biosolids that has not been treated or reduced through either an aerobic or anaerobic process.

50-47. "Vectors" means rodents, flies, mosquitoes, or other organisms capable of transporting pathogens.

51-48. "Volatile solids" means the amount of the total solids lost when the biosolids are combusted at 550° C in the presence of excess air.

52-49. "Wetlands" means those areas that are inundated or saturated by surface water or ground water at a frequency and duration to support a prevalence of vegetation typically adapted for life in saturated soil conditions. "Wetlands" means those areas that are inundated or saturated by surface water or groundwater at a frequency and duration to support and under normal circumstances, supports a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, cienegas, tinajas, and similar areas.

R18-9-1002. Applicability and Prohibitions

A. This Article applies to any person who:

1. ~~prepares~~ Prepares biosolids for land application or surface disposal;
2. ~~to transporters of~~ Transports biosolids that are to be land applied, for land application or surface disposal;
3. ~~to the applicator of~~ Applies biosolids for soil amendment or surface disposal, and or;
4. ~~to the land owner and lessee of~~ Owns or leases land to which biosolids have been are applied or placed for surface disposal.

B. The land application of biosolids in a manner consistent with this Article is exempt from the requirements of the aquifer protection program, ~~as established by under~~ A.R.S. Title 49, Chapter 2, Article 3 and 18 A.A.C. 9, ~~Article 1~~ Articles 1, 2, and 3.

C. Except as otherwise provided in subsection (D) ~~of this Section~~, the land application of biosolids in a manner that is not consistent with this Article is prohibited.

D. The Department may permit the land application of biosolids in a manner ~~which that~~ differs from any of the requirements in R18-9-1007 and R18-9-1008 ~~but is otherwise consistent with this Article~~ if the land application is permitted under the aquifer protection permit program established by under A.R.S. Title 49, Chapter 2, Article 3, and 18 A.A.C. 9, ~~Article 1~~ Articles 1, 2, and 3.

E. Surface disposal.

1. Any person who prepares or places biosolids on a surface disposal site, or who owns or operates a biosolids surface disposal site shall comply with 40 CFR 503, Subpart C and:
 - a. The pathogen reduction requirements in R18-9-1006, and
 - b. The vector attraction reduction requirements in R18-9-1010.
2. Any person who owns or operates a biosolids surface disposal site shall apply for, and obtain, a permit under 18 A.A.C. 9, Articles 1 and 2.

F. The incineration of biosolids is prohibited.

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R18-9-1003. General Requirements

- A. A person shall not transport or apply biosolids to land in ~~the state of~~ Arizona, except as ~~set forth~~ established in this Article.
- B. The management practices in R18-9-1007 and R18-9-1008 do not apply when biosolids are exceptional quality biosolids.
- C. The applicator shall obtain, submit, and maintain the necessary information needed to comply with the requirements of this Article.
- D. The applicator shall not receive bulk biosolids without prior written confirmation of the filing of a "Request for Registration" ~~pursuant to under~~ R18-9-1004 ~~from the Department~~.
- E. The land owner or lessee of land on which bulk biosolids, ~~which that~~ are not exceptional quality biosolids, have been applied shall notify any subsequent land owner and lessee of all previous land applications of biosolids and shall disclose any ~~of the~~ site restrictions listed in ~~R18-9-1008, which are still~~ R18-9-1009 that are in effect at the time the property is transferred.

R18-9-1004. Applicator Registration, Bulk Biosolids

- A. Any person intending to ~~land apply~~ apply bulk biosolids in Arizona shall submit, on a form provided by the Department, a completed "Request for Registration." ~~Any current applicator shall submit this request by June 15, 1996.~~
- B. An applicator shall not engage in ~~land~~ application of bulk biosolids ~~after July 15, 1996,~~ unless the applicator has obtained a prior written acknowledgment of the request for registration from the Department.
- C. ~~The request for registration for all biosolids, except exceptional quality biosolids, shall include the following information. The request for registration~~ Request for Registration for exceptional quality biosolids shall include the following information in paragraphs (1) through (4).
 - 1. The name, address, and telephone number of the applicator and any agents agent of the applicator;
 - 2. The name and telephone number of a primary contact person who has specific knowledge of the land application activities of the applicator;
 - 3. Whether the applicator holds a National Pollutant Discharge Elimination System (NPDES) permit, or state equivalent or an AZPDES permit, and, if so, the permit number.
 - 4. The identity of the person, if different from the applicator, ~~or persons~~ who will prepare the biosolids for land application; ~~if different from the applicator.~~
- D. In addition to the information required in subsection (C), the Request for Registration for biosolids shall include the following information.
 - 5. ~~Unless unless~~ the information is already on file at the Department as part of an approved ~~land application~~ application plan, for each site on which ~~land~~ application is anticipated to take place, ~~the following information:~~
 - 1.a. ~~The name, mailing address, and telephone number of the land owner and lessee, if any;~~
 - 2.b. ~~The physical location of the site by county; and~~
 - 3. The legal description of the site, including township, range, and Section section; or latitude and longitude at the center of ~~the parcel~~ each site;
 - 4.e. ~~The number of acres or hectares at each site on which biosolids are planned to will be land applied~~ applied;
 - 5.d. ~~Except for sites described by in R18-9-1005(D)(3), background concentrations of the pollutant parameters listed in Table 4 of R18-9-1005 from representative soil samples; and~~
 - 6.e. ~~The location of any portion of the site having a slope greater than 6%:-; and~~
 - 7.f. ~~For sites on which biosolids have not been applied as of by the effective date of this Article, proof of public notice of the potential use of the site for land application of biosolids by the placement of a notice in the largest newspaper in general circulation in the area in which the site is located. In order to satisfy this requirement, the The notice shall appear at least once per each week for at least 2 two consecutive weeks before the proposed date of biosolids application. In the event If a site is not used for land application for a period of 3 at least three consecutive years or more, the applicator shall renotece the site prior to two weeks before its use reuse.~~
- D.E. A responsible official of the applicator shall sign the request for registration.
- E.F. The Department shall mail a written acknowledgment of ~~requests for registration~~ a Request for Registration, including supplemental requests, within 15 business days of receipt of the request.
- F.G. An applicator wishing to use a site ~~which that~~ has not been identified in a ~~request for registration~~ Request for Registration shall file a supplemental request with the Department ~~prior to before~~ using the new site. Public notice requirements under R18-9-1004(D)(7) applies.

R18-9-1005. Pollutant Concentrations

- A. A person shall not apply biosolids with pollutant concentrations ~~which that~~ exceed any of the instantaneous pollutant concentrations ~~set forth~~ limits established in Table 1 ~~of this Section~~. Biosolids placed on public contact sites with a low potential probability for child occupancy exposure are exempt from the selenium limit in Table 1.
- B. A person shall not apply exceptional quality biosolids that exceed any of the monthly average pollutant concentrations ~~set out in Table 2 of this Section~~.

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~~C.B.~~ A person shall not apply bulk biosolids which that are not exceptional quality biosolids to a site on which the if any annual pollutant loading rates rate in Table 3 of this Section will be is exceeded. Annual application rates shall be determined using the methodology set out established in Appendix A.

~~D.C.~~ A person shall not apply bulk biosolids which that are not exceptional quality biosolids to a site where any of the if any cumulative pollutant loading rates rate in Table 4 of this Section will be is exceeded. Compliance with the site cumulative pollutant rates shall be determined using the following:

1. ~~Cumulative Site cumulative~~ pollutant rates shall be calculated using all known biosolids applications application event and information relevant to a site since September 13, 1979.
2. An applicator shall calculate the existing cumulative level of the pollutants set out established in Table 4 using either actual analytical data from the application events; or background concentrations determined by taking representative soil samples of the site, when it is known that the site received biosolids before April 1996 [effective date of rule].
3. ~~For Background soil tests are not required for those sites which that have not received biosolids prior to the effective date of this rule, background soil tests need not be conducted before (effective date of rule).~~
4. Biosolids placed on public contact sites with a low potential probability for child occupancy child exposure are exempt from the selenium limit in Table 4.

Table 1. Ceiling Pollutant Concentrations

Pollutant	Ceiling Concentrations (milligrams per kilogram) ++(1)
Arsenic	75.0
Cadmium	85.0
Chromium	3000.0
Copper	4300.0
Lead	840.0
Mercury	57.0
Molybdenum	75.0
Nickel	420.0
Selenium.....	100.0
Zinc	7500.0

~~++(1)~~ Dry-weight basis.

Table 2. Monthly Average Pollutant Concentrations

Pollutant	Concentrations Concentration limits (milligrams per kilogram) ++(1)
Arsenic	41.0
Cadmium	39.0
Copper	1500.0
Lead	300.0
Mercury	17.0
Nickel	420.0
Selenium.....	100.0
Zinc	2800.0

~~++(1)~~ Dry-weight basis.

Table 3. Annual Pollutant Loading Rates

Pollutant	Annual pollutant Loading rate loading rates (in kilograms per hectare) ++
Arsenic	2.0
Cadmium	1.9
Copper	75.0
Lead	15.0
Mercury	0.85
Nickel	21.0
Selenium	5.0
Zinc	140.0

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~~{+} Dry weight basis.~~

Table 4. Cumulative Pollutant Loading Rates

Pollutant	Cumulative pollutant Loading loading rates (in kilograms per hectare) {+}
Arsenic	41.0
Cadmium	39.0
Copper	1500.0
Lead	300.0
Mercury	17.0
Nickel	420.0
Selenium	100.0
Zinc	2800.0

~~{+} Dry weight basis.~~

R18-9-1006. Class A and Class B Pathogen Reduction Requirements

- A. An applicator shall ensure that all biosolids applied to land meet ~~either~~ Class A or Class B pathogen reduction ~~as described in this Section,~~ at the time the biosolids are land applied.
- B. Biosolids ~~which that~~ are sold or given away in ~~a bag or other~~ another container, or ~~which that~~ are to be applied on a lawn or home garden, shall meet the Class A requirements ~~set out established~~ in subsection (D) ~~of this Section.~~
- C. Land on which biosolids with Class B pathogen reduction ~~have been~~ are applied is subject to the use restrictions ~~set out established in R18-9-1008~~ R18-9-1009.
- D. Biosolids satisfy the Class A pathogen reduction when the density of ~~either~~ fecal coliform is less than 1000 Most Probable Number per gram of total solids (dry-weight basis), or the density of *Salmonella sp.* bacteria is less than ~~3~~ three Most Probable Number per ~~4~~ four grams of total solids (dry-weight basis); and any ~~+ one~~ of the following ~~++~~ alternative pathogen treatment options is used:
 - 1. Alternative 1₂ -- The pathogen treatment process meets ~~+ one~~ of the following time and temperature requirements:
 - a. When the percent solids ~~of the biosolids are is~~ 7% or greater, the temperature of the biosolids shall be held at 50° C ~~or higher~~ for at least 20 minutes; except when small particles of the biosolids are heat-treated heated by either warmed gases or an immiscible liquid, ~~in which case the requirements of subsection (D)(1)(b) of this Section shall be met;~~
 - b. When the percent solids ~~of the biosolids are is~~ 7% or greater, and small particles of the biosolids are heat-treated heated by either warmed gases or an immiscible liquid, a temperature of 50° C ~~or higher~~ shall be held for at least 15 seconds ~~or longer;~~ ~~in the event a higher temperature is held, the exact~~ The temperature and time period may be is calculated determined using the following equation:

$$D = \frac{131,700,000}{10^{[0.1400t]}}$$

Where: D = time in days, and
 t = temperature in degrees Celsius.

- c. When the percent solids ~~of the biosolids are is~~ less than 7%, the temperature of the biosolids shall be held at 50° C for at least 30 minutes. ~~In the event~~ If a higher temperature is held, the exact time period ~~may be is~~ calculated using the following equation:

$$D = \frac{50,070,000}{10^{[0.1400t]}}$$

Where: D = time in days, and
 t = temperature in degrees Celsius.

- d. When the percent solids ~~of the biosolids are is~~ less than 7%, and the time of heating is at least 15 seconds, but less than 30 minutes, the ~~exact~~ time and temperature ~~to be maintained~~ is calculated determined using the following equation:

$$131,700,000$$

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$$D = \frac{t}{10^{[0.1400t]}}$$

Where: D = time in days, and
t = temperature in degrees Celsius.

2. Alternative 2₂ – The pathogen treatment process meets all the following parameters:
 - a. The pH of the quantity of biosolids treated is raised to 12 or higher and held ~~above 12 for~~ at least 72 hours;
 - b. During the period that the pH is above 12, the temperature of the biosolids is held above 52° C for at least 12 hours; and
 - c. At the end of the 72-hour period during which the pH is above 12, the biosolids are air dried to achieve a percent solids ~~of more in the biosolids~~ greater than 50%.
 3. Alternative 3₂ – The results of the pathogen treatment meet all of the following:
 - a. The biosolids, before pathogen treatment and until the next monitoring event, have an enteric virus density of less than ~~1 one~~ one plaque-forming unit ~~per 4 for four~~ per 4 grams of total solids (dry-weight basis); ~~and~~
 - b. The biosolids, before pathogen treatment and until the next monitoring event, have a viable helminth ova density of less than ~~1 per 4 one for four~~ one for four grams of total solids (dry-weight basis);
 - c. Once the density requirements in ~~paragraphs (a) and (b)~~ subsections (D)(3)(a) and (D)(3)(b) are consistently met, and the values and ranges of the pathogen treatment process used are documented, ~~future compliance may be shown by reporting those values and ranges rather than by measuring virus and helminth ova densities~~ the biosolids continue to be Class A with respect to enteric viruses and viable helminth ova when the values for the pathogen treatment process operating parameters are consistent with the previously documented values or ranges of values.
 4. Alternative 4₂ – ~~Composting shall use either of the following:~~
 - a. ~~Using~~ Use either the within-vessel or the static-aerated-pile composting ~~methods~~ method, maintaining the temperature of the biosolids ~~is maintained~~ at 55° C or higher for 3 days; ~~or~~
 - b. ~~Using~~ Use the windrow composting method, maintaining the temperature of the biosolids ~~is maintained~~ at 55° C or higher for at least 15 days or longer. ~~During the period when~~ The windrow shall be turned at least five times when the compost is maintained at 55° C or higher, there shall be a minimum of 5 turnings of the windrow.
 5. Alternative 5₂ – Heat drying. The biosolids are dried by direct or indirect contact with hot gases to reduce the moisture content to 10% or lower by weight. During the process, ~~either 1 of the following shall be met:~~
 - a. The temperature of the sewage sludge particles ~~exceeds~~ shall exceed 80° C; or
 - b. The wet bulb temperature of the gas as the biosolids leave the dryer ~~exceeds~~ shall exceed 80° C.
 6. Alternative 6₂ – Heat treatment. ~~Liquid~~ the quantity of liquid biosolids treated are heated to a temperature of 180° C or higher for at least 30 minutes.
 7. Alternative 7₂ – Thermophilic aerobic digestion. Liquid biosolids are agitated with air or oxygen to maintain aerobic conditions; and the mean cell residence time of the biosolids is 10 days at 55° C to 60° C.
 8. Alternative 8₂ – Beta ray irradiation. Biosolids are irradiated with beta rays from an accelerator at dosages of at least 1.0 megarad at room temperature (approximately 20° C).
 9. Alternative 9₂ – Gamma ray irradiation. Biosolids are irradiated with gamma rays from certain isotopes, such as ~~Cobalt 60~~ 60Cobalt and ~~Cesium 137~~ 137Cesium at dosages of at least 1.0 megarad at room temperature (approximately 20° C).
 10. Alternative 10₂ – Pasteurization. The temperature of the biosolids is maintained at 70° C or higher for at least 30 minutes.
 11. Alternative 11₂ -- ~~Other processes determined by the EPA Pathogen Equivalency Committee to meet Processes to Further Reduce Pathogens may be authorized by the Director. The Director shall approve another process if it is equivalent to a Process to Further Reduce Pathogens specified in subsections (D)(4) through (D)(10).~~
- E. Biosolids satisfy the Class B pathogen reduction when it meets any ~~1 one~~ of the following 7 options:
1. Alternative 1₂ – The geometric mean of the density of fecal coliform in ~~7 seven~~ representative samples ~~shall be is~~ less than either 2,000,000 Most Probable Number per gram of total solids (dry-weight basis), or 2,000,000 colony forming units per gram of total solids (dry-weight basis);
 2. Alternative 2₂ – Air drying. The biosolids are dried on sand beds or paved or unpaved basins for ~~a minimum of at least~~ at least 3 months. During at least 2 two of the ~~3 three~~ months, the ambient average daily ~~ambient~~ temperature ~~shall be~~ is above 0° C;
 3. Alternative 3₂ – Lime stabilization. Sufficient lime is added to the biosolids to raise the pH of the biosolids to 12 ~~for~~ after at least ~~2 two~~ two hours of contact;
 4. Alternative 4₂ – Aerobic digestion. The biosolids are agitated with air or oxygen to maintain aerobic conditions for a specific mean cell residence time at a specific temperature. ~~Values for the mean cell residence time and temperature shall be~~ between 40 days at 20° C and 60 days at 15° C;

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5. Alternative 5₂ – Anaerobic digestion. The biosolids are treated in the absence of air for a specific mean cell residence time at a specific temperature. ~~Values for the mean cell residence time and temperature shall be between 15 days at 35° C to 55° C and 60 days at 20° C; or~~
6. Alternative 6₂ – Composting. Using either the within-vessel, static-aerated-pile or windrow composting methods, the temperature of the biosolids is raised to 40° C or higher for 5 consecutive days. For at least 4 four hours during the 5 five days, the temperature in the compost pile ~~shall exceed~~ exceeds 55° C; ~~or~~
7. Alternative 7₂ – ~~Other processes determined by the EPA Pathogen Equivalency Committee to meet Processes to Significantly Reduce Pathogens may be authorized by the Director. The Director shall approve another process if it is equivalent to a Process to Significantly Reduce Pathogens specified in subsections (E)(2) through (E)(6).~~

R18-9-1007. Management Practices and General Requirements

- A. An applicator of bulk biosolids which are not exceptional quality biosolids shall comply with the following management practices at each land application site; ~~except a site where biosolids are applied for reclamation. The applicator shall not:~~
1. ~~Biosolids shall not be applied~~ Apply biosolids to soil with a pH of less than 6.5 at the time of the ~~sludge~~ application, unless the biosolids are either treated ~~pursuant to~~ under one of the following procedures in subsections R18-9-1006(D)(2), R18-9-1006(E)(3), or R18-9-1009(A)(6); or the soil and biosolids mixture has a pH of 6.5 or higher immediately after land application;
 2. ~~Biosolids shall not be applied~~ Apply biosolids to land with slopes greater than 6%, unless the site is operating ~~pursuant to an applicable~~ under an AZPDES permit or a permit issued pursuant to under section 402 of the CWA: Clean Water Act;
 3. ~~Biosolids shall not be applied~~ Apply biosolids to land under the following conditions:
 - a. ~~Biosolids with Class A pathogen reduction, shall not be applied to land where~~ Where the depth to groundwater is 5 feet (1.52 meters) or less;
 - b. ~~Biosolids with Class B pathogen reduction, shall not be applied to land where~~
 - i. Where the depth to groundwater is 10 feet (3.04 meters) or less; ~~or~~
 - ii. To gravel, coarse or medium sands, and sands with >15% coarse fragments where the depth to groundwater is 40 feet (12.2 meters) or less from the point of application of biosolids.
 4. ~~Biosolids shall not be applied~~ Apply biosolids to land that is 32.8 feet (10 meters) or less from surface water navigable waters so that the biosolids enter the surface water or leach substances in concentrations that exceed water quality standards;
 5. ~~Biosolids shall not be stored or applied~~ Store or apply biosolids closer than 1000 feet (305 meters) from a public or semi-public drinking water supply well; and no closer than 250 feet (76.2 meters) from any other water well;
 6. ~~Biosolids shall not be stored or applied~~ Store or apply biosolids within 25 feet (7.62 meters) of a public right-of-way or private property line unless the applicator receives permission to apply biosolids from the land owner or lessee of the adjoining property;
 7. ~~Biosolids shall not be applied~~ Apply biosolids at an application rate that is greater than the agronomic rate of the vegetation or crop grown on the site; ~~except in the case of a reclamation site which may not exceed the agronomic rate averaged over a 5 year period;~~
 8. ~~Domestic~~ Apply domestic septage; and or any other biosolids with less than 10% solids; ~~shall not be applied at a rate which that exceeds the annual application rate which is calculated; in gallons per acre per for a 365-day period, by dividing the amount of nitrogen needed by the crop or vegetation grown on the land, in pounds per acre per 365-day period, by 0.0026;~~
 9. ~~Bulk~~ Apply bulk biosolids ~~shall not be applied~~ to land that is flooded, frozen, or snow-covered, so that the bulk biosolids enter a wetland or other surface water navigable waters, except as provided in an AZPDES permit or a permit issued pursuant to Section under section 402 or 404 of the CWA or an equivalent state permit. Clean Water Act;
 10. ~~Once a~~ Apply any additional biosolids before a crop is grown on the site if the site has received biosolids containing nitrogen at the equivalent of the agronomic rate appropriate for that site, a crop must be grown on the site prior to before any additional biosolids application;
 11. ~~Irrigation~~ Exceed the irrigation needs of the crop of an application site shall not exceed the needs of the crop; and
 12. ~~To minimize odors, biosolids applied~~ Apply biosolids within 1,000 feet (305 meters) of a dwelling ~~shall be unless the biosolids are~~ injected or incorporated into the soil within 10 hours of being applied.
- B. When biosolids are ~~to be~~ placed in a bag or other container, the person who prepares the biosolids shall distribute a label or information sheet to ~~persons~~ the person receiving the material. This label or information sheet shall, at a minimum, contain ~~at least~~ the following information:
1. The identity of the person who prepared the biosolids;
 2. Instructions on the proper use of the material, including agronomic rates; and an annual application rate ~~which that~~ ensures that the annual pollutant rates ~~set out~~ established in R18-9-1005 ~~will not be~~ are not exceeded; and

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3. A statement that application of the biosolids to the land is ~~prohibited to~~ shall not exceed application rates described in the instructions on the label or information sheet.

R18-9-1008. Management Practices, Application of Biosolids to Reclamation Sites

A. An applicator of bulk biosolids which are not exceptional quality biosolids shall comply with the following management practices at each land application site where the biosolids are applied for reclamation. The applicator shall not:

1. Apply biosolids unless the soil and biosolids mixture has a pH of 5.0 or higher immediately after land application;
2. Apply biosolids to land with slopes greater than 6% unless:
 - a. The site is operating under an AZPDES permit or a permit issued under section 402 or 404 of the Clean Water Act;
 - b. The site is reclaimed as specified under A.R.S. Title 27, Chapter 5, and controls are in place to prevent runoff from leaving the application area; or
 - c. Runoff from the site does not reach navigable waters.
3. Apply biosolids to land under the following conditions:
 - a. Biosolids with Class A pathogen reduction. To land where the depth to groundwater is 5 feet (1.52 meters) or less;
 - b. Biosolids with Class B pathogen reduction.
 - i. To land where the depth to groundwater is 10 feet (3.04 meters) or less; and
 - ii. To gravel, coarse or medium sands, and sands with >15% coarse fragments where the depth to groundwater is 40 feet (12.2 meters) or less from the point of application of biosolids.
4. Apply biosolids to land that is 32.8 feet (10 meters) or less from navigable waters;
5. Store or apply biosolids closer than 1000 feet (305 meters) from a public or semi-public drinking water supply well, unless the applicator justifies and the Department approves a shorter distance, and apply biosolids closer than 250 feet (76.2 meters) from any other water well;
6. Store or apply biosolids within 1,000 feet (305 meters) of a public right-of-way or private property line unless the applicator receives permission to apply biosolids from the land owner or lessee of the adjoining property;
7. Exceed a total of 150 dry tons per acre to any portion of a reclamation site where biosolids are applied;
8. Apply biosolids with less than 10% solids;
9. Apply bulk biosolids to land that is flooded, frozen, or snow-covered so that the bulk biosolids enter a wetland or other navigable waters, except as provided in an AZPDES permit or a permit issued under section 402 or 404 of the Clean Water Act;
10. Apply more water than necessary to control dust and establish vegetation; and
11. Apply biosolids within 1,000 feet (305 meters) of a dwelling unless the biosolids are injected or incorporated into the soil within 10 hours of being applied.

B. The requirements of R18-9-1007(B) apply when biosolids are used to reclaim a site.

R18-9-1008, R18-9-1009. Site Restrictions

A. The following site restrictions shall apply to land where biosolids, which do not meet the Class A pathogen reduction requirements set out established in R18-9-1006, have been are land-applied:

1. A person shall not:
 - a. Food crops with harvested Harvest food crop parts that touch the biosolids, or biosolids and soil mixture, but otherwise grow above the land's surface shall not be harvested for 14 months following application;
 2. b. When the biosolids remain on the land's surface for 4 months or more, food crops with harvested Harvest food crop parts growing in or below the land's surface shall not be harvested for 20 months following application if the biosolids remain unincorporated on the land's surface for four months or more;
 3. c. When the biosolids remain on the land's surface for less than 4 months prior to before incorporation, food crops with harvested harvest food crop parts growing in or below the land's surface shall not be harvested for 38 months following application;
 4. d. Food Harvest food, feed, and fiber crops shall not be harvested for 30 days after application;
 5. e. Animals shall not be allowed to graze Graze animals on the land for 30 days after application; or
 6. Public access to public contact sites shall be restricted for 1 year after application;
 7. Public access to land with a low potential for public exposure shall be restricted for 30 days after application.
 8. f. Turf Harvest turf to be used at a public contact site or private residence shall not be harvested for 1 one year from application.
2. A person shall restrict public access to:
 - a. Public contact sites for one year after application; and
 - b. Land with a low probability for public exposure for 30 days after application.

B. The requirements of subsection (A) apply to domestic septage applied to agricultural land, forests, or reclamation sites.

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B.C. Once application is completed at a site, the applicator shall, in writing, provide the land owner and lessee with the following information:

1. The cumulative pollutant loading at the site ~~when if~~ it is greater than or equal to 90% of the site's available site capacity ~~according to established in~~ Table 4 of R18-9-1005;
2. Any ~~of the~~ restrictions ~~set forth~~ established in this Section that apply to the property; and ~~if so, the applicator shall state the nature of such restrictions~~ the restriction; and
3. A The signature of a responsible official of the applicator ~~shall sign this document and include on this document that includes~~ the following statement:

"I certify under penalty of law, that the information ~~contained herein~~ is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are ~~substantial~~ significant penalties for false representations, including fines and imprisonment."

C.D. The land owner or lessee shall provide each applicator with a signature indicating receipt of the site restriction statement.

~~R18-9-1009, R18-9-1010.~~ Vector Attraction Reduction

A. Except as provided in subsection (B), an applicator or person who prepares biosolids shall use ~~+~~ one of the following vector attraction reduction procedures when biosolids are land-applied:

1. Reducing the mass of volatile solids by a minimum of 38% using the calculation procedures ~~set out~~ established in "Environmental Regulations and Technology -- Control of Pathogens and Vector Attraction in Sewage Sludge," (~~EPA-625/R-92/013,~~) 1992, EPA/625/R-92/013, published by the U.S. Environmental Protection Agency, Cincinnati, Ohio 45268), 1999 edition. This material is incorporated by reference, ~~and no further editions does not include any later amendments or editions of the incorporated matter, and is~~ on file with the Department and the Office of the Secretary of State;
2. ~~For~~ When the 38% volatile solids reduction cannot be met for an anaerobically digested biosolid, the reduction can be met by ~~anaerobically re-digesting~~ digesting a portion of the previously digested material anaerobically in a laboratory in a bench-scale unit for 40 additional days at a temperature between 30° and 37° C. Vector attraction reduction is achieved ~~where~~ when at the end of the 40 days, the volatile solids in the material at the beginning of the period ~~are further~~ is reduced by less than 17%;
3. ~~For~~ When the 38% volatile solids reduction cannot be met for an aerobically digested ~~biosolids~~ biosolid, the reduction can be met by ~~aerobically re-digesting~~ digesting a portion of the previously digested material, (which has a percent solids of 2% or less), aerobically in a laboratory in a bench-scale unit for ~~an~~ 30 additional ~~30~~ days at 20° C. Vector attraction reduction is achieved ~~where~~ when at the end of the 30 days, the volatile solids in the material at the beginning of the period ~~are further~~ is reduced by less than 15%;
4. Subjecting Treat the biosolids ~~to~~ in an aerobic process during which the specific oxygen uptake rate (SOUR) is equal to or less than 1.5 milligrams of oxygen per hour per gram of total solids (dry-weight basis) at ~~a temperature of~~ 20° C;
5. Subjecting Treat the biosolids ~~to~~ in an aerobic process for 14 days or longer, during which, the temperature of the biosolids ~~shall be~~ is higher than 40° C and the average temperature of the biosolids ~~shall be~~ is higher than 45° C;
6. Raising the pH of the biosolids to 12 or higher by alkali addition and, without the addition of more alkali, ~~shall~~ remain at 12 or higher for 2 two hours and ~~then~~ at 11.5 or higher for an additional 22 hours;
7. The percent solids of the biosolids that does not contain unstabilized solids generated in a primary wastewater treatment process ~~shall be~~ is equal to or greater than 75% based on the moisture content and total solids ~~prior to~~ before mixing with other materials;
8. The percent solids of the biosolids containing unstabilized solids generated in a primary wastewater treatment process ~~shall be~~ is equal to or greater than 90% based on the moisture content and total solids ~~prior to~~ before mixing with other materials;
9. Injecting the biosolids below the surface of the land ~~such so~~ that no significant amount of biosolids is present on the land surface ~~+~~ one hour after injection. When the biosolids meet Class A pathogen reduction, injection shall occur within ~~8~~ eight hours after being discharged from a Class A pathogen treatment process; or
10. Incorporating the biosolids into the soil within ~~6~~ six hours after application. When the biosolids meet Class A pathogen reduction, application shall occur within ~~8~~ eight hours after being discharged from a Class A pathogen treatment process.

B. Biosolids that are sold or given away in a bag or other container, or are applied to a lawn or home garden, shall meet ~~+~~ one of the vector attraction reduction alternatives ~~set out~~ established in subsections (A)(1) through (A)(8).

C. For domestic septage, vector attraction reduction shall be met by ~~+~~ one of the following ~~3~~ methods:

1. By injecting ~~in accordance with as specified in~~ subsection (A)(9);
2. By incorporating ~~in accordance with as specified in~~ subsection (A)(10); or
3. By raising the pH of the ~~biosolids~~ domestic septage to 12 or higher through the addition of alkali and, without the addition of more alkali, holding the pH at 12 or higher for at least 30 minutes.

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~~R18-9-1010, R18-9-1011.~~ R18-9-1011. Transportation

- A. A transporter of bulk biosolids into and within Arizona shall use leakproof-covered trucks, trailers, rail-cars, or other vehicles ~~which are covered to prevent blowing of materials and are leakproof.~~
- B. A transporter of bulk biosolids into and within Arizona shall comply with the requirements ~~found~~ in A.A.C. R18-8-510 or R18-8-612.
- C. A transporter of biosolids shall ~~periodically~~ clean any ~~trucks, trailers, rail-cars, or other vehicles~~ truck, trailer, rail-car, or other vehicle used to transport biosolids to prevent odors or insect breeding. A transporter shall clean ~~all any tank vessels vessel~~ used to transport commercial or industrial septage, or restaurant grease-trap wastes, which ~~are also to be is~~ used to haul domestic septage, before loading the domestic septage to ensure that mixing of wastes does not occur.
- D. ~~In the event~~ If bulk biosolids are spilled while being transported, the transporter shall ~~undertake the following activities:~~
 1. ~~The transporter shall immediately~~ Immediately pick up and treat any spillage, including any visibly discolored soil, unless otherwise determined by the Department on a case-by-case basis;
 2. Within 24 hours of the spill, ~~the transporter shall~~ notify the Department of the spill, and ~~shall~~ submit written notification of the spill within 7 seven days. ~~This~~ The written notification shall include the location of the spill, the reason it occurred, the amount of biosolids spilled, and the steps taken to clean up and treat the spill.

~~R18-9-1011, R18-9-1012.~~ R18-9-1012. Self-monitoring

- A. Except as provided in subsection (B) ~~of this Section, the frequency of self-monitoring~~ the person who prepares the biosolids shall conduct self-monitoring events at the frequency listed in Table 5 for the pollutants listed in R18-9-1005, the pathogen reduction in R18-9-1006; and the vector attraction reduction requirements in ~~R18-9-1009~~ R18-9-1010. ~~shall be as indicated in Table 5.~~

Table 5. -- Frequency of Self-monitoring

<u>Amount of biosolids applied (tons/metric tons per 365-day period) {1}</u>	<u>Frequency</u>
<u>Greater than zero but less than 319.6/290</u>	<u>Once per year</u>
<u>Equal to or greater than 1,653/1,500</u>	<u>Once per quarter 319.6/290 but less than (4 times per year)</u>
<u>Equal to or greater than 1,653/1,500 but less than 16,530/15,000</u>	<u>Once per 60 days (6 times per year)</u>
<u>Equal to or greater than 16,530/15,000</u>	<u>Once per month (12 times per year)</u>

~~{1} The amount of biosolids land applied in a calendar year (dry-weight basis).~~

Table 5. -- Frequency of Self-monitoring

<u>Amount of biosolids prepared (tons/metric tons per 365-day period⁽¹⁾)</u>	<u>Frequency</u>
<u>Greater than zero but less than 319.6/290</u>	<u>Once per year</u>
<u>Equal to or greater than 319.6/290 but less than 1,653/1,500</u>	<u>Once per quarter (Four times per year)</u>
<u>Equal to or greater than 1,653/1,500 but less than 16,530/15,000</u>	<u>Once per 60 days (Six times per year)</u>
<u>Equal to or greater than 16,530/15,000</u>	<u>Once per month (12 times per year)</u>

⁽¹⁾ The amount of biosolids prepared in a calendar year (dry-weight basis).

- B. ~~In the case of biosolids~~ If biosolids ~~that have been~~ are stockpiled or lagooned, the person shall sample the biosolids for pathogen and vector attraction reduction monitoring need only be performed once prior to before land application. Sampling shall be conducted in a manner ~~which that~~ is representative of the entire stockpile or lagoon.

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- C. ~~All additional;~~ Additional or more frequent biosolids samples collected and analyzed during the reporting period shall be submitted to the Department ~~along~~ with the regularly-scheduled data required ~~by~~ in subsection (A) ~~of this Section~~.
- D. ~~As needed, the~~ The Department may order the person who prepares biosolids or the applicator to collect and analyze additional samples to measure pollutants of ~~potential~~ concern other than those ~~set out~~ established in Table 1 of R18-9-1005.
- E. Samples collected for analysis shall be obtained in a manner ~~which that~~ does not compromise the integrity of the sample quality, sample method, or sampling instrument and shall be representative of the quality of the biosolids being ~~land-~~applied applied during the reporting period.
- F. Biosolids samples shall be tracked using ~~chain of custody procedures that document the persons~~ a chain-of-custody procedure that documents each person in control of the sample from the time it was collected through the time of analysis.
- G. Biosolids samples shall be analyzed ~~in accordance with as specified by~~ the analytical methods ~~set out~~ established in 40 CFR 503.8, July 1, 2001 edition, or by the wastewater sample methods and solid, liquid, and hazardous waste sample methods established in A.A.C. R9-14-609, or R9-14-610 R9-14-612 and R9-14-613. Analyses shall be performed at a laboratory operating in compliance with A.R.S. § 36-495 et seq. The information in 40 CFR 503.8 is incorporated by reference, does not include any later amendments or editions of the incorporated matter and is on file with the Department and the Office of the Secretary of State.
- H. ~~Monitoring that can be performed in a continual manner for pathogen and vector attraction reduction treatment operating parameters, such as time and temperature, shall be monitored on a continual basis during treatment.~~ Pathogen and vector attraction reduction treatment operating parameters such as time and temperature, shall be monitored on a continual basis.
- I. Monitoring for the management practices ~~set out~~ established in R18-9-1007 and R18-9-1008 shall be conducted and recorded for each site by the applicator.
- J. Records of all compliance measurements, including the analysis of pollutant concentrations, shall be ~~kept in accordance with R18-9-1012~~ maintained as specified in R18-9-1013, and shall be reported to the Department ~~in accordance with R18-9-1013~~ as specified in R18-9-1014.

~~R18-9-1012, R18-9-1013.~~ **Recordkeeping**

- A. A person who prepares biosolids shall collect and retain the following information for at least ~~5~~ five years:
 - 1. The date, time, and method used for each sampling activity and the identity of the person ~~or persons~~ collecting the sample;
 - 2. The date, time, and method used for each sample analysis and the identity of the person ~~or persons~~ conducting the analysis;
 - 3. The results of all analyses of pollutants regulated under R18-9-1005;
 - 4. The results of all pathogen density analyses; and applicable descriptions of the methods used for pathogen treatment ~~pursuant to in~~ in R18-9-1006;
 - 5. ~~Descriptions~~ A description of the methods used, if any, and the operating values and ranges observed in any pre-land application, vector attraction reduction activities required ~~by R18-9-1009(A)~~ in R18-9-1010(A); and
 - 6. The records described in subsections (A)(1)- ~~through (A)(5) of this Section,~~ shall be accompanied by the following certification statement signed by a responsible official of the person who prepares the biosolids:

“I certify, under penalty of law, that the pollutant analyses; and the description of pathogen treatment and vector attraction reduction activities; have been made under my direction and supervision and ~~in accordance with~~ under a system designed to ensure that qualified personnel properly gather and evaluate the information used to determine whether the applicable biosolids requirements have been met. I am aware that there are significant penalties for false certification including the possibility of fine and imprisonment.”
- B. An applicator of bulk biosolids, except exceptional quality biosolids, shall collect the following information for each land application site, and, except as indicated in subsection (B)(6) ~~of this Section,~~ shall retain this information for at least ~~5~~ five years:
 - 1. The location ~~of each site,~~ by either street address or latitude and longitude, ~~of each site;~~
 - 2. The number of acres or hectares ~~in each site;~~
 - 3. The date and time the biosolids were applied ~~to each site;~~
 - 4. The amount of biosolids (in dry metric tons) ~~applied to each site;~~
 - 5. The biosolids loading rates (in tons or kilograms of biosolids per acre or hectare);
 - 6. The cumulative pollutant levels of each regulated pollutant (in tons or kilograms per acre or hectare). These records shall be retained permanently;
 - 7. The results of all pathogen density analyses, and applicable descriptions of the methods used for pathogen treatment ~~pursuant to in~~ in R18-9-1006;
 - 8. A description of the activities and measures used to ensure compliance with the management practices required ~~by Section in~~ in R18-9-1007 and R18-9-1008;
 - 9. If vector attraction reduction was not met by the person who prepares the biosolids, a description of the vector attraction reduction activities used by the applicator to ensure compliance with the requirements ~~of R18-9-1009~~ in R18-9-1010;

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10. A description of any applicable site ~~restrictions~~ restriction imposed by ~~R18-9-1008~~ in R18-9-1009, where biosolids with Class B pathogen reduction have been applied and documentation that the applicator has notified the land owner and lessee of these restrictions;
11. The records described in subsections (B)(1)- ~~through (B)(8) of this Section~~, shall be accompanied by the following certification statement signed by a responsible official of the applicator of the biosolids:
“I certify, under penalty of law, that the information and descriptions ~~contained herein~~, have been made under my direction and supervision and ~~in accordance with~~ under a system designed to ensure that qualified personnel properly gather and evaluate the information used to determine whether the applicable biosolids requirements have been met. I am aware that there are significant penalties for false certification including the possibility of fine and imprisonment.”
12. ~~Information~~ The information in subsections (A)(1) through (A)(6) when the person who prepares the biosolids is not located in this state.

C. An applicator of domestic septage shall collect the following information for each land application site. The information shall be retained for at least five years.

1. The location of each site, by either street address or latitude and longitude;
2. The number of acres or hectares;
3. The date and time the biosolids were applied;
4. The amount of nitrogen required for the crop or vegetation grown on each site during a 365 day period;
5. The rate in gallons per acre;
6. A description of how the vector attraction reduction requirements in R18-9-1010(C) are met;
7. If vector attraction reduction was not met by the person who prepares the domestic septage, a description of the vector attraction reduction activities used by the applicator to ensure compliance with the requirements in R18-9-1010;

~~C.D.~~ All records required to be retained pursuant to for retention under this Section shall be are subject to periodic inspection and copying by the Department.

~~D.E.~~ In the event of If there is unresolved litigation, including enforcement, concerning the activities documented by the records required by in this Section, the period of record retention shall be extended pending final resolution of the litigation.

~~R18-9-1013, R18-9-1014.~~ Reporting

- A. A person who prepares biosolids for application shall provide the applicator written notification of the pollutant concentrations, including total nitrogen (as N on a dry-weight basis) ~~in accordance with~~ under R18-9-1003(C).
- B. A transporter shall report spills to the Department ~~in accordance with R18-9-1010(C)~~ under R18-9-1011(D).
- C. A bulk applicator of biosolids other than exceptional quality biosolids shall provide the land owner and lessee of land application sites with information on the pollutant concentrations and loading rates of biosolids applied to that site, ~~as well as and~~ any applicable site restrictions ~~under R18-9-1008~~ under R18-9-1009.
- D. A bulk applicator of biosolids other than exceptional quality biosolids shall report to the Department when 90% or more of any cumulative pollutant loading rate has been used at a site.
- E. On February 19 of each year, ~~persons~~ any person land applying bulk biosolids ~~which that~~ are not exceptional quality biosolids shall, by letter or on a form provided by the Department, report to the Department ~~all of the following applicable information on their activities during for the previous calendar year to the Department:~~
 1. ~~Actual~~ The actual sites used; and
 2. For each site used, the following information:
 - a. ~~Amount~~ The amount of biosolids applied (in tons or kilograms per acre or hectare, or gallons per acre);
 - b. ~~Application~~ The application loading rates (in a tons or kilograms per acre or hectare, or gallons per acre);
 - c. ~~Pollutant~~ The pollutant concentrations (in milligrams per kilogram of biosolids on a dry weight basis, or gallons per acre);
 - d. ~~Pathogen~~ The pathogen treatment methodologies used during the year; and
 - e. ~~Vector~~ The vector attraction reduction methodologies used during the year.
- F. On February 19 of each year, a person preparing exceptional quality biosolids shall, by letter or on a form provided by the Department, report to the Department all the following applicable information regarding their activities during the previous calendar year:
 1. ~~Amount~~ The amount of biosolids received;
 2. ~~Amount~~ The amount of exceptional quality biosolids produced (tons or kilograms);
 3. ~~Amount~~ The amount of exceptional quality biosolids distributed;
 4. ~~Pollutant~~ The pollutant concentrations (in milligrams per kilogram of biosolids on a dry-weight basis);
 5. ~~Pathogen~~ The pathogen treatment methodologies used during the year; and
 6. ~~Vector~~ The vector attraction reduction methodologies used during the year.
- G. All annual self-monitoring reports shall contain following certification statement signed by a responsible official:

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“I certify, under penalty of law, that the information and descriptions ~~herein~~, have been made under my direction and supervision and ~~in accordance with~~ under a system designed to ensure that qualified personnel properly gather and evaluate the information used to determine whether the applicable biosolids requirements have been met. I am aware that there are significant penalties for false certification including the possibility of fine and imprisonment.”

~~R18-9-1014~~**R18-9-1015. Inspection, Compliance, and Enforcement**

- A.** A person subject to this Article shall allow, during reasonable times, a representative of the Department to enter property subject to this Article, to:
1. Inspect all biosolids pathogen and vector treatment facilities, transportation vehicles, and land application sites to determine compliance with this Article;
 2. Inspect and copy records prepared in accordance with this Article; and
 3. Sample biosolids quality.
- B.** ~~Any person violating this Article shall take all reasonable steps to minimize any adverse consequences to human health or the environment without the Department ordering such activities. Any person who violates a permit issued under this Article, or who falsifies data or information submitted to the Department under this Article is subject to enforcement action prescribed under applicable state statutes.~~
- C.** ~~A person who violates the requirements of this Article is subject to compliance and abatement orders issued by the Department; and injunctive and other appropriate relief sought by the Attorney General.~~
- D.** ~~Any person who violates any requirement of this Article is subject to a civil penalty of not more than \$1,000 per day for each separate violation.~~
- E.** ~~In the event of continuing violations, the maximum civil penalty for any 1 violation shall be capped at \$15,000 per proceeding.~~
- F.** ~~A person who knowingly or negligently violates any requirement of this Article is guilty of a Class 2 misdemeanor and may be imprisoned for up to 4 months per violation.~~

Appendix A. Procedures to Determine Annual Biosolids Application Rates

~~This appendix contains the procedure used to determine~~ The following procedure determines the annual biosolids application rate (ABAR) ~~which that~~ ensures that the annual pollutant loading rates in Table 3 of R18-9-1005 ~~shall not be~~ are not exceeded.

- ~~A.~~ 1. The relationship between the annual pollutant loading rate (APLR) for a pollutant and the ABAR is shown in the following ~~Equation (1)~~ equation:

$$\text{APLR} = C \times \text{ABAR} \times 0.001 \text{ Equation (1)}$$

Where:

- APLR = Annual pollutant loading rate in kilograms of biosolids, per hectare, per 365-day period;
C = Pollutant concentration in milligrams, per kilogram of total solids (dry-weight basis);
ABAR = Annual biosolids application rate in metric tons per hectare per 365-day period (dry-weight basis);
and
0.001 = A conversion factor.
metric ton = 1.102 short tons
hectare = 2.471 acres

- ~~B.~~ 2. The ABAR is calculated using the following procedure:
- ~~1.~~ a. Analyze a biosolids sample to determine a concentration for each of the pollutants listed in Table 3 of R18-9-1005;
 - ~~2.~~ b. Using each of the pollutant concentrations from Step 1 and the APLRs from Table 3 of R18-9-1005, calculate a separate ABAR for each pollutant using the following ~~Equation (2)~~ equation:

$$\text{ABAR} = \frac{\text{APLR}}{C \times 0.001} \text{ Equation (2)}$$

- ~~3.~~ c. The ABAR for the biosolid is the lowest value calculated in Step 2 for any pollutant.

NOTICE OF PROPOSED RULEMAKING

TITLE 18. ENVIRONMENTAL QUALITY

CHAPTER 15. WATER INFRASTRUCTURE FINANCE AUTHORITY

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PREAMBLE

<u>1. Sections Affected</u>	<u>Rulemaking Action</u>
R18-15-101	Amend
R18-15-103	Amend
R18-15-104	Amend
R18-15-105	Amend
R18-15-106	Amend
R18-15-108	Repeal
R18-15-108	New Section
R18-15-109	Renumber
R18-15-109	New Section
R18-15-110	Renumber
R18-15-110	New Section
R18-15-110	Amend
R18-15-111	Renumber
R18-15-111	New Section
R18-15-111	Amend
R18-15-112	Renumber
R18-15-112	New Section
R18-15-113	Renumber
R18-15-201	Amend
R18-15-202	Amend
R18-15-203	Amend
R18-15-204	Amend
R18-15-205	Amend
R18-15-206	Amend
R18-15-207	Amend
R18-15-208	Amend
R18-15-301	Amend
R18-15-302	Amend
R18-15-303	Amend
R18-15-304	Amend
R18-15-305	Amend
R18-15-306	Amend
R18-15-307	Amend
R18-15-308	Amend
R18-15-403	Repeal
R18-15-501	Amend
R18-15-502	Amend
R18-15-503	Amend
R18-15-504	Repeal
R18-15-504	New Section
R18-15-504	Amend
R18-15-505	Renumber
R18-15-505	New Section
R18-15-506	Repeal
R18-15-506	New Section
R18-15-507	Repeal
R18-15-507	New Section
R18-15-508	New Section
R18-15-509	New Section
R18-15-510	New Section
R18-15-511	New Section
R18-15-601	Amend
R18-15-602	Amend
R18-15-603	Amend
R18-15-701	Amend

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

Authorizing statute: A.R.S. § 49-1203

Implementing statutes: A.R.S. §§ 49-1223(A)(5), 49-1223(C), 49-1243(A)(6), 49-1245(C), and 49-1268(B)(2)

3. A list of all previous notices appearing in the Register addressing the proposed rule.

None

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

Name: Greg Swartz, Executive Director

Address: Water Infrastructure Finance Authority
202 East Earll Drive, Suite 480
Phoenix, AZ 85012

Telephone: (602) 230-9770

Fax: (602) 230-1480

5. An explanation of the rule, including the agency's reason for initiating the rule.

The proposed rule clarifies WIFA's ability to effectively address the drinking water and wastewater needs of the state. This rule will streamline the process used by WIFA to disburse monies to communities to conceive, develop, plan and design infrastructure improvements.

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

None

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

Not applicable

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

A. Introduction

The Water Infrastructure Finance Authority of Arizona (WIFA), is a public financing agency. It does not regulate any consumer or business. WIFA's purpose is to provide financial and technical assistance. WIFA is a self-supporting agency and pays administrative costs from income or from a maximum of four percent of federal capitalization grants.

B. Potential Impacts on Regulated Industry

WIFA concluded that this rulemaking will impact the following regulated industries:

1. Drinking Water Facility (A.R.S. § 49-1201): a community water system or a non-profit noncommunity water system as defined in the Safe Drinking Water Act (P.L. 93-523; 88 STAT. 1660; P.L. 95-190; 91 STAT. 1393; P.L. 104-182; 110 STAT. 1613) that is located in Arizona, excluding water systems owned by federal agencies.

2. Wastewater Treatment Facility (A.R.S. § 49-1201): a facility as defined in the clean water act, located in this state which is designed to hold, cleanse or purify or to prevent the discharge of untreated or inadequately treated sewage or other polluted waters for purposes of complying with the clean water act.

The impact to these industries is beneficial. WIFA emphasizes that although a cost is associated with obtaining financial and technical assistance, applicants initiate requests for financial and technical assistance to obtain funding to come into compliance or correct a problem. Without the financial and technical assistance available through WIFA, many communities would otherwise find it difficult, if not impossible, to obtain funding to achieve compliance or correct problems associated with water quality standards. Thus, the net impact upon the regulated industries represents a cost-savings benefit. This new rule will also allow for more timely processing of applications for financial or technical assistance, and will streamline the process used by WIFA to determine which systems have the greatest need.

C. Social Impacts

This rulemaking is not expected to have a quantifiable social cost. This is because compliance by the regulated industry is not a requirement for the rule, but a goal as the result of funding "out-of-compliance" facilities. It is not anti-

pated that the rule amendments will add any deadweight-welfare losses (policy changes that make people worse off), adjustment costs for displaced resources, or other business or market costs. Because WIFA does not anticipate any type of reduction in industry output, deadweight-welfare losses are expected to be zero, that is, because no losses in consumers' and producers' surplus are anticipated. Finally, this rulemaking will not have an impact on state revenues.

D. Anticipated Impacts on Employment, Revenues, and Expenditures

This rulemaking is expected to have either a positive or neutral impact on short and long-term employment, production or revenues.

E. General Impact on Small Businesses and Reduction of Impacts

WIFA directs financial and technical assistance to assist small businesses, in the form of drinking water utilities, and small communities because those entities tend to have the smallest user base and are less likely to be able to upgrade or rehabilitate their infrastructure without outside assistance. Therefore the general impact is a greater availability for financial and technical assistance to improve infrastructure.

F. The Probable Costs and Benefits to the Political Subdivisions Directly Affected

The political subdivisions directly affected include drinking water facilities and wastewater facilities. These facilities are impacted in the same manner as small business in that they can now solve infrastructure problems with financial and technical assistance. Other benefits include faster processing time of their applications for assistance, as well as more accurate and equitable distribution of monies to those systems.

G. The Probable Cost-benefit to Government Agencies

The Arizona Corporation Commission (ACC) is minimally affected by these rules because the private drinking water facilities must request a rate increase from the ACC to ensure payment of the loan. Additionally, most loans for financial and technical assistance are anticipated to be of a small enough size that rate increases to cover the loans will not be necessary. The Arizona Department of Environmental Quality (ADEQ) is impacted favorably as systems provided with assistance by WIFA can mitigate outstanding compliance issues with ADEQ.

H. Data Limitations and Methods Employed to Attempt to Obtain Data if Adequate Data Were not Available

WIFA will continue to utilize ADEQ databases of eligible drinking water and wastewater systems in the state as a source of data to solicit applications for financial and technical assistance. Additionally, through annual public meetings and workshops throughout the state, eligible systems are aware of WIFA's financial and technical assistance. Based on WIFA's experience and ongoing interaction with water and wastewater systems throughout the state, including stakeholder meetings, WIFA believes it understands the infrastructure needs of small systems and communities and has reflected these needs within this proposed rulemaking.

I. The Probable Benefits Outweigh the Probable Costs

This rulemaking is atypical for a government agency, because most government agencies are in the business of education, compliance, and enforcement. WIFA's goal is to provide financial and technical assistance, which in some instances may trigger an increase in user rates for the consumer, however, it is believed that the rate will be lower than could have been achieved by any other alternative method. In the end, the community benefits from (sometimes significantly) improved drinking or wastewater systems.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business and consumer impact statement:

Name: Greg Swartz, Executive Director
Address: Water Infrastructure Finance Authority
202 E. Earll Drive, #480
Phoenix, AZ 85012
Telephone: (602) 230-9770
Fax: (602) 230-1480

10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule, or if no proceedings is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

WIFA has scheduled an oral proceeding for Tuesday, September 18, 2001, from 10:00 a.m. to 12:00 p.m. to receive comments on the rulemaking. The proceeding will be held at the Arizona Department of Environmental Quality, Conference Room 1710, 3033 N. Central Avenue, Phoenix, AZ 85012. In addition, WIFA will accept written com-

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ments on the proposed rules, addressed to the contact person listed in item #9, until 5:00 p.m. Thursday, September 20, 2001, which is the close of record date. All written comments must be received by this date to be included in the rulemaking record.

Copies of the proposed rulemaking will be available prior to and at the oral proceeding. All written requests for information, or letters containing written comments, should be addressed to WIFA, 202 East Earll Drive, Suite 480, Phoenix, AZ 85012. To request additional information please call (602) 230-9770 or (877) 298-0425. If an individual with a disability needs any type of special accommodation, please call to request the needed accommodation at least 72 hours before the oral proceeding.

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

Not applicable

12. Incorporation by reference and their location in the rules:

Not applicable

13. The full text of the rules follows:

TITLE 18. ENVIRONMENTAL QUALITY

CHAPTER 15. WATER INFRASTRUCTURE FINANCE AUTHORITY OF ARIZONA

ARTICLE 1. MANAGEMENT

Section

- R18-15-101. Definitions
- R18-15-103. Legal Capability
- R18-15-104. Financial Capability
- R18-15-105. Technical Capability
- R18-15-106. Managerial and Institutional Capability
- ~~R18-15-108.~~ ~~Readiness to Proceed~~
- ~~R18-15-109.~~ R18-15-108. Interest Rate Determinations
- ~~R18-15-110.~~ R18-15-109. Bid Document Review
- ~~R18-15-111.~~ R18-15-110. Disbursements and Repayments
- ~~R18-15-112.~~ R18-15-111. Administration
- ~~R18-15-113.~~ R18-15-112. Disputes
- R18-15-113. Renumbered

ARTICLE 2. CLEAN WATER REVOLVING FUND

Section

- R18-15-201. Types of Financial Assistance Available
- R18-15-202. Eligibility Requirements for Financial Assistance
- R18-15-203. Clean Water Revolving Fund Intended Use Plan
- R18-15-204. Clean Water Revolving Fund Priority List
- R18-15-205. ~~Clean Water Revolving Fund Priority Classes~~ Priority List Ranking Criteria for the Clean Water Revolving Fund
- R18-15-206. ~~Clean Water Revolving Fund Priority List Ranking Criteria~~ Fundable Range for Clean Water Revolving Fund Design Assistance
- R18-15-207. ~~Project Construction~~ Fundable Range for Clean Water Revolving Fund Construction Assistance
- R18-15-208. Clean Water Revolving Fund Requirements

ARTICLE 3. DRINKING WATER REVOLVING FUND

Section

- R18-15-301. Types of Financial Assistance Available
- R18-15-302. Eligibility Requirements for Financial Assistance
- R18-15-303. Drinking Water Revolving Fund Intended Use Plan
- R18-15-304. Drinking Water Revolving Fund Priority List
- R18-15-305. ~~Drinking Water Revolving Fund Priority Classes~~ Priority List Ranking Criteria for the Drinking Water Revolving Fund
- R18-15-306. ~~Drinking Water Revolving Fund Priority List Ranking Criteria~~ Fundable Range for Drinking Water Revolving Fund Design Assistance
- R18-15-307. ~~Project Construction~~ Fundable Range for Drinking Water Revolving Fund Construction Assistance
- R18-15-308. Drinking Water Revolving Fund Requirements

ARTICLE 4. OTHER FINANCIAL ASSISTANCE

Section

- R18-15-403. ~~Project Construction~~ Repealed

ARTICLE 5. TECHNICAL ASSISTANCE

Section

- R18-15-501. Technical Assistance Intended Use Plan
- R18-15-502. Eligibility Requirements for Project Technical Assistance
- R18-15-503. Types of Project Technical Assistance Available
- ~~R18-15-504.~~ ~~Maximum Amount of Project Technical Assistance~~
- ~~R18-15-505.~~ R18-15-504. Priority List for Clean Water Project Technical Assistance Priority Lists
- R18-15-505. Priority List Ranking Criteria for Clean Water Project Technical Assistance
- R18-15-506. ~~Project Technical Assistance Priority Classes~~ Fundable Range for Clean Water Project Technical Assistance

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Grants

- R18-15-507. ~~Project Technical Assistance Priority Scoring Criteria~~ Fundable Range for Clean Water Project Technical Assistance Loans
- R18-15-508. Priority List for Drinking Water Project Technical Assistance
- R18-15-509. Priority List Ranking Criteria for Drinking Water Project Technical Assistance
- R18-15-510. Fundable Range for Drinking Water Project Technical Assistance Grants
- R18-15-511. Fundable Range for Drinking Water Project Technical Assistance Loans

ARTICLE 6. HARDSHIP GRANT FUND

Section

- R18-15-601. Types of Assistance Available
- R18-15-602. Eligibility Requirements for Hardship Grant Financial Assistance
- R18-15-603. Hardship Grant Financial Assistance Awards

ARTICLE 7. INTEREST RATE SETTING AND FORGIVABLE PRINCIPAL

Section

- R18-15-701. Interest Rate Setting and Forgivable Principal

ARTICLE 1. MANAGEMENT

R18-15-101. Definitions

In addition to the definitions prescribed in A.R.S. §§ 49-101, 49-201, and 49-1201, the terms of this Article, unless otherwise specified, have the following meanings:

1. ~~“Acutely toxic” means the ability of a substance to cause poisonous effects resulting in severe biological harm or death after a single exposure or dose.~~
2. “Applicant” means a governmental unit, a non-point source project sponsor, or a drinking water facility that is seeking financial assistance from the authority pursuant to the provisions of this Chapter.
3. “Application” means a request for financial assistance submitted to the Board, by an applicant.
4. “Approval to Construct” means the written approval issued by the Department or the Department’s designee to an applicant or recipient indicating that project construction may begin.
5. “Authority” means the Water Infrastructure Finance Authority of Arizona pursuant to A.R.S. § ~~49-374~~ 49-1201.
6. “Board” means the board of directors of the authority pursuant to A.R.S. § ~~49-374~~ 49-1201.
7. “Certified Water Quality Management Plan” means a plan prepared by the designated Water Quality Management Planning Agency, pursuant to § 208 of the Clean Water Act, 33 U.S.C. ~~1288~~ and certified by the Governor.
8. “Clean Water Revolving Fund” means the fund established by A.R.S. § ~~49-374~~ 49-1221.
9. ~~“Collector” means a network of pipes or sewers used to collect and transport wastewater to a treatment plant or disposal system.~~
10. “Construction” means, for a project, any placement, assembly, or installation of a building, structure, equipment, treatment process, collection lines, distribution lines, pumps, or related drinking water or water pollution control activity.
11. “Dedicated Source of Repayment” means the source of revenue ~~authorized by the voters, petitioners, or the Arizona Corporation Commission to be used~~ pledged by a borrower to repay the financial assistance.
12. “Department” means the Arizona Department of Environmental Quality.
13. ~~“Design life” means the period during which a treatment works or drinking water facility is planned and designed to be operated.~~
14. “Designated Water Quality Management Planning Agency” means a single representative organization designated by the Governor pursuant to § 208 of the Clean Water Act, 33 U.S.C. 1288, to develop a Certified Water Quality Management Plan for the area.
15. “Disbursement” means the transfer of cash from the fund to a recipient.
16. “Drinking Water Facility” means a community water system as defined in A.A.C. R18-4-101, or a nonprofit non-community water system as defined in A.A.C. R18-4-101.
17. “Drinking Water Revolving Fund” means the fund established by A.R.S. § ~~49-374.01~~ 49-1241.
18. “EPA” means the United States Environmental Protection Agency and its successor.
19. “Equivalency Project” means a wastewater treatment facility under § 212 of the Clean Water Act, 33 U.S.C. 1292, constructed in whole or in part before October 1, 1994, with funds equaling the amount of the federal capitalization grant.
20. “Executive Director” means the executive director of the Water Infrastructure Finance Authority of Arizona.

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21. “Federal capitalization grant” means the assistance agreement by which the EPA obligates and awards funds allotted to the Authority for purposes of capitalizing the Clean Water Revolving Fund and the Drinking Water Revolving Fund.
22. “Financial assistance” means the use of monies for any of the purposes identified in R18-15-201, R18-15-301, and R18-15-401.
23. “Financial assistance agreement” means any agreement, including a financial assistance loan repayment agreement, technical assistance loan repayment agreement, or grant agreement that defines the terms for financial assistance given pursuant to this Article.
24. “First Use Project” means a project identified by EPA and the state as part of the National Municipal Policy List for the state.
25. “Governmental unit” means a political subdivision or Indian tribe that may receive financial assistance from the Authority pursuant to A.R.S. § ~~49-373~~ 49-1203.
26. ~~“Infiltration” means water other than wastewater that enters a sewer system, including sewer service connections and foundation drains, from the ground through such means as defective pipes, pipe joints, connections, or manholes.~~
27. “Intended Use Plan” means the document prepared by the Authority identifying the intended uses of Clean Water Revolving Fund and Drinking Water Revolving Fund capitalization grants pursuant to R18-15-203 and R18-15-303.
28. ~~“Interceptor” means a sewer which is designed for 1 or more of the following purposes:~~
 - a. ~~To intercept wastewater from a final point in a collector and convey such wastes directly to a treatment facility or another interceptor.~~
 - b. ~~To replace an existing wastewater treatment facility and transport the wastes to an adjoining collector or interceptor for conveyance to a treatment plant.~~
 - c. ~~To transport wastewater from 1 or more municipal collectors to another municipality or to a regional plant for treatment.~~
 - d. ~~To intercept an existing major discharge of raw or inadequately treated wastewater for transport directly to another interceptor or to a treatment plant.~~
29. “MBE, WBE, SBRA Reporting” means identifying and documenting each minority business enterprise, women-owned business enterprise, and small business in a rural area that participates in a contract funded in whole or in part by ~~WIFA~~ the Authority.
30. “Nonpoint Source Program” means Arizona’s Nonpoint Source Program, approved by EPA under § 319 of the Clean Water Act, 33 U.S.C. 1329, for controlling pollution from nonpoint sources.
31. “Operational technical assistance” means the use of monies for a specific water or wastewater system to assist that system to improve its operations.
32. “Policy technical assistance” means the use of monies by or on behalf of the Authority to conduct research, conduct studies, conduct surveys, develop guidance, and perform related activities that benefit more than 1 water or wastewater system.
33. “Preconstruction” means any activity that occurs on the project before any physical activity onsite such as the erection, acquisition, alteration, remodeling, improvement, or extension of treatment works, collection lines, distribution lines, or pumps.
34. ~~“Priority List” means the ranking of projects developed by the Board pursuant to R18-15-204 and R18-15-304 document developed by the Board that ranks projects pursuant to R18-15-204, R18-15-304, R18-15-504 and R18-15-508.~~
35. “Project” means any distinguishable segment or segments of a wastewater treatment facility, drinking water facility, or the Nonpoint Source Program which can be bid separately and for which financial assistance is being requested or provided.
36. ~~“Project completion” means the date, as determined by the Authority, after consultation with the Department and the applicant or recipient, that operation of the project is initiated or is capable of being initiated, whichever occurs 1st.~~
37. “Project technical assistance” means the use of monies for a specific water or wastewater system to assist that system achieve technical, managerial, or financial capability and to facilitate the design, construction, acquisition, improvement, or consolidation of a drinking water or wastewater system.
38. “Recipient” means an applicant who has entered into a financial assistance agreement with the Authority.
39. “Replacement” means obtaining and installing equipment or accessories which are necessary during the design and operation of the drinking water and wastewater infrastructure to maintain the capacity and performance for which such infrastructure were designed and constructed.
40. “Regulatory authority” means the Department, EPA, the Department of Health Services, a county, city, or other local health department, a county environmental agency, or a sanitary district.
41. “Service area” means the area within a municipality’s boundaries, or the boundaries of a municipal, sanitary, irrigation, or county improvement district (for wastewater treatment or drinking water facilities), or is the area served by either a public service corporation (as defined in Article XV, Section 2 of the Arizona Constitution) or a homeowners association.

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- 42- "State match" means the monies that may be used to meet the requirements of § 602(b)(2) of the Clean Water Act, 33 U.S.C. 1382 and 1452(e) of the Safe Drinking Water Act, 42 U.S.C. 300j-12.
- 43- "Technical Assistance Intended Use Plan" means the document prepared by the Authority identifying the intended sources and uses of funding for technical assistance.
- 44- "Treatment works" means any devices and systems for the storage, treatment, recycling, and reclamation of municipal sewage, domestic sewage, or liquid industrial wastes used to implement § 201 of the Clean Water Act, 33 U.S.C. 1281, or necessary to recycle or reuse water over the design life of the works.
- 45- "User charge" means a charge levied on users of drinking water and wastewater infrastructure.

R18-15-103. Legal Capability

- A. The applicant shall demonstrate that it is legally authorized to enter into long-term indebtedness and legally authorized to pledge the dedicated revenue source for repayment required by R18-15-104.
- B. If the applicant is a political subdivision and the long-term indebtedness is authorized through an election, the applicant shall provide all of the following:
 - 1. One copy of the sample election ballot and election pamphlet at least 45 days prior to the election.
 - 2. One copy of the governing body resolution calling for the election at least 45 days prior to the election.
 - 3. One copy of the election results following the election.
 - 4. An attorney's opinion on the current legal status of the applicant and the applicant's ability to legally enter into the financial assistance agreement.
- C. If the applicant is a political subdivision and the long-term indebtedness is authorized through a special taxing district creation process, the applicant shall provide all of the following:
 - 1. One copy of all final documentation, notices, petitions, and related information at the conclusion of each step in the special taxing district creation process.
 - 2. An attorney's opinion on the current legal status of the applicant and the applicant's ability to legally enter into the financial assistance agreement.
- D. If the applicant is regulated by the Arizona Corporation Commission, the applicant shall provide all of the following:
 - 1. Evidence that the financial assistance from the Authority to the applicant has been authorized by the Arizona Corporation Commission.
 - 2. An attorney's opinion on the current legal status of the applicant and the applicant's ability to legally enter into the financial assistance agreement.
- E. All other applicants who are not included in subsections (B), (C), and (D), shall demonstrate that a majority of the beneficiaries consent to the terms and conditions of the financial assistance. The ~~Board~~ Authority will assist each applicant to devise a process by which this consent is documented.
- F. Based on the Board's determination of the applicant's legal capability, the ~~Board~~ Authority may recommend modifications to the proposed project or the ~~Board~~ Authority may recommend modifications to the applicant's legal structure and organization.

R18-15-104. Financial Capability

- A. The applicant shall identify a dedicated revenue source for repayment of the financial assistance. When determining an applicant's financial capability, the Board shall consider all the following:
 - 1. The amount of money collected through the dedicated revenue source for each of the previous 5 fiscal years.
 - 2. An estimate of the amount of money that will be collected through the dedicated revenue source for the current fiscal year.
 - 3. A projection of the amount of money that will be collected through the dedicated revenue source for each of the next 5 fiscal years.
- B. The applicant shall provide an estimate of the project costs, including applicable planning, design, and construction costs, as well as estimated annual operation, maintenance, and replacement costs.
- C. The applicant shall provide an estimated schedule of required disbursements of the financial assistance.
- D. The applicant shall provide the following information:
 - 1. One copy of each financial statement, audit, or comprehensive financial statement from the previous 5 fiscal years.
 - 2. One copy of each budget, business plan, management plan, or financial plan from the previous 3 fiscal years and the current fiscal year.
 - 3. One copy of the proposed budget, business plan, management plan, or financial plan for the next fiscal year.
 - 4. A summary of current fees for drinking or wastewater services including, as applicable, any resolutions passed by the governing body of a political subdivision.
 - 5. The most recent version of the applicant's capital improvement plan or other plan explaining proposed infrastructure investments.
 - 6. Copies of documentation relating to outstanding indebtedness including official statements, financial assistance agreements, and amortization schedules.

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7. The number of connections to be served by the proposed project.
- E. Based on the Board's determination of the applicant's financial capability and the Board's review of the estimated costs of the project, the ~~Board Authority~~ may recommend modifications to the proposed project or the ~~Board Authority~~ may recommend modifications to the dedicated revenue source.

R18-15-105. Technical Capability

- A. The Board shall review each applicant's technical capability to construct, operate, and maintain the proposed project.
- B. The applicant shall provide the following information:
1. One copy of each feasibility study, engineering report, design memorandum, set of plans and specifications, and other technical documentation related to the proposed project.
 2. Copies of resumes, biographies or related information of the certified operators, system employees, or contractors employed by the applicant to operate and maintain the existing facilities and the proposed project.
 3. A description of the service territory including maps.
 4. A description of the existing physical facilities.
- C. The Board may consider the applicant's compliance history, as applicable, to the Clean Water Act, 33 U.S.C. 1251 to 1387, Safe Drinking Water Act, 42 U.S.C. 300f to 300j-25, related Arizona statutes, and related rules, regulations, and policies.
- D. Based on the Board's determination of the applicant's technical capability and the Board's review of the proposed project, the ~~Board Authority~~ may recommend modifications to the proposed project.

R18-15-106. Managerial and Institutional Capability

- A. The Board shall review each applicant's capability to manage the proposed project.
- B. The applicant shall provide the following information:
1. As applicable, copies of resumes, biographies, years of experience, term of office, and related information of the owners, managers, chief elected officials, and governing body members of the applicant.
 2. A list of professional and outside services retained by the applicant and the proposed project.
- C. The Board may consider the following:
1. As applicable, compliance history of the applicant relative to the Clean Water Act, 33 U.S.C. 1251 to 1387, Safe Drinking Water Act, 42 U.S.C. 300f to 300j-25, related Arizona statutes, and related rules, regulations, and policies.
 2. The scope and size of the proposed project and the applicant's ability to manage the project once completed.
- D. Based on the Board's determination of the applicant's managerial capability and the Board's review of the proposed project, the ~~Board Authority~~ may recommend modifications to the proposed project.

R18-15-108. Readiness to Proceed

- ~~A. The Board shall review each applicant's readiness to proceed with the proposed project.~~
- ~~B. The Board shall use all of the following readiness criteria to classify projects (the higher the number, the higher the level of readiness):~~
- ~~1. Level 1—The applicant has received authorization to enter into long-term indebtedness.~~
 - ~~2. Level 2—
 - a. The Board has determined all of the following:
 - i. Legal capability pursuant to R18-15-103.
 - ii. Financial capability pursuant to R18-15-104.
 - iii. Technical capability pursuant to R18-15-105.
 - iv. Managerial and institutional capability pursuant to R18-15-106.
 - b. The applicant has completed the requirement for Level 1.~~
 - ~~3. Level 3—
 - a. The plans and specifications have been reviewed and approved by the Department or the Department's designee.
 - b. The applicant has completed the requirements for Levels 1 and 2.~~
 - ~~4. Level 4—
 - a. The applicant is in the process of obtaining all applicable permits and approvals required by federal, state, and local authorities.
 - b. The applicant has completed the requirements for Levels 1, 2, and 3.~~
 - ~~5. Level 5—
 - a. The applicant has obtained all applicable permits and approvals required by federal, state, and local authorities.
 - b. The applicant has completed the requirements for Levels 1, 2, 3, and 4.~~
 - ~~6. Level 6—
 - a. The applicant has received and accepted bids for the project or, with prior approval from the Board, the applicant has commenced construction.
 - b. The applicant has completed the requirements for Levels 1, 2, 3, 4, and 5.~~

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- ~~C.~~ As applicable, until the environmental review process described in R18-15-107 is completed, the Board shall limit payments of financial assistance to preconstruction activity.
- ~~D.~~ Until all applicable permits and approvals required by federal, state, and local authorities are obtained, the Board shall limit payments of financial assistance to preconstruction activity.
- ~~E.~~ The Board shall bypass a project within a fiscal year and offer funding to the next highest ranking project on the project priority list if either 1 of the following occurs:
 - 1. The Board determines that substantial progress has not been made on a project toward being ready to proceed within 8 months of notification from WIFA that the project is within the fundable range of projects for that fiscal year, or
 - 2. The Board determines that the project will not be ready to proceed within the current fiscal year.

~~R18-15-109.~~ R18-15-108. Interest Rate Determinations

- A. In establishing interest rates for financial assistance made under this Chapter, the Authority:
 - 1. Shall consider the interest rate on bonds issued by the Authority, prevailing market rates, the recommendations of financial advisors, equity growth, and asset growth;
 - 2. Shall not establish a rate which exceeds prevailing market rates for similar types of financial assistance;
 - 3. Shall not establish a rate, which is less than is needed to retire the Authority's bonds.
- B. The Authority shall establish interest rates on a loan by loan basis. Such determinations shall be adopted and amended as required by the Board at public meetings of the Board.

~~R18-15-110.~~ R18-15-109. Bid Document Review

To ensure compliance with all Arizona statutes and federal requirements for funding the project, the applicant shall submit bid documents for review and comment by the Authority prior to the release of the documents to prospective bidders or contractors.

~~R18-15-111.~~ R18-15-110. Disbursements and Repayments

- A. The Authority shall honor disbursement requests if the disbursements are consistent with the financial assistance agreement and ~~within 10% of the project dollar~~ the disbursement schedule agreed to by both parties at the beginning of the contract, or the amended schedule based upon prior ~~Board~~ Authority approval.
- B. The Authority shall charge a late fee for any loan repayment 30 days past the due date and every 30 days thereafter. The authority shall refer any loan repayment over 90 days past due to the Office of the Attorney General for appropriate action pursuant to A.R.S. § 49-375(J).
- C. The recipient shall maintain a project account in accordance with generally accepted government accounting standards. After reasonable notice by the ~~Board~~ Authority, the recipient shall make available any project records reasonably required to determine compliance with the provisions of this Article and the financial assistance agreement.
- D. Each disbursement request shall be on the forms provided by the Authority. Each disbursement request shall include a certification and signature document, a cost-incurred report, and a MBE, WBE, SBRA report. All disbursement forms shall be completely filled out before the disbursement can be processed by the Authority.
- E. Each disbursement request shall include copies of invoices, canceled checks, or other documents that show proof of payment.
- ~~F.~~ The Authority shall not process the last substantial reimbursement request for construction funds reimbursement for payment until all required facility permits are in place. The last substantial reimbursement request is defined as follows:
 - 1. Ten percent of the contract amount on a contract less than \$1,000,000;
 - 2. Five percent of the contract amount on a contract greater than or equal to \$1,000,000 and less than \$5,000,000;
 - 3. Two percent of the contract amount on a contract greater than or equal to \$5,000,000.

~~R18-15-112.~~ R18-15-111. Administration

- A. The ~~Board~~ Authority may use up to 4% of federal capitalization grant awards to pay the reasonable costs of administering the Clean Water Revolving Fund and the Drinking Water Revolving Fund.
- B. The ~~Board~~ Authority may also require a recipient to pay a proportionate share of the expenses of the Authority's operating costs.

~~R18-15-113.~~ R18-15-112. Disputes

- A. Any party having a substantial financial interest in or suffering a substantial adverse financial impact from an action taken pursuant to this Chapter may file a formal letter of dispute with the Executive Director. Within 30 days of receipt of a dispute letter, the Authority shall issue a preliminary decision in writing, to be forwarded by certified mail to the party.
- B. Any party filing a dispute pursuant to subsection (A) that disagrees with a preliminary decision of the Authority may file a formal letter of appeal with the Board, provided such letter is received by the Executive Director not more than 15 days after the receipt by the party of the preliminary decision.
- C. The Board shall issue a final decision on issues appealed to it pursuant to subsection (B) not more than 60 days after receipt of the appeal.

R18-15-113. ~~Disputes~~ Renumbered

ARTICLE 2. CLEAN WATER REVOLVING FUND

R18-15-201. Types of Financial Assistance Available

A. The Authority may use the Clean Water Revolving Fund for any of the following purposes:

1. Financial assistance, which includes any ~~+~~ of the following:
 - a. ~~Loans~~ Financial assistance loan repayment agreements consistent with § 603(d)(1) of the Clean Water Act, 33 U.S.C. 1383;
 - b. The purchase or refinance of local debt obligations ~~which~~ that were incurred after March 7, 1985, if building began after that date;
 - c. The guarantee or purchase of insurance for local obligations to improve credit market access or reduce interest rates;
 - d. Security as a source of repayment of principal and interest on bonds issued by the Authority provided that the net proceeds of the bonds are deposited in the fund;
 - e. Guarantees of debt obligations by governmental units, which are issued to finance eligible projects.
2. Technical assistance loan repayment agreements.
- ~~2.3.~~ Investments to earn interest to be deposited into the fund.
- ~~3.4.~~ Payments of costs to administer the fund.
- ~~4.5.~~ Additional Other uses as additional funds are made available.

B. The ~~Board~~ Authority shall describe projects and proposed financial assistance in the Clean Water Revolving Fund Intended Use Plan, developed ~~pursuant to~~ under R18-15-203.

R18-15-202. Eligibility Requirements for Financial Assistance

A. To be eligible to receive financial assistance an applicant shall propose a project to: design, construct, acquire, improve or refinance a publicly owned wastewater treatment facility or projects ~~listed on the Nonpoint Source Management Plan~~ eligible for the Department's Water Quality Improvement Grant Program.

B. A project eligible under subsection (A) shall also meet all of the following applicable requirements ~~prior to~~ before receiving financial assistance:

1. The project shall appear on the Clean Water Revolving Fund Master Priority List developed ~~pursuant to~~ under R18-15-204.
2. The applicant shall demonstrate legal capability ~~pursuant to~~ under R18-15-103.
3. The applicant shall demonstrate financial capability ~~pursuant to~~ under R18-15-104.
4. The applicant shall demonstrate technical capability ~~pursuant to~~ under R18-15-105.
5. The applicant shall demonstrate managerial and institutional capability ~~pursuant to~~ under R18-15-106.
6. The applicant shall demonstrate completion of the environmental review process ~~pursuant to~~ under R18-15-107.
- ~~7.~~ The applicant shall demonstrate readiness to proceed pursuant to R18-15-108.
- ~~8.7.~~ The applicant shall obtain or be in the process of obtaining all permits and approvals required by federal, state, and local authorities.
- ~~9.8.~~ The applicant shall ensure that the project is consistent with the Certified Water Quality Management Plan.
- ~~10.9.~~ For nonpoint source projects, the applicant shall ensure that the project is consistent with § 319 and Title VI of the Clean Water Act, 33 U.S.C. 1329, 1381 to 1387.

C. The ~~Board~~ Authority, through its Board, shall provide financial assistance to eligible governmental units for proposed projects in priority order according to the priority list developed pursuant to R18-15-204. If the Board determines that an applicant will not be able to proceed with a project in a manner consistent with the Clean Water Revolving Fund Intended Use Plan, the Board shall bypass that project. The Board shall provide written notice to the applicant that the project has been bypassed. The Board shall replace the bypassed project with the next project on the Clean Water Revolving Fund Priority List in rank order that is ready to accept financial assistance.

R18-15-203. Clean Water Revolving Fund Intended Use Plan

The ~~Board~~ Authority shall publish an Intended Use Plan for each ~~year~~ funding cycle in which it anticipates that it will provide financial assistance for eligible projects. At a minimum the Intended Use Plan shall include a Priority List, a Fundable Range for Design Financial Assistance, and a Fundable Range for Construction Financial Assistance and shall identify the projects by eligible applicant, project name, type of project, type of financial assistance, amount of financial assistance, and estimated interest rates to be charged. The Intended Use Plan shall also identify ~~its first~~ use and equivalency projects. The Intended Use Plan shall be prepared after providing for public comment and review. ~~When~~ If an Intended Use Plan is to be submitted as ~~+~~ one of the documents required to obtain a grant under Title VI of the Clean Water Act, 33 U.S.C. 1381 to 1387, the Intended Use Plan shall include any additional information required by federal law.

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R18-15-204. Clean Water Revolving Fund Priority List

- ~~A.~~ Each year the ~~The~~ Board shall adopt the Priority List for the next 12-month period funding cycle described in the Intended Use Plan. The Board shall not adopt a new list for years where funds are not adequate to assist any projects.
- ~~B.~~ When the Priority List is required pursuant to subsection (A), the Board shall rank the projects by priority class (alphabetized with A as the highest priority class), priority points, and year.
- ~~C.~~~~B.~~ An applicant, desiring placement on the Priority List, shall make its request for placement of ~~+~~ one or more proposed projects on or before a date specified by the ~~Board~~ Authority. When requesting placement on the Priority List, an applicant shall submit information within an application format specified by the ~~Board~~ Authority.
- ~~D.~~~~C.~~ The ~~Board~~ Authority shall prepare a draft Priority List. In developing a draft Priority List, the ~~Board~~ Authority shall consider all requests submitted under subsection ~~C~~ (B), all requests made by regulatory authorities, all plans prepared pursuant to under the Clean Water Act, 33 U.S.C. 1251 to 1387, and the most recently adopted Priority List.
- ~~E.~~~~D.~~ The ~~Board~~ Authority shall hold a public meeting to receive comments on the draft Priority List. The ~~Board~~ Authority shall publish a notice of the public meeting in newspapers statewide at least ~~21~~ 14 days prior to before the meeting date and make copies of the draft Priority List available to the public at least ~~14~~ 7 days prior to before the meeting date.
- ~~F.~~~~E.~~ The ~~Board~~ Authority shall consider all comments submitted in writing prior to before the meeting, given orally at the meeting, submitted in writing at the meeting, or submitted subsequent to the meeting but prior to before the close of the written comment period. The ~~Board~~ Authority shall establish a written comment period and shall publish the date upon which the comment period closes in the meeting notice. ~~The Board shall summarize all of~~ After the Authority summarizes the comments received, ~~prepare responses,~~ and prepares responses, the Board shall adopt the Priority List to be used to administer the Clean Water Revolving Fund during the following fiscal year.
- ~~G.~~~~F.~~ The Board shall make additions or modifications to the Priority List when if ~~1 or more~~ each of the following conditions are met:
- ~~1.~~ The project meets the criteria for Priority Class A specified in R18-15-205(B). ~~The project scores a minimum of 40 points under R18-15-205 (B).~~
 - ~~2.~~ Funds are available to cover the cost of the project and to honor funding commitments made to other projects or needed to support financial arrangements made to sell bonds for the state match.
 - ~~3.~~~~2.~~ The additions or modifications are made by the Board at a public meeting.
 - ~~4.~~ Additional funds are made available.
- ~~G.~~ After an opportunity for public comment at a public meeting, the Board may make modifications to the Priority List, based on changes to existing conditions under R18-15-205(B).
- ~~H.~~ After an opportunity for public comment at a public meeting, the Board may remove a project from the Priority List under any ~~+~~ of the following circumstances:
- ~~1.~~ The project has received all financial assistance from the fund requested by the applicant,;
 - ~~2.~~ The project has been financed with long-term indebtedness from another source,;
 - ~~3.~~ The project is no longer an eligible project,;
 - ~~4.~~ The applicant requests removal,; or
 - ~~5.~~ The applicant is no longer an eligible applicant.
- ~~I.~~ The Board shall retain a project on the Priority List in its assigned priority ranking if it is bypassed pursuant to R18-15-202(C).

R18-15-205. ~~Clean Water Revolving Fund Priority Classes~~ Priority List Ranking Criteria for the Clean Water Revolving Fund

- ~~A.~~ The Board shall evaluate each project on the Priority List and place it into a priority class. The Board may place major portions of a project into different priority classes. The Board shall consider separation of a project into different priority classes when requested by the applicant or when the Board determines that available funds are inadequate to provide assistance to projects critical to the public health or to water quality. The Board may re-evaluate project priority classes under R18-15-204(G) when supported by information such as facility plans, feasibility studies, enforcement actions, and environmental reviews conducted under R18-15-107. If the Board determines that the problem being addressed by a project can be corrected by proper operation and maintenance of existing facilities, the project is ineligible for financial assistance.
- ~~B.~~ Class A—The Board may designate a project as Priority Class A if both the following conditions exist:
- ~~1.~~ The goal of the project is to eliminate either of the following:
 - ~~a.~~ An environmental nuisance as defined in A.R.S. § 49-141.
 - ~~b.~~ A public health hazard declared by a regulatory authority.
 - ~~2.~~ Corrective action or mitigation measures have been initiated as evidenced by 1 or more of the following:
 - ~~a.~~ An administrative order issued by a regulatory authority.
 - ~~b.~~ A court order or decision.
 - ~~e.~~ A voluntary compliance agreement with a regulatory authority.

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- d. The implementation of a corrective action plan by a regulatory authority, which may include restrictions on construction, connections, or development.
- e. A voluntary corrective action plan implemented by the applicant and evidenced by restrictions or moratoriums.
- C.** **Class A: Continuing Construction Projects** — In addition to R18-15-205(B), the Board may designate a project as Priority Class A if the project received funding in a prior fiscal year, the Board entered into a multi-fiscal year funding commitment with the applicant, and the project received at least 20 points under R18-15-206(H).
- D.** **Class B** — The Board may designate a project as Priority Class B if the goal of the project is to eliminate a violation of water quality standards documented by official reports, data, or findings of a regulatory authority and corrective action or mitigation measures have been initiated as evidenced by 1 or more of the following:
 - 1. An administrative order issued by a regulatory authority.
 - 2. A court order or decision.
 - 3. A voluntary compliance agreement with a regulatory authority.
 - 4. The implementation of a corrective action plan by a regulatory authority, which may include restrictions on construction, connections, or development.
 - 5. A voluntary corrective action plan implemented by the applicant and evidenced by restrictions or moratoriums.
- E.** **Class C** — The Board may designate a project as Priority Class C if the goal of the project is to correct water quality which violates applicable permit requirements. The Board shall ensure that the violations are documented by required or special monitoring reports which confirm that the discharge limits for a parameter were exceeded either 3 consecutive months during the past year or any 4 months during the past year.
- F.** **Class D** — The Board may designate a project as Priority Class D if any 1 of the following conditions exists:
 - 1. The project will provide capacity required to serve existing needs.
 - 2. The project is designed for wastewater reuse, to conserve water, or to recharge wastewater.
 - 3. The project is necessary to remedy interceptors which are overloaded.
- G.** **Class E** — The Board may designate a project which does not receive a designation pursuant to subsections (B) through (F) as Priority Class E, if the project is for future growth only or if the project has been financed from another source of long-term indebtedness.
- A.** The Authority, through its Board, shall rank projects using priority values obtained from the following formula:
PV = EC + PB + LFC, where:
PV = Priority Value
EC = Existing Conditions
PB = Project Benefits
LFC = Local Fiscal Capacity
 - 1. Existing Conditions (EC) -- The Authority shall award EC points up to a maximum of 200 points using the following formula:
EC = CC + PYF, where:
CC = Current Conditions
PYF = Prior Year Funding
 - a. Current Conditions (CC) -- The Authority shall award CC points up to a maximum of 100 points using only one of the following categories:
 - i. Surface Water Pollution (Sewerage Facilities):
 - (1) 100 points if the project corrects a sewer overflow.
 - (2) 80 points if the project corrects a wastewater treatment facility non-compliance.
 - (3) 60 points if the project corrects excessive inflow and infiltration.
 - (4) 40 points if the project repairs a lift or pump station.
 - ii. Untreated or Uncontrolled Runoff (shown to be polluting either surface or ground water):
 - (1) 100 points if the project constructs or repairs a stormwater treatment or management facility.
 - (2) 80 points if the project implements agricultural best management practices.
 - (3) 60 points if the project involves landfill capping.
 - (4) 40 points if the project is non-traditional.
 - iii. Groundwater Pollution:
 - (1) 100 points if the project corrects onsite wastewater systems shown to be polluting either surface or ground water.
 - (2) 50 points if the project corrects surface of ground water pollution from sources other than onsite wastewater systems.
 - b. Prior Year Funding (PYF) -- The Authority shall award PYF points up to a maximum of 100 points with only one set of points awarded as follows:
 - i. 100 points if the applicant requests additional financial assistance for a multi-year construction project that received financial assistance from the Authority in a previous funding cycle.

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- b. User Fees (UF) - The Authority shall divide the applicant's proposed residential user fees, rates, and charges by the service area's MHI (Proposed User Fees, Rates and Charges/Area MHI) to award points as follows:
 - i. 20 points if the rates are more than 1.5% of the area's MHI.
 - ii. 10 points if the rates are from 1% to 1.5% of the area's MHI.
 - iii. 0 points if the rates are less than 1% of the area's MHI.
 - c. Indebtedness (I) - The Authority shall divide existing indebtedness and proposed indebtedness by the number of users (Indebtedness/Number of Users) and divide the result by the service area's MHI to award points as follows:
 - i. 20 points if the existing and proposed indebtedness is more than 1% of the area's MHI.
 - ii. 10 points if the existing and proposed indebtedness is from .5% to 1% of the area's MHI.
 - iii. 0 points if the existing and proposed indebtedness is less than .5% of the area's MHI.
 - d. Cost Effectiveness (CE) -- The Authority shall divide the estimated costs of construction by the number of benefitting connections (Construction Costs/# of Benefitting Connections) to award points as follows:
 - i. 20 points if CE is less than \$2,500 per benefitting connection.
 - ii. 10 points if CE is from \$2,500 to \$5,000 per benefitting connection.
 - iii. 0 points if CE is more than \$5,000 per benefitting connection.
 - e. The Authority may use the most recent United States census data to determine the applicant's and the state's median household income. If the Authority or the applicant determines that this data is insufficient, the applicant shall use a reliable and impartial entity to conduct an income survey of the applicant's service area. If the applicant's service area is included in more than one income area, the Authority may use an average of income areas to define the service area's median household income.
- B.** The Authority shall rank tied scores by placing the project with the lowest cost effectiveness ratio above all other tied projects.

R18-15-206. Clean Water Revolving Fund Priority List Ranking Criteria Fundable Range for Clean Water Revolving Fund Design Financial Assistance

- A.** The Board shall rank projects within priority classes using priority values obtained from the following formula:

$PV = VF + TD + CL + CW + CI + LFC + PYF + CR$ where:

PV = Priority Value

VF = Violation Factor

TD = Treatment and Disposal

CL = Collection Lines

CW = Classification of Waters

CI = Conservation Index

LFC = Local Fiscal Capacity

PYF = Prior Year Funding

CR = Consolidation and Regionalization

- B.** Violation Factor (VF) — Whenever the Board determines that a project seeks to correct a violation of a water quality standard or a violation of a condition contained in a valid water quality permit issued by a regulatory authority, the Board shall award VF points. The Board shall use information from documents obtained under R18-15-205(B) and R18-15-205(D) to assign VF points. VF points are awarded as follows up to a maximum of 100 points:
1. 40 points for nitrates, disease organisms or indicators, or conditions which create a threat to an endangered species.
 2. 30 points for pathogens, heavy metals, and volatile organic compounds (VOC's).
 3. 20 points for biochemical oxygen demand (BOD), suspended solids, or phosphates.
 4. 10 points for pH, turbidity, or temperature.
- C.** Treatment and Disposal (TD) — If an applicant is seeking financial assistance to construct, upgrade, or rehabilitate a treatment or disposal process, the Board shall award TD points up to a maximum of 30 points with only 1 set of points awarded as follows:
1. 30 points to provide additional treatment capacity to meet existing need.
 2. 30 points to construct new treatment capacity for an unsewered area.
 3. 25 points to provide additional disposal capacity.
 4. 20 points to upgrade treatment facilities to more stringent standards.
 5. 15 points to remedy existing design inadequacies.
 6. 10 points for projects which will resolve existing operation and maintenance violations.
 7. 5 points for projects which will expand treatment capacity to accommodate future growth.
- D.** Collection Lines (CL) — If an applicant is seeking financial assistance for a collection line project, the Board shall award CL points up to a maximum of 30 points with only 1 set of points awarded as follows:
1. 30 points to extend service to an existing unsewered area where a documented water quality standard violation exists.
 2. 25 points to repair, rehabilitate or replace existing collection lines.
 3. 20 points to extend service to an existing unsewered area.

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4. 15 points to replace collection lines to accommodate existing growth.
 5. 5 points to install new collection lines to accommodate future growth.
- E.** Classification of Waters (CW) — The Board shall award points for either surface water or groundwater categories but not both. The most stringent protected use within each category shall be the sole determiner of the CW points. CW points are awarded as follows up to a maximum of 30 points:
1. For surface water, CW points shall be awarded for discharges into a water body assigned 1 of the following protected use classifications under A.A.C. R18-11-101:
 - a. 30 points for “full body contact” or “domestic water source.” For purposes of this subsection, a project that is not within either of those classifications may receive 30 points if the discharge is into a water body classified as a “unique water” defined in A.A.C. R18-11-101.
 - b. 20 points for “aquatic and wildlife—(cold water fishery)”.
 - c. 15 points for “aquatic and wildlife” that is not a cold water fishery.
 - d. 10 points for “incidental human contact”.
 2. For groundwater, CW points shall equal 30 points for discharges into an aquifer.
- F.** Conservation Index (CI) — The Board shall award Conservation Index points up to a maximum of 45 points as follows:
1. 30 points if the project will reclaim, reuse, or recharge at least 51% of treated wastewater consistent with state law.
 2. 15 points if the project will productively recycle wastewater constituents.
 3. 0 points if the project will not reclaim, reuse, or recharge wastewater.
- G.** Local Fiscal Capacity (LFC) — The Board shall award LFC points up to a maximum of 100 points as follows:
1. Median Household Income (MHI) — The Board shall divide the MHI from the area served by the applicant by the state’s MHI (Service Area MHI/State MHI) to award points as follows:
 - a. 40 points if the area’s MHI is less than 25% of the State’s MHI.
 - b. 30 points if the area’s MHI is between 25% and 50% of the State’s MHI.
 - c. 20 points if the area’s MHI is between 51% and 75% of the State’s MHI.
 - d. 10 points if the area’s MHI is between 76% and 100% of the State’s MHI.
 - e. 0 points if the area’s MHI is more than 100% of the State’s MHI.
 2. User Fees — The Board shall divide the applicant’s proposed residential user fees, rates, and charges by the service area’s MHI (Proposed User Fees, Rates and Charges/Area MHI) to award points as follows:
 - a. 20 points if the rates are more than 2% of the area’s MHI.
 - b. 10 points if the rates are between 1% and 2% of the area’s MHI.
 - c. 0 points if the rates area is less than 1% of the area’s MHI.
 3. Investment — The Board shall divide existing indebtedness, existing investments, and proposed indebtedness by the service area’s MHI (Investment/Area MHI) to award points as follows:
 - a. 20 points if the existing and proposed investment is more than 1% of the area’s MHI.
 - b. 10 points if the existing and proposed investment is between .5% and 1% of the area’s MHI.
 - c. 0 points if the existing and proposed investment is less than .5% of the area’s MHI.
 4. Cost Effectiveness (CE) — The Board shall divide the estimated costs of construction by the number of benefitting connections (Construction Costs/# of Benefitting Connections) to award points as follows:
 - a. 20 points if CE is less than \$2,500 per benefitting connection.
 - b. 10 points if CE is between \$2,500 and \$5,000 per benefitting connection.
 - c. 0 points if CE is more than \$5,000 per benefitting connection.
- H.** Prior Year Funding (PYF) — The Board shall award PYF points up to a maximum of 30 points with only 1 set of points awarded as follows:
1. 30 points if the applicant requests additional financial assistance for a multi-year construction project which received financial assistance from the Authority in a previous fiscal year.
 2. 20 points if the applicant requests additional financial assistance to offset actual costs or justified overruns.
 3. 10 points if the applicant requests financial assistance to construct a project which received planning and design financial assistance from the Authority in a previous fiscal year.
 4. -10 points if the applicant requests financial assistance to offset cost overruns.
- I.** Consolidation & Regionalization (CR) — The Board shall award CR points up to a maximum of 50 points as follows:
1. 20 points if the applicant is consolidating the physical facilities of existing multiple facilities.
 2. 20 points if the applicant is extending service to existing areas currently served by another facility.
 3. 5 points if the applicant is consolidating the operations of existing multiple facilities.
 4. 5 points if the applicant is consolidating the ownership of existing multiple facilities.
- J.** The Board may use the most recent United States census data to determine the applicant’s and the state’s median household income. If the Board or the applicant determines that this data is insufficient, the applicant shall use a reliable and impartial entity to conduct an income survey of the applicant’s service area. If the applicant’s service area is included in more than 1 income area, the Board may use an average of income areas to define the service area’s median household income.

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- ~~K.~~ After scoring within each class, the Board shall rank tied scores by placing the lowest cost-effectiveness ratio project above all other tied projects in the class. The cost-effectiveness ratio means the project dollars per benefitting connection.
- A. The Board shall adopt a Fundable Range for Design Financial Assistance based on projects ranked on the Priority List. The Board shall not adopt a new Fundable Range for Design Financial Assistance for funding cycles in which funds are not adequate to assist any projects.
- B. The Authority shall prepare a draft and a final Fundable Range for Design Financial Assistance at the same time and in the same manner as the Priority List in accordance with R18-15-204 (C) through (E).
- C. The Board shall rank projects within the Fundable Range for Design Financial Assistance based on priority values obtained from the Priority List, the year the applicant requires funding, and the receipt of a complete Design Finance Application.
- D. The Board shall make additions to the Fundable Range for Design Financial Assistance if each of the following conditions are met:
 - 1. The project is on the Priority List.
 - 2. Funds are available to cover the cost of the project and to honor funding commitments made to other projects, and
 - 3. The additions are made by the Board at a public meeting.
- E. After an opportunity for public comment at a public meeting, the Board shall remove a project from the Fundable Range for Design Financial Assistance under one or more of the following circumstances:
 - 1. The project has been removed from the Priority List.
 - 2. The project has received all design financial assistance from the fund requested by the applicant, or
 - 3. The applicant fails to proceed with the project.

R18-15-207. ~~Project Construction~~ Fundable Range for Clean Water Revolving Fund Construction Financial Assistance

- ~~A.~~ WIFA shall withhold all construction funding until the Department issues an approval to construct for the applicant.
- ~~B.~~ Prior to awarding contracts for construction associated with the project, the applicant or recipient shall demonstrate all of the following:
 - 1. All easements and rights-of-way have been obtained.
 - 2. All contracts, subagreements, and force account work are consistent with the Arizona Procurement Code, A.R.S. Title 41, Chapter 23.
 - 3. All required approvals and permits have been obtained from the following entities:
 - a. The Department including the requirements contained in 18 A.A.C. 9.
 - b. Applicable federal, state, and local authorities as related to:
 - i. Leases.
 - ii. Zoning permits.
 - iii. Building permits.
 - iv. Flood plain approvals.
 - v. Air quality permits.
 - vi. Solid waste approvals.
- ~~C.~~ During construction of wastewater treatment facilities, the recipient shall do all the following:
 - 1. Conduct work in compliance with the requirements of 18 A.A.C. 9.
 - 2. Employ a qualified, registered, professional engineer to directly supervise construction management and inspection.
- ~~D.~~ Upon project completion, all of the following requirements shall be satisfied:
 - 1. The project shall receive a final inspection and obtain all certifications and approvals required by 18 A.A.C. 9.
 - 2. The recipient shall accept the project in writing.
 - 3. Any required operation and maintenance manual shall be completed.
 - 4. As-built plans and specifications shall be submitted to the Authority and the recipient.
- ~~E.~~ Within 1 year after project completion, the recipient shall certify that the wastewater treatment facility meets design specifications and all effluent limitations. If the recipient is unable to submit the required certification, the recipient shall submit a corrective action plan. This plan shall describe why the wastewater treatment facility does not meet design standards or effluent limits and what will be done to correct the deficiency, together with a schedule for the corrective actions.
- A. The Board shall adopt a Fundable Range for Construction Financial Assistance based on projects ranked on the Priority List. The Board shall not adopt a new Fundable Range for Construction Financial Assistance for funding cycles in which funds are not adequate to assist any projects.
- B. The Authority shall prepare a draft and a final Fundable Range for Construction Financial Assistance at the same time and in the same manner as the Priority List in accordance with R18-15-204 (C) through (E).
- C. The Authority shall rank projects within the Fundable Range for Construction Financial Assistance based on priority values obtained from the following formula:
PV = MPLP + RP, where:
PV = Priority Value

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MPLP = Master Priority List Points

RP = Readiness to Proceed

1. The Authority shall award Master Priority List Points in accordance with R18-15-205.
 2. Readiness to Proceed (RP) -- The Authority shall award RP points up to a maximum of 100 points as follows:
 - a. 40 points if the applicant has obtained debt authorization.
 - b. 30 points if the applicant has solicited the project for bidding.
 - c. 20 points if the applicant has the necessary plan and specification approvals.
 - d. 10 points if the applicant has completed the project design.
- D.** The Board shall make additions to the Fundable Range for Construction Financial Assistance if each of the following conditions are met:
1. The project is on the Priority List.
 2. The project scores a minimum of 40 RP points under (C)(2).
 3. Funds are available to cover the cost of the project and to honor funding commitments made to other projects, and
 4. The additions are made by the Board at a public meeting.
- E.** After an opportunity for public comment at a public meeting, the Board shall remove a project from the Fundable Range for Construction Financial Assistance under one or more of the following circumstances:
1. The project has been removed from the Priority List.
 2. The project has received all construction financial assistance from the fund requested by the applicant, or
 3. The applicant fails to proceed with the project.

R18-15-208. Clean Water Revolving Fund Requirements

- A.** The ~~Board~~ Authority shall identify Clean Water Revolving Fund requirements applicable to each project ~~pursuant to~~ under the Clean Water Act, 33 U.S.C. 1251 to 1387.
- B.** If applicable, the applicant shall design a user charge system to produce adequate revenues for operation and maintenance, including replacement. The user charge system shall provide that a user discharging pollutants that cause an increase in the cost of managing the effluent or sludge from the treatment works shall pay proportionately for the increased cost. An applicant's user charge system, based on actual or estimated use of wastewater treatment services, shall provide that each user or user class pays its proportionate share of operation and maintenance, including replacement costs of treatment works within the applicant's service area, based on the user's proportionate contribution to the total wastewater loading from all users or user classes.
- C.** After a project is completed, the governmental unit shall use revenue from the project, including the sale of sludges, gases, liquids, crops, or revenue from leases, to offset the costs of operation and maintenance.
- D.** The applicant shall certify that it has not violated any federal, state, or local law pertaining to fraud, bribery, graft, kick-backs, collusion, conflict of interest, or other unlawful or corrupt practices relating to or in connection with facilities planning or design work on a wastewater treatment facility project.
- E.** First use and equivalency projects shall comply with the provisions of the Civil Rights Act of 1964, Pub.L. 88-352, 42 U.S.C. 2000(a) to 2000h-6, and all other applicable federal laws.

ARTICLE 3. DRINKING WATER REVOLVING FUND

R18-15-301. Types of Financial Assistance Available

- A.** The Authority may use the Drinking Water Revolving Fund for any of the following purposes:
 1. Financial assistance, which includes any ~~+~~ of the following:
 - ~~Loans~~ Financial assistance loan repayment agreements consistent with § 1452 (a)(2)(f) of the Safe Drinking Water Act, 42 U.S.C. 300j-12.
 - The purchase or refinance of local debt obligations of political subdivisions ~~which that~~ were incurred after July 1, 1993, if building began after that date.
 - The guarantee or purchase of insurance for local obligations to improve credit market access or reduce interest rates.
 - Security as a source of repayment of principal and interest on bonds issued by the Authority, provided that the net proceeds of the bonds are deposited in the fund.
 - Guarantees of debt obligations by governmental units, which are issued to finance eligible projects.
 2. Technical assistance loan repayment agreements.
 - ~~2-3.~~ Investments to earn interest to be deposited into the fund.
 - ~~3-4.~~ Payments of costs to administer the fund.
 - ~~4-5.~~ Other uses authorized by the Safe Drinking Water Act, 42 U.S.C. 300f to 300j-25.
- B.** The ~~Board~~ Authority shall describe projects and proposed financial assistance in the Drinking Water Revolving Fund Intended Use Plan, developed pursuant to R18-15-303.
- C.** ~~Pursuant to~~ Under the Safe Drinking Water Act, 42 U.S.C. 300f to 300j-25, 15% of available Drinking Water Revolving Fund financial assistance shall be available solely for drinking water facilities serving fewer than 10,000 persons con-

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sistent with the requirements for financial assistance within Article 3. On an annual basis, if there are insufficient requests for Drinking Water Revolving Fund financial assistance from drinking water facilities serving fewer than 10,000 persons, the Board Authority, through its Board, may direct the remainder of the 15% to all other drinking water facilities requesting financial assistance consistent with the requirements within Article 3.

R18-15-302. Eligibility Requirements for Financial Assistance

- A. To be eligible to receive financial assistance an applicant shall be a drinking water facility as defined by A.R.S. § ~~49-374~~ 49-1201. An applicant shall propose a project to: plan, design, construct, acquire, or improve a drinking water facility, or refinance an eligible drinking water facility.
- B. A project eligible under subsection (A) shall also meet all of the following requirements ~~prior to~~ before receiving financial assistance:
1. The project shall appear on the Drinking Water Revolving Fund Master Priority List developed ~~pursuant to~~ under R18-15-304.
 2. The applicant shall demonstrate legal capability ~~pursuant to~~ under R18-15-103.
 3. The applicant shall demonstrate financial capability ~~pursuant to~~ under R18-15-104.
 4. The applicant shall demonstrate technical capability ~~pursuant to~~ under R18-15-105.
 5. The applicant shall demonstrate managerial and institutional capability ~~pursuant to~~ under R18-15-106.
 6. The applicant shall demonstrate completion of the environmental review process ~~pursuant to~~ under R18-15-107.
 - ~~7. The applicant shall demonstrate readiness to proceed pursuant to R18-15-108.~~
 - ~~8.7.~~ The applicant shall obtain or be in the process of obtaining all permits and approvals required by federal, state, and local authorities.
- C. The Board Authority, through its Board, shall provide financial assistance to eligible applicants for proposed projects in priority order according to the priority list developed ~~pursuant to~~ under R18-15-304. If the Board determines that an applicant will not be able to proceed with a project in a manner consistent with the Drinking Water Revolving Fund Intended Use Plan, the Board shall bypass that project. The Board shall provide written notice to the applicant that the project has been bypassed. The Board shall replace the bypassed project with the next project on the Drinking Water Revolving Fund Priority List in rank order that is ready to accept financial assistance.

R18-15-303. Drinking Water Revolving Fund Intended Use Plan

The Board Authority shall publish an Intended Use Plan for each ~~year~~ funding cycle in which it anticipates that it will provide financial assistance for eligible projects. At a minimum, the Intended Use Plan shall include a Priority List, a Fundable Range for Design Financial Assistance, and a Fundable Range for Construction Financial Assistance and shall identify the projects by eligible applicant, project name, type of project, type of financial assistance, amount of financial assistance, population served by the project, and estimated interest rates to be charged. The Intended Use Plan shall be prepared after providing for public comment and review. ~~When~~ If an Intended Use Plan is to be submitted as ~~± one~~ one of the documents required to obtain a grant under the Safe Drinking Water Act, 42 U.S.C. 300f to 300j-25, the Intended Use Plan shall include any additional information required by federal law.

R18-15-304. Drinking Water Revolving Fund Priority List

- A. ~~Each year the~~ The Board shall adopt ~~the a~~ a Priority List for the ~~next 12 month period~~ funding cycle described in the Intended Use Plan. The Board shall not adopt a new list for years where funds are not adequate to assist any projects.
- B. ~~When the Priority List is required pursuant to subsection (A), the Board shall rank the projects by priority class (alphabetized with A as the highest priority class), priority points, and year.~~
- ~~C.B.~~ An applicant, desiring placement on the Priority List, shall make its request for placement of ~~± one~~ one or more proposed projects on or before a date specified by the Board Authority. When requesting placement on the Priority List, an applicant shall submit information within an application format specified by the Board Authority.
- ~~D.C.~~ The Board Authority shall prepare a draft Priority List. In developing a draft Priority List, the Board Authority shall consider all requests submitted under subsection ~~C~~ (B), all requests made by regulatory authorities, all plans prepared ~~pursuant to~~ under the Safe Drinking Water Act 42 U.S.C. 300f to 300j-25, and the most recently adopted Priority List.
- ~~E.D.~~ The Board Authority shall hold a public meeting to receive comments on the draft Priority List. The Board Authority shall publish a notice of the public meeting in newspapers statewide at least ~~21~~ 14 days ~~prior to~~ before the meeting date and make copies of the draft Priority List available to the public at least ~~14~~ 7 days ~~prior to~~ before the meeting date.
- ~~F.E.~~ The Board Authority shall consider all comments submitted in writing ~~prior to~~ before the meeting, given orally at the meeting, submitted in writing at the meeting, or submitted subsequent to the meeting but ~~prior to~~ before the close of the written comment period. The Board Authority shall establish a written comment period and shall publish the date upon which the comment period closes in the meeting notice. ~~The Board shall summarize all of~~ After the Authority summarizes the comments received, prepare responses, and prepares responses, the Board shall adopt the Priority List ~~to be used to administer the Drinking Water Revolving Fund during the following fiscal year.~~
- ~~G.F.~~ The Board shall make additions ~~or modifications~~ to the Priority List ~~when if~~ if ~~1 or more~~ both of the following conditions are met:

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1. The project meets the criteria for Priority Class A specified in R18-15-305(B) and funds are available to cover the cost of the project and to honor funding commitments made to other projects. The project scores a minimum of 40 points under R18-154-305(B), and
2. The additions ~~or modifications~~ are made by the Board at a public meeting.
3. ~~Additional funds are made available.~~

G. After an opportunity for public comment at a public meeting, the Board may make modifications to the Priority List, based on changes to existing conditions under R18-15-305(B).

H. After an opportunity for public comment at a public meeting, the Board may remove a project from the Priority List under any 4 of the following circumstances:

1. The project has received all financial assistance from the fund requested by the applicant.
2. The project has been financed with long-term indebtedness from another source.
3. The project is no longer an eligible project.
4. The applicant requests removal, or
5. The applicant is no longer an eligible applicant.

I. ~~The Board shall retain a project on the Priority List, and work with each system in its assigned priority ranking if it is bypassed pursuant to R18-15-302(C).~~

R18-15-305. ~~Drinking Water Revolving Fund Priority Classes~~ Priority List Ranking Criteria for the Drinking Water Revolving Fund

A. ~~The Board shall evaluate each project on the Priority List and place it into a priority class. The Board may place major portions of a project into different priority classes. The Board shall consider separation of a project into different priority classes when requested by the applicant or when the Board determines that available funds are inadequate to provide assistance to projects critical to the public health or to water quality. The Board may re-evaluate project priority classes under R18-15-304(G) if supported by information such as facility plans, feasibility studies, enforcement actions, and environmental reviews conducted under R18-15-107. If the Board determines that the problem being addressed by a project can be corrected by proper operation and maintenance of existing facilities, the project is ineligible for financial assistance.~~

B. ~~Class A—The Board may designate a project as Priority Class A if continuous or intermittent violations of the national primary drinking water standards exist involving acutely toxic contaminants. The violations shall be documented by official reports, data, or findings of a regulatory authority. Corrective action or mitigation measures shall be initiated and evidenced by 1 or more of the following:~~

1. ~~An administrative order issued by a regulatory authority.~~
2. ~~A court order or decision.~~
3. ~~A voluntary compliance agreement with a regulatory authority.~~
4. ~~The implementation of a corrective action plan by a regulatory authority, which may include restrictions on construction, connections, or development.~~
5. ~~A voluntary corrective action plan with a regulatory agency implemented by the applicant and evidenced by restrictions or moratoriums.~~

C. ~~Class A: Continuing Construction Projects—In addition to R18-15-305(B), the Board may designate a project as Priority Class A if the project received funding in a prior fiscal year; the Board entered into a multi-fiscal year funding commitment with the applicant; the Board designated the project as Priority Class A, Priority Class B, or Priority Class C in a prior fiscal year; and the project received at least 20 points under R18-15-306(H).~~

D. ~~Class B—The Board may designate a project as Priority Class B if a violation of the national primary drinking water standards involves non-acutely toxic contaminants documented by official reports, data, or findings of a regulatory authority and corrective action or mitigation measures have been initiated as evidenced by 1 or more of the following:~~

1. ~~An administrative order issued by a regulatory authority.~~
2. ~~A court order or decision.~~
3. ~~A voluntary compliance agreement with a regulatory authority.~~
4. ~~The implementation of a corrective action plan by a regulatory authority, which may include restrictions on construction, connections, or development.~~
5. ~~A voluntary corrective action plan with a regulatory authority implemented by the applicant and evidenced by restrictions or moratoriums.~~

E. ~~Class C—The Board may designate a project as Priority Class C if the goal of the project is to upgrade or rehabilitate existing delivery capability or existing facility design in accordance with the Safe Drinking Water Act Amendments for all drinking water facilities that have violations in the water system physical plant as documented by an ADEQ field engineer.~~

F. ~~Class D—The Board may designate a project as Priority Class D if the goal of the project is to upgrade or rehabilitate existing delivery capability or existing facility design in accordance with the Safe Drinking Water Act Amendments for all drinking water facilities that require rehabilitation or upgrades that are not a result of violations.~~

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- ~~G.~~ ~~Class E~~—The Board may designate a project as Priority Class E if the goal of the project is to consolidate or regionalize service of previously separate drinking water facilities.
- ~~H.~~ ~~Class F~~—The Board may designate a project which does not receive a designation of Class A through Class E, as Priority Class F.
- A.** The Authority, through its Board, shall rank projects using priority values obtained from the following formula:
PV = EC + PB + LFC, where:
PV = Priority Value
EC = Existing Conditions
PB = Project Benefits
LFC = Local Fiscal Capacity
1. Existing Conditions (EC) – The Authority shall award EC points up to a maximum of 200 points, using the following formula:
EC = CC + PYF, where:
CC = Current Conditions
PYF = Prior Year Funding
 - a. Current Conditions (CC) – The Authority shall award CC points up to a maximum of 100 points as follows:
 - i. 100 points if the applicant’s system is above the 80th percentile on the Department’s Master Priority List for Capacity Development.
 - ii. 80 points if the applicant’s system is at the 80th to 60th percentiles on the Department’s Master Priority List for Capacity Development.
 - iii. 60 points if the applicant’s system is at the 60th to 40th percentiles on the Department’s Master Priority List for Capacity Development.
 - iv. 40 points if the applicant’s system is at the 40th to 20th percentiles on the Department’s Master Priority List for Capacity Development.
 - v. 20 points if the applicant’s system is below the 20th percentile on the Department’s Master Priority List for Capacity Development.
 - vi. 0 points if the applicant’s system is not listed on the Department’s Master Priority List for Capacity Development.
 - b. Prior Year Funding (PYF) -- The Authority shall award PYF points up to a maximum of 100 points with only 1 set of points awarded as follows:
 - i. 100 points if the applicant requests additional financial assistance for a multi-year construction project that received financial assistance from the Authority in a previous funding cycle.
 - ii. 80 points if the applicant requests financial assistance to construct a project that received pre-design or design financial or technical assistance from the Authority in a previous funding cycle.
 - iii. 40 points if the applicant requests additional financial assistance to offset actual costs or justified overruns.
 2. Project Benefits (PB) – The Authority shall award PB points up to a maximum of 200 points, using the following formula:
PB = WSI + CR, where:
WSI = Water System Improvement
CR = Consolidation & Regionalization
 - a. Water System Improvement (WSI) -- The Authority shall award WSI points up to a maximum of 150 points from the following categories:
 - i. A maximum of 100 points if the applicant’s proposed project addresses deficiencies identified by the Department on the Department’s Master Priority List for Capacity Development.
 - ii. 25 points if the applicant submitted a complete Capacity Development Plan to the Department.
 - iii. 25 points if the proposed project includes installing meters to monitor water use.
 - b. Consolidation & Regionalization (CR) -- The Authority shall award CR points up to a maximum of 50 points as follows:
 - i. 20 points if the applicant is consolidating the physical facilities of existing multiple facilities.
 - ii. 20 points if the applicant is extending service to existing areas currently served by another facility.
 - iii. 5 points if the applicant is consolidating the operations of existing multiple facilities.
 - iv. 5 points if the applicant is consolidating the ownership of existing multiple facilities.
 3. Local Fiscal Capacity (LFC) -- The Authority shall award LFC points up to a maximum of 100 points, using the following formula:
LFC = MHI + UF + I + CE, where:
MHI = Median Household Income
UF = User Fees
I = Indebtedness
CE = Cost Effectiveness

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- a. Median Household Income (MHI) -- The Authority shall divide the MHI from the area served by the applicant by the state's MHI (Service Area MHI/State MHI) to award points as follows:
 - i. 40 points if the area's MHI is less than 40% of the State's MHI.
 - ii. 30 points if the area's MHI is 40% to 60% of the State's MHI.
 - iii. 20 points if the area's MHI is 61% to 80% of the State's MHI.
 - iv. 10 points if the area's MHI is 81% to 100% of the State's MHI.
 - v. 0 points if the area's MHI is more than 100% of the State's MHI.
 - b. User Fees (UF) -- The Authority shall divide the applicant's proposed residential user fees, rates, and charges by the service area's MHI (Proposed User Fees, Rates and Charges/Area MHI) to award points as follows:
 - i. 20 points if the rates are more than 1.5% of the area's MHI.
 - ii. 10 points if the rates are from 1% to 1.5% of the area's MHI.
 - iii. 0 points if the rates are less than 1% of the area's MHI.
 - c. Indebtedness (I) -- The Authority shall divide existing indebtedness and proposed indebtedness by the number of users (Indebtedness/Number of Users) and divide the result by the service area's MHI to award points as follows:
 - i. 20 points if the existing and proposed indebtedness is more than 1% of the area's MHI.
 - ii. 10 points if the existing and proposed indebtedness is from .5% to 1% of the area's MHI.
 - iii. 0 points if the existing and proposed indebtedness is less than .5% of the area's MHI.
 - d. Cost Effectiveness (CE) -- The Authority shall divide the estimated costs of construction by the number of benefitting connections (Construction Costs/# of Benefitting Connections) to award points as follows:
 - i. 20 points if CE is less than \$2,500 per benefitting connection.
 - ii. 10 points if CE is from \$2,500 to \$5,000 per benefitting connection.
 - iii. 0 points if CE is more than \$5,000 per benefitting connection.
 - e. The Authority may use the most recent United States census data to determine the applicant's and the state's median household income. If the Authority or the applicant determines that this data is insufficient, the applicant shall use a reliable and impartial entity to conduct an income survey of the applicant's service area. If the applicant's service area is included in more than one income area, the Authority may use an average of income areas to define the service area's median household income.
- B.** The Authority shall rank tied scores by placing the project with the lowest cost effectiveness ratio above all other tied projects.

R18-15-306. ~~Drinking Water Revolving Fund Priority List Ranking Criteria~~ Fundable Range for Drinking Water Revolving Fund Design Financial Assistance

- A.** The Board shall rank projects within priority classes using priority values obtained from the following formula:
 $PV = HC + ARD + TUE + DS + SF + LFC + PYF + CR$ where:
PV = Priority Value
HC = Health Criteria
ARD = Acquiring, Rehabilitating, or Developing Sources
TUE = Treatment Upgrade or Treatment Expansion
DS = Distribution System
SF = Storage Facility
LFC = Local Fiscal Capacity
PYF = Prior Year Funding
CR = Consolidation and Regionalization
- B.** Health Criteria (HC) -- Whenever the Board determines that a project seeks to correct a violation of the national primary drinking water standards, the Board shall award HC points. The Board shall use information from documents obtained under R18-15-305(B) and R18-15-305(D) to assign HC points. The Board shall award HC points up to a maximum of 100 points with only 1 set of points awarded as follows:
- 1. One hundred points for continuous violations of the national primary drinking water standards involving acutely toxic contaminants.
 - 2. Eighty points for intermittent violations of the national primary drinking water standards involving acutely toxic contaminants.
 - 3. Sixty points for continuous violations of the national primary drinking water standards involving non-acutely toxic contaminants.
 - 4. Forty points for intermittent violations of the national primary drinking water standards involving non-acutely toxic contaminants.
- C.** Acquiring, Rehabilitating, or Developing Sources of a drinking water facility (ARD) -- The Board shall award ARD points up to a maximum of 50 points as follows:
- 1. Ten points to secure at least 51% of new eligible source capacity with a renewable source or 10 points to secure at least 51% of new eligible source capacity with a non-renewable source.

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2. Acquire, rehabilitate, or develop a water source to serve the following for a maximum of 30 points as follows:
 - a. Thirty points for an existing service area because the current source is contaminated or depleted.
 - b. Fifteen points for an expanded service area because the new area has contaminated or insufficient water.
 - c. Zero points for growth.
- D.** Treatment Upgrade (either surface water or ground water but not both) or Treatment Expansion (excluding Upgrade and Expand) (TUE) — The Board shall award TUE points up to a maximum of 30 points for either surface or ground water by 1 of the following methods for a total of 30 points:
 1. Upgrade surface water by 1 of the following methods:
 - a. Thirty points for treatment of micro organisms.
 - b. Twenty points for treatment of chemical constituents that would be harmful if people are exposed to them.
 - c. Ten points for treatment of chemical constituents that are not harmful if people are exposed to them.
 2. Upgrade ground water by 1 of the following methods:
 - a. Thirty points for treatment with chlorination.
 - b. Twenty points for treatment of chemical constituents that would be harmful if people are exposed to them.
 - c. Ten points for treatment of chemical constituents that are not harmful if people are exposed to them.
- E.** Distribution System (DS) — The Board shall award DS points up to a maximum of 30 points as follows:
 1. Thirty points maximum for rehabilitation, replacement, or repair of existing lines with inadequate line size or inadequate pressure as follows:
 - a. Thirty points for an existing service area.
 - b. Twenty five points for an expanded service area where the new area has poor quality water.
 - c. Zero points for growth.
 2. Thirty points maximum for the rehabilitation, replacement, or repair of existing lines as follows:
 - a. Thirty points for leaks.
 - b. Twenty five points for wrong materials or inadequate design.
 - c. Twenty points for insufficient depth of lines.
 3. Twenty five points maximum for the installation of new lines as follows:
 - a. Twenty five points to install new lines to loop an existing service area.
 - b. Twenty five points to install new lines for an existing service area.
 - c. Twenty points to install new lines for an expanded service area because the new area has poor quality or no water.
 - d. Zero points to install new lines for growth.
 4. Thirty points maximum to rehabilitate, replace, or repair a hydropneumatic tank as follows:
 - a. Thirty points for a hydropneumatic tank that serves an existing service area.
 - b. Twenty points for a hydropneumatic tank that serves an expanded service area.
- F.** Storage Facility (SF) — The Board shall award SF points up to a maximum of 30 points as follows:
 1. Thirty points for no storage.
 2. Twenty five points maximum to rehabilitate storage or inadequate storage or inadequate pressure as follows:
 - a. Twenty five points for inadequate design of the storage facility.
 - b. Twenty points for an existing service area.
 - c. Fifteen points for an expanded service area because the new area has poor quality water.
 - d. Zero points for growth.
 3. Twenty five points maximum for expanded storage as follows:
 - a. Twenty five points for an existing service area.
 - b. Twenty points for an expanded service area because the new area has poor quality water.
 - c. Zero points for growth.
- G.** Local Fiscal Capacity (LFC) — The Board shall award LFC points up to a maximum of 100 points as follows:
 1. Median Household Income (MHI) — The Board shall divide the MHI from the area served by the applicant by the state's MHI (Service Area MHI/State MHI) to award points as follows:
 - a. Fourty points if the area's MHI is less than 25% of the State's MHI.
 - b. Thirty points if the area's MHI is between 25% and 50% of the State's MHI.
 - c. Twenty points if the area's MHI is between 51% and 75% of the State's MHI.
 - d. Ten points if the area's MHI is between 76% and 100% of the State's MHI.
 - e. Zero points if the areas's MHI is more than 100% of the State's MHI.
 2. User Fees — The Board shall divide the applicant's proposed user fees, rates, and charges by the service area's MHI (Proposed User Fees, Rates and Charges/Area MHI) to award points as follows:
 - a. Twenty points if the rates are more than 2% of the area's MHI.
 - b. Ten points if the rates are between 1% and 2% of the area's MHI.
 - c. Zero points if the rates area less than 1% of the area's MHI.

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3. Investment—The Board shall divide existing indebtedness, existing investments, and proposed indebtedness by service area's MHH (Investment/Area MHH) to award points as follows:
 - a. Twenty points if the existing and proposed investment is more than 1% of the area's MHH.
 - b. Ten points if the existing and proposed investment is between .5% and 1% of the area's MHH.
 - c. Zero points if the existing and proposed investment is less than .5% of the area's MHH.
 4. Cost Effectiveness (CE)—The Board shall divide the estimated costs of construction by the number of benefitting connections (Construction Costs/# of Benefitting Connections) to award points as follows:
 - a. Twenty points if CE is less than \$2,500 per benefitting connection.
 - b. Ten points if CE is between \$2,500 and \$5,000 per benefitting connection.
 - c. Zero points if CE is more than \$5,000 per benefitting connection.
- H.** ~~Prior Year Funding (PYF)—The Board shall award PYF points up to a maximum of 30 points with only 1 set of points awarded as follows:~~
1. ~~Thirty points if the applicant requests additional financial assistance for a multi-year construction project which received financial assistance from the Authority in a previous fiscal year.~~
 2. ~~Twenty points if the applicant requests additional financial assistance to offset actual costs or justified overruns.~~
 3. ~~Ten points if the applicant requests financial assistance to construct a project which received planning and design financial assistance from the Authority in a previous fiscal year.~~
 4. ~~Minus 10 points if the applicant requests financial assistance to offset cost overruns.~~
- I.** ~~Consolidation & Regionalization (CR)—The Board shall award CR points up to a maximum of 50 points as follows:~~
1. ~~Twenty points if the applicant is consolidating the physical facilities of existing multiple facilities.~~
 2. ~~Twenty points if the applicant is extending service to existing areas currently served by another facility.~~
 3. ~~Five points if the applicant is consolidating the operations of existing multiple facilities.~~
 4. ~~Five points if the applicant is consolidating the ownership of existing multiple facilities.~~
- J.** ~~The Board may use the most recent United States census data to determine the applicant's and the state's median household income. If the Board or the applicant determines that this data is insufficient, the applicant shall use a reliable and impartial entity to conduct an income survey of the applicant's service area. If the applicant's service area is included in more than 1 income area, the Board may use an average of income areas to define the service area's median household income.~~
- K.** ~~After scoring within each class, the Board shall rank tied scores by placing the lowest cost effectiveness ratio project above all other tied projects in the class. The cost effectiveness ratio means the project dollars per benefitting connection.~~
- A.** The Board shall adopt a Fundable Range for Design Financial Assistance based on projects ranked on the Priority List. The Board shall not adopt a new Fundable Range for Design Financial Assistance for funding cycles in which funds are not adequate to assist any projects.
- B.** The Authority shall prepare a draft and a final Fundable Range for Design Financial Assistance at the same time and in the same manner as the Priority List in accordance with R18-15-304 (C) through (E).
- C.** The Board shall rank projects within the Fundable Range for Design Financial Assistance based on priority values obtained from the Priority List, the year the applicant requires funding, and the receipt of a complete Design Finance Application.
- D.** The Board shall make additions to the Fundable Range for Design Financial Assistance if each of the following conditions are met:
1. The project is on the Priority List,
 2. Funds are available to cover the cost of the project and to honor funding commitments made to other projects, and
 3. The additions are made by the Board at a public meeting.
- E.** After an opportunity for public comment at a public meeting, the Board shall remove a project from the Fundable Range for Design Financial Assistance under one or more of the following circumstances:
1. The project has been removed from the Priority List.
 2. The project has received all design financial assistance from the fund requested by the applicant.
 3. The applicant fails to proceed with the project.

R18-15-307. Project Construction Fundable Range for Drinking Water Revolving Fund Construction Financial Assistance

- A.** ~~WIFA shall withhold all construction funding until the Department issues an approval to construct for the applicant.~~
- B.** ~~Prior to awarding contracts for construction associated with the project, the applicant or recipient shall demonstrate all of the following:~~
1. ~~All easements and rights of way have been obtained.~~
 2. ~~All contracts, subagreements, and force account work are consistent with the Arizona Procurement Code, A.R.S. Title 41, Chapter 23.~~
 3. ~~All required approvals and permits have been obtained from the following entities:~~
 - a. ~~The Department including the requirements contained in 18 A.A.C. 4.~~

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- b. Applicable federal, state, and local authorities as related to:
 - i. Leases.
 - ii. Zoning permits.
 - iii. Building permits.
 - iv. Flood plain approvals.
 - v. Air quality permits.
 - vi. Solid waste approvals.
- ~~C.~~ During construction of drinking water facilities, the recipient shall do all of the following:
 - 1. Conduct work in compliance with the requirements of 18 A.A.C. 4.
 - 2. Employ a qualified, registered, professional engineer to directly supervise construction management and inspection.
- ~~D.~~ Upon project completion, all of the following requirements shall be satisfied:
 - 1. The project shall receive a final inspection and obtain all certifications and approvals required by 18 A.A.C. 4.
 - 2. The recipient shall accept the project in writing.
 - 3. Any required operation and maintenance manual shall be completed.
 - 4. As-built plans and specifications shall be submitted to the Authority and the recipient.
- ~~E.~~ Within 1 year after project completion, the recipient shall certify that the project meets design specifications. If the recipient is unable to submit the required certification, the recipient shall submit a corrective action plan. This plan shall describe why the project does not meet design standards and what will be done to correct the deficiency, together with a schedule for the corrective actions:
 - A. The Board shall adopt a Fundable Range for Construction Financial Assistance based on projects ranked on the Priority List. The Board shall not adopt a new Fundable Range for Construction Financial Assistance for funding cycles in which funds are not adequate to assist any projects.
 - B. The Authority shall prepare a draft and a final Fundable Range for Construction Financial Assistance at the same time and in the same manner as the Priority List in accordance with R18-15-304 (C) through (E).
 - C. The Authority shall rank projects within the Fundable Range for Construction Financial Assistance based on priority values obtained from the following formula:
PV = MPLP + RP, where:
PV = Priority Value
MPLP = Master Priority List Points
RP = Readiness to Proceed
 - 1. The Authority shall award Priority List Points in accordance with R18-15-305.
 - 2. Readiness to Proceed (RP) -- The Authority shall award RP points up to a maximum of 100 points as follows:
 - a. 40 points if the applicant has obtained debt authorization.
 - b. 30 points if the applicant has solicited the project for bidding.
 - c. 20 points if the applicant has the necessary plan and specification approvals.
 - d. 10 points if the applicant has completed the project design.
 - D. The Board shall make additions to the Fundable Range for Design Financial Assistance if each of the following conditions are met:
 - 1. The project is on the Priority List.
 - 2. The project scores a minimum of 40 RP points under to R18-15-307(C)(2).
 - 3. Funds are available to cover the cost of the project and to honor funding commitments made to other projects, and
 - 4. The additions are made by the Board at a public meeting.
 - E. After an opportunity for public comment at a public meeting, the Board shall remove a project from the Fundable Range for Construction Financial Assistance under one or more of the following circumstances:
 - 1. The project has been removed from the Priority List.
 - 2. The project has received all construction financial assistance from the fund requested by the applicant, or
 - 3. The applicant fails to proceed with the project.

R18-15-308. Drinking Water Revolving Fund Requirements

- ~~A.~~ The Board Authority shall identify Drinking Water Revolving Fund requirements applicable to each project pursuant to under the Safe Drinking Water Act, 42 U.S.C. 300f to 300j-25.
- B. If applicable, the applicant shall design a user charge system to produce adequate revenues for operation and maintenance, including replacement. An applicant's user charge system, based on actual or estimated use of the drinking water facilities, shall provide that each user or user class pays its proportionate share of operation and maintenance, including replacement costs of facilities within the applicant's service area, based on the user's proportionate use of the facilities.
- C. The applicant shall certify that it has not violated any federal, state, or local law pertaining to fraud, bribery, graft, kick-backs, collusion, conflict of interest, or other unlawful or corrupt practices relating to or in connection with facilities planning or design work on a project.

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ARTICLE 4. OTHER FINANCIAL ASSISTANCE

R18-15-403. Project Construction Repealed

- A.** Construction of a project shall conform to all of the requirements found in this Section.
- B.** If applicable, WIFA shall withhold all construction funding until the Department issues an approval to construct for the applicant.
- C.** Prior to awarding contracts for construction associated with the project, the applicant or recipient shall demonstrate all of the following:
1. All easements and rights of way have been obtained.
 2. All contracts, subagreements, and force account work are consistent with the Arizona Procurement Code, A.R.S. Title 41, Chapter 23.
 3. All required approvals and permits have been obtained from the following entities:
 - a. The Department including the requirements contained in 18 A.A.C. 4 or 18 A.A.C. 9, as applicable.
 - b. Applicable federal, state, and local authorities as related to:
 - i. Leases.
 - ii. Zoning permits.
 - iii. Building permits.
 - iv. Flood plain approvals.
 - v. Air quality permits.
 - vi. Solid waste approvals.
- D.** During construction of the project, the recipient shall do all the following:
1. Conduct work in compliance with the requirements of 18 A.A.C. 4 or 18 A.A.C. 9, as applicable.
 2. Employ a qualified, registered, professional engineer to directly supervise construction management and inspection.
- E.** Upon project completion, all of the following requirements shall be satisfied:
1. The project shall receive a final inspection and obtain all certifications and approvals required by 18 A.A.C. 4 or 18 A.A.C. 9, as applicable.
 2. The recipient shall accept the project in writing.
 3. Any required operation and maintenance manual shall be completed.
 4. As built plans and specifications shall be submitted to the Authority and the recipient.
- F.** Within 1 year after project completion, the recipient shall certify that the project meets design specifications. If the recipient is unable to submit the required certification, the recipient shall submit a corrective action plan. This plan shall describe why the project does not meet design standards and what will be done to correct the deficiency, together with a schedule for the corrective actions.

ARTICLE 5. TECHNICAL ASSISTANCE

R18-15-501. Technical Assistance Intended Use Plan

- A.** The ~~Board~~ Authority shall publish a Technical Assistance Intended Use Plan for each year funding cycle in which it anticipates that it will fund technical assistance. At a minimum, the Technical Assistance Intended Use Plan shall include:
1. ~~a descriptions~~ Descriptions of the types of technical assistance the ~~Board~~ Authority expects to fund including operational, policy, and project technical assistance;
 2. ~~the sources~~ Sources and uses of funds for technical assistance;
 3. ~~a Drinking A Priority List for Clean Water Project Technical Assistance; Priority List; and a Wastewater Project Technical Assistance Priority List.~~
 4. A Fundable Range for Clean Water Project Technical Assistance Grants;
 5. A Fundable Range for Clean Water Project Technical Assistance Loans;
 6. A Priority List for Drinking Water Project Technical Assistance;
 7. A Fundable Range for Drinking Water Project Technical Assistance Grants; and
 8. A Fundable Range for Drinking Water Project Technical Assistance Loans.
- B.** The ~~Board~~ Authority shall adopt the Technical Assistance Intended Use Plan after providing for public comment and review.

R18-15-502. Eligibility Requirements for Project Technical Assistance

- A.** To be eligible to receive project technical assistance, an applicant shall own or operate a drinking water or wastewater system eligible for financial assistance under A.R.S. §§ 49-1223(A)(1) or 49-1243(A)(1).
- B.** A project eligible under subsection (A) shall also meet ~~at both~~ both of the following requirements:
1. ~~The system serves fewer than 10,001 people.~~
 2. Proposed project technical assistance will assist the system to achieve technical capability pursuant to R18-15-105, managerial and institutional capability pursuant to R18-15-106, or financial capability pursuant to R18-15-104; and

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3-2. Proposed project technical assistance will facilitate the design, construction, acquisition, improvement, or consolidation of a drinking water or wastewater system.

- C. The ~~Board Authority~~ shall provide project technical assistance to eligible applicants in priority order according to the priority lists developed pursuant to ~~R18-15-504~~ this Article.

R18-15-503. Types of Project Technical Assistance Available

The ~~Board Authority~~ may award project technical assistance in any one or a combination of the following forms:

1. Project technical assistance grants to local units of government. If consultants are required to complete the project technical assistance, the grant agreement shall specify that the local unit of government is required to select and pay consultants in accordance with applicable procurement requirements.
2. Consultants selected and paid by the Authority to provide project technical assistance on behalf of the recipient of the project technical assistance award.
3. Project technical assistance loans subject to terms and conditions approved by the Board.

~~R18-15-504. Maximum Amount of Project Technical Assistance~~

~~The Board shall award no more than 25% of the total annual funding allocated by the Board to project technical assistance within the Technical Assistance Intended Use Plan to a single project in the form of project technical assistance described in R18-15-503(A) or R18-15-503(B). The Board may increase this maximum for an individual project if the Board determines at a public meeting that the proposed project requires additional assistance beyond the maximum, is justified by the applicant, and is in the public's interest.~~

~~R18-15-505. R18-15-504. Priority List for Clean Water Project Technical Assistance Priority Lists~~

- A. ~~Each year the~~ The Board shall adopt the ~~Drinking Priority List for Clean Water Project Technical Assistance Priority List and the Wastewater Project Technical Assistance Priority List~~ for the annual funding cycle described in the Technical Assistance Intended Use Plan. The Board shall not adopt ~~lists~~ a list for a ~~year~~ funding cycle in which funds are not adequate to assist any projects.
- B. When the project technical assistance priority lists ~~are~~ is required pursuant to subsection (A), the ~~Board Authority~~ shall rank the projects by ~~priority class (alphabetized with A as the highest priority class),~~ priority points, and the year the applicant requested project technical assistance.
- C. An applicant seeking placement on ~~either the~~ the project technical assistance priority list shall make a request for placement of ~~± one~~ one or more proposed projects on or before a date specified by the ~~Board Authority~~. When requesting placement on ~~either the~~ the project technical assistance priority list, an applicant shall submit an application specified by the ~~Board Authority~~.
- D. The ~~Board Authority~~ shall prepare a draft project technical assistance priority lists and shall hold at least one public meeting to receive comments on the lists and make copies of the draft ~~project technical assistance priority lists~~ list available to the public at least ~~7~~ seven days before the meeting date.
- E. The ~~Board Authority~~ shall consider all comments given orally at the public meeting or submitted in writing before the close of the written comment period. The ~~Board Authority~~ shall establish a written comment period and shall publish the date upon which the comment period closes in the meeting notice. ~~The Board shall summarize all of~~ After the Authority summarizes the comments received, ~~prepare responses, and prepares responses, the Board and shall~~ adopt the project technical assistance priority ~~lists~~ list.
- F. Throughout the funding cycle, the Board may make additions ~~or modifications~~ after the adoption of the final project technical assistance priority ~~lists~~ list when ~~± or more of each of~~ the following conditions are met:
1. ~~Funds become available to cover the cost of the project and to honor funding commitments made to other projects.~~ The project scores a minimum of 50 points pursuant to R18-15-505(B)(1).
 2. The additions ~~or modifications~~ are made at a public meeting of the Board.
- ~~G.~~ After an opportunity for public comment at a public meeting, the Board may make modifications to the project technical assistance priority list based on changes to the existing conditions pursuant to R18-15-505(B)(1).
- ~~G.H.~~ After an opportunity for public comment at a public meeting of the Board, the Board may remove a project from the project technical assistance priority ~~lists~~ list under any ± of the following circumstances:
1. The applicant has completed the technical assistance project;±
 2. The project is no longer an eligible project;±
 3. The applicant requests removal; or
 4. The applicant is no longer an eligible applicant.
- ~~H.I.~~ The ~~Board Authority~~ shall provide project technical assistance to eligible applicants for proposed projects in priority order according to the project technical assistance priority lists developed pursuant to this Section. If the ~~Board Authority~~ determines that an applicant will not be able to proceed with a project, the Board shall bypass that project. The ~~Board Authority~~ shall provide written notice to the applicant that the project has been bypassed. The ~~Board Authority~~ shall replace the bypassed project with the next project on the project technical assistance priority lists in rank order that is ready to accept technical assistance.

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R18-15-505. Priority List Ranking Criteria for Clean Water Project Technical Assistance

A. The Authority shall rank projects using priority values obtained from the following formula:

PV = EC + PB + LFC, where:

PV = Priority Value

EC = Existing Conditions

PB = Project Benefits

LFC = Local Fiscal Capacity

1. Existing Conditions (EC) -- The Authority shall award EC points up to a maximum of 200 points as follows:

EC = CC + PYF, where:

CC = Current Conditions

PYF = Prior Year Funding

a. Current Conditions (CC) -- The Authority shall award CC points up to a maximum of 100 points in one of the following categories:

i. Surface Water Pollution (Sewerage Facilities):

(1) 100 points if the project corrects a sewer overflow.

(2) 80 points if the project corrects a wastewater treatment facility non-compliance.

(3) 60 points if the project corrects excessive inflow and infiltration.

(4) 40 points if the project repairs a lift/pump station.

ii. Untreated/Uncontrolled Runoff shown to be polluting either surface or ground water:

(1) 100 points if the project constructs/repairs a stormwater treatment/management facility.

(2) 80 points if the projects implements agricultural best management practices.

(3) 60 points if the project involves landfill capping.

(4) 40 points if the project is non-traditional.

iii. Groundwater Pollution

(1) 100 points if the project corrects onsite wastewater systems shown to be polluting either surface or ground water.

(2) 50 points if the project corrects surface of ground water pollution from sources other than onsite wastewater systems.

b. Prior Year Funding (PYF) -- The Authority shall award PYF points up to a maximum of 100 points with only one set of points awarded as follows:

i. 100 points if the applicant requests project technical assistance to design a project which received pre-design project technical assistance from the Authority in a previous funding cycle.

ii. 50 points if the applicant requests additional technical assistance to offset actual costs or justified overruns.

2. Project Benefits (PB) -- For requests for pre-design project technical assistance the Authority shall award PB points up to a maximum of 200 points as follows:

a. 200 points if the project receives a combined score between 150 and 120 points for Current Conditions pursuant to R18-15-505(B)(1) and Local Fiscal Capacity pursuant to R18-15-505(D).

b. 150 points if the project receives a combined score between 110 and 80 points for Current Conditions pursuant to R18-15-505(B)(1) and Local Fiscal Capacity pursuant to R18-15-505(B).

c. 100 points if the project receives a combined score between 70 and 50 points for Current Conditions pursuant to R18-15-505(B)(1) and Local Fiscal Capacity pursuant to R18-15-505(B).

d. 50 points if the project receives a combined score between 40 and 20 points for Current Conditions pursuant to R18-15-505(B)(1) and Local Fiscal Capacity pursuant to R18-15-505(B).

e. 0 points if the project receives a combined score less than 20 points for Current Conditions pursuant to R18-15-504(B)(1) and Local Fiscal Capacity pursuant to R18-15-505(B).

3. Project Benefits (PB) -- For requests for design project technical assistance, the Authority shall award points up to a maximum of 200 using the following formula:

PB = WQI + CI + CR, where:

WQI = Water Quality Improvement

CI = Conservation Index

CR = Consolidation & Regionalization

a. Water Quality Improvement (WQI) -- The Authority shall award WQI points up to a maximum of 100 points from a combination of Surface Water Restoration and Surface Water Protection or a maximum of 100 points from Groundwater Protection as follows:

i. Surface Water Restoration

(1) 50 points if the project benefits a current Total Maximum Daily Load Implementation Plan.

(2) 40 points if the project benefits the development of a Total Maximum Daily Load Implementation Plan.

(3) 30 points if the project benefits a future Total Maximum Daily Load Implementation Plan.

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R18-15-506. ~~Project Technical Assistance Priority Classes~~ Fundable Range for Clean Water Project Technical Assistance Grants

- ~~A. The Board shall evaluate each application submitted and place it into a priority class.~~
- ~~B. Class A—The Board shall designate a project as Priority Class A if both the following conditions exist:~~
- ~~1. The goal of the project is to eliminate either of the following:
 - a. An environmental nuisance as defined in A.R.S. § 49-141.
 - b. A public health hazard declared by a regulatory authority.~~
 - ~~2. Corrective action or mitigation measures have been initiated as evidenced by 1 or more of the following:
 - a. An administrative order issued by a regulatory authority.
 - b. A court order or decision.
 - c. A voluntary compliance agreement with a regulatory authority.
 - d. The implementation of a corrective action plan by a regulatory authority, which may include restrictions on construction, connections, or development.
 - e. A voluntary corrective action plan implemented by the applicant and evidenced by restrictions or moratoriums.~~
- ~~C. Class B—The Board shall designate a project as Priority Class B if 1 or more of the following conditions exists:~~
- ~~1. The applicant has been issued an administrative order by a regulatory authority.~~
 - ~~2. The applicant is subject to a court order or decision.~~
 - ~~3. The applicant has entered into a voluntary compliance agreement with a regulatory authority.~~
 - ~~4. The applicant has entered into a corrective action plan established by a regulatory authority, which may include restrictions on construction, connections, or development.~~
- ~~D. Class C—The Board shall designate a technical assistance project as Priority Class C if the goal of the project is to upgrade or rehabilitate existing capability or existing facility design.~~
- A. The Board shall adopt a Fundable Range based on projects ranked on the Priority List. The Board shall not adopt a new Fundable Range for funding cycles where funds are not adequate to assist any projects.
- B. The Authority shall prepare a draft and adopt a final Fundable Range at the same time and in the same manner as the Priority List for Clean Water Project Technical Assistance in accordance with R18-15-504(C), R18-15-504(D), and R18-15-504(E).
- C. The Authority shall rank projects within the Fundable Range based on priority values obtained from the Priority List for Clean Water Project Technical Assistance and the year the applicant requires funding. The Fundable Range addressed by this section shall be limited to systems serving fewer than 10,001 people.
- D. The Authority may provide project technical assistance grants to applicants eligible under this section.
- E. As a guide to award project technical assistance grants or consultant contributions, the Board may require applicants to contribute to fund total project costs as follows:
1. 25% contribution towards total project costs if the project received 70 or more points for Local Fiscal Capacity pursuant to R18-15-505(D).
 2. 50% contribution towards total project costs if the project received between 60 and 50 points for Local Fiscal Capacity pursuant to R18-15-505(D).
 3. 75% contribution towards total project costs if the project received between 40 and 30 points for Local Fiscal Capacity pursuant to R18-15-505(D).
 4. The applicant may only be eligible for a project technical assistance loan from the Authority if the applicant receives fewer than 30 points for Local Fiscal Capacity pursuant to R18-15-505(D).
 5. An applicant's contribution can include cash contributions, in-kind contributions, and contributions financed by loans or debt from any source including a loan from the Authority. The Board may waive or modify the applicant's contribution for total project costs if the Board determines, at a public meeting, that the applicant is unable to fund the contribution in accordance with this subsection.
- F. The Board shall make additions to the Fundable Range when each of the following conditions are met:
1. The project is on the Priority List for Clean Water Project Technical Assistance.
 2. Funds are available to cover the cost of the project and to honor funding commitments made to other projects.
 3. The additions are made by the Board at a public meeting.
- G. After an opportunity for public comment at a public meeting, the Board shall remove a project from the Fundable Range under any one of the following circumstances:
1. The project has been removed from the Priority List for Clean Water Project Technical Assistance.
 2. The project has received all technical assistance requested by the applicant.
 3. The applicant fails to proceed with the project.

R18-15-507. ~~Project Technical Assistance Priority Scoring Criteria~~ Fundable Range for Clean Water Project Technical Assistance Loans

- ~~A. The Board shall rank projects within priority classes using priority values obtained from the following formula: $PV = PF + LFC + CF$ where:~~

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PV = Priority Value
PF = Population Factor
LFC = Local Fiscal Capacity
CF = Contribution Factor

- B.** Population Factor (PF) — The Board shall award PF points up to a maximum of 60 points as follows:
1. Sixty points if the system serves 2,500 or fewer people.
 2. Forty five points if the system serves 2,501 to 5,000 people.
 3. Thirty points if the system serves 5,001 to 7,500 people.
 4. Fifteen points if the system serves 7,501 to 10,000 people.
 5. Zero points if the system serves more than 10,000 people.
- C.** Local Fiscal Capacity (LFC) — The Board shall award LFC points up to a maximum of 80 points as follows:
1. Median Household Income (MHI) — The Board shall divide the MHI from the area served by the applicant by the state's MHI (Service Area MHI/State MHI) to award points as follows:
 - a. Forty points if the area's MHI is less than 25% of the state's MHI.
 - b. Thirty points if the area's MHI is at least 25% but less than 50% of the state's MHI.
 - c. Twenty points if the area's MHI is at least 50% but less than 75% of the state's MHI.
 - d. Ten points if the area's MHI is at least 75% but less than 100% of the state's MHI.
 - e. Zero points if the area's MHI is 100% or more of the state's MHI.
 2. User Fees — The Board shall divide the applicant's proposed residential user fees, rates, and charges by the service area's MHI (present user fees, rates, and charges/area MHI) to award points as follows:
 - a. Twenty points if the rates are more than 2% of the area's MHI.
 - b. Ten points if the rates are 1% to 2% of the area's MHI.
 - c. Zero points if the rates are less than 1% of the area's MHI.
 3. Investment — The Board shall divide existing indebtedness and existing investments by the service area's MHI (investment/area MHI) to award points as follows:
 - a. Twenty points if the existing investment is more than 1% of the area's MHI.
 - b. Ten points if the existing investment is .5% to 1% of the area's MHI.
 - c. Zero points if the existing investment is less than .5% of the area's MHI.
- D.** Contribution Factor (CF) — The Board shall award CF points up to a maximum of 60 points as follows:
1. Sixty points if the applicant contributes 50% or more of the project costs.
 2. Forty five points if the applicant contributes at least 37.5% but less than 50% of the project costs.
 3. Thirty points if the applicant contributes at least 25% but less than 37.5% of the project costs.
 4. Fifteen points if the applicant contributes at least 12.5% but less than 25% of the project costs.
 5. Zero points if the applicant contributes less than 12.5% of the project costs.
 6. An applicant's contribution can include cash contributions, in-kind contributions, and contributions financed by loans or debt from any source including a loan from the Authority.
- E.** The Board shall use the most recent federal or state data to determine the applicant's service population and median household income and the state's median household income. If the Board or the applicant determines that these data are insufficient, the applicant shall use a reliable and impartial entity to conduct a population or income survey of the applicant's service area.
- F.** After scoring within each class, the Board shall rank tied scores by placing the applicant serving the smallest population above all other tied applications in the class.
- A.** The Board shall adopt a Fundable Range based on projects ranked on the Priority List. The Board shall not adopt a new Fundable Range for funding cycles where funds are not adequate to assist any projects.
- B.** The Authority shall prepare a draft and adopt a final Fundable Range at the same time and in the same manner as the Priority List for Clean Water Project Technical Assistance in accordance with R18-15-504(C), R18-15-504(D), and R18-15-504(E).
- C.** The Authority shall rank projects within the Fundable Range based on priority values obtained from the Priority List for Clean Water Project Technical Assistance and the year the applicant requires funding.
- D.** The Authority shall provide only project technical assistance loans to applicants eligible under this section.
- E.** The Board shall make additions to the Fundable Range when each of the following conditions are met:
1. The project is on the Priority List for Clean Water Project Technical Assistance.
 2. Funds are available to cover the cost of the project and to honor funding commitments made to other projects.
 3. The additions are made by the Board at a public meeting.
- F.** After an opportunity for public comment at a public meeting, the Board shall remove a project from the Fundable Range under any one of the following circumstances:
1. The project has been removed from the Priority List for Clean Water Project Technical Assistance.
 2. The project has received all technical assistance requested by the applicant.
 3. The applicant fails to proceed with the project.

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R18-15-508. Priority List for Drinking Water Project Technical Assistance

- A.** The Board shall adopt the Priority List for Drinking Water Project Technical Assistance for the funding cycle described in the Technical Assistance Intended Use Plan. The Board shall not adopt a list for a funding cycle in which funds are not adequate to assist any projects.
- B.** When the project technical assistance priority lists are required pursuant to subsection (A), the Authority shall rank the projects by priority points and the year the applicant requested project technical assistance.
- C.** An applicant seeking placement on the project technical assistance master priority list shall make a request for placement of one or more proposed projects on or before a date specified by the Authority. When requesting placement on the project technical assistance priority list, an applicant shall submit an application specified by the Board.
- D.** The Authority shall prepare a draft project technical assistance priority list and shall hold at least one public meeting to receive comments on the lists and make copies of the draft list available to the public at least seven days before the meeting date.
- E.** The Authority shall consider all comments given orally at the public meeting or submitted in writing before the close of the written comment period. The Authority shall establish a written comment period and shall publish the date upon which the comment period closes in the meeting notice. After the Authority summarizes the comments received and prepares responses, the Board shall adopt the project technical assistance priority list.
- F.** Throughout the funding cycle, the Board shall make additions after the adoption of the final project technical assistance priority list when both of the following conditions are met:
 - 1.** The project scores a minimum of 50 points pursuant to R18-15-509(B)(1), and
 - 2.** The additions are made at a public meeting of the Board.
- G.** After an opportunity for public comment at a public meeting, the Board shall make modifications the project technical assistance priority list based on changes to the existing conditions pursuant to R18-15-509(B)(1).
- H.** After an opportunity for public comment at a public meeting of the Board, the Board shall remove a project from the project technical assistance priority list under any of the following circumstances:
 - 1.** The applicant has completed the technical assistance project.
 - 2.** The project is no longer an eligible project.
 - 3.** The applicant requests removal, or
 - 4.** The applicant is no longer an eligible applicant.
- I.** The Authority shall provide project technical assistance to eligible applicants for proposed projects in priority order according to the project technical assistance priority lists developed pursuant to this Section. If the Authority determines that an applicant will not be able to proceed with a project, the Board shall bypass that project. The Authority shall provide written notice to the applicant that the project has been bypassed. The Authority shall replace the bypassed project with the next project on the project technical assistance priority lists in rank order that is ready to accept technical assistance.

R18-15-509. Priority List Ranking Criteria for Drinking Water Project Technical Assistance

- A.** The Authority shall rank projects using priority values obtained from the following formula:
 $PV = EC + PB + LFC$, where:
PV = Priority Value
EC = Existing Conditions
PB = Project Benefits
LFC = Local Fiscal Capacity
 - 1.** Existing Conditions (EC) -- The Authority shall award EC points up to a maximum of 200 points as follows:
 $EC = CC + PYF$, where:
CC = Current Conditions
PYF = Prior Year Funding
 - a.** Current Conditions (CC) -- The Authority shall award CC points up to a maximum of 100 points in one of the following categories:
 - i.** 100 points if the applicant's system is above the 80th percentile on the Department's Master Priority List for Capacity Development.
 - ii.** 80 points if the applicant's system is at the 80th to 60th percentiles on the Department's Master Priority List for Capacity Development.
 - iii.** 60 points if the applicant's system is at the 60th to 40th percentiles on the Department's Master Priority List for Capacity Development.
 - iv.** 40 points if the applicant's system is at the 40th to 20th percentiles on the Department's Master Priority List for Capacity Development.
 - v.** 20 points if the applicant's system is below the 20th percentile on the Department's Master Priority List for Capacity Development.

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- vi. 0 points if the applicant's system is not listed on the Department's Master Priority List for Capacity Development.
- b. Prior Year Funding (PYF) -- The Authority shall award PYF points up to a maximum of 100 points with only 1 set of points awarded as follows:
 - i. 100 points if the applicant requests project technical assistance to design a project which received pre-design project technical assistance from the Authority in a previous funding cycle.
 - ii. 50 points if the applicant requests additional technical assistance to offset actual costs or justified overruns.
- 2. Project Benefits (PB) -- The Authority shall award PB points up to a maximum of 200 as follows:
 - a. For requests for pre-design project technical assistance, the Authority shall award points as follows:
 - i. 200 points if the project receives a combined score from 200 to 160 points for Current Conditions pursuant to R18-15-509(B)(1) and Local Fiscal Capacity under R18-15-509 (D).
 - ii. 150 points if the project receives a combined score from 159 to 120 points for Current Conditions under to R18-15-509(B)(1) and Local Fiscal Capacity under to R18-15-509(B).
 - iii. 100 points if the project receives a combined score from 119 to 80 points for Current Conditions under R18-15-509(B)(1) and Local Fiscal Capacity under R18-15-509 (B).
 - iv. 50 points if the project receives a combined score from 79 to 40 points for Current Conditions under R18-15-509(B)(1) and Local Fiscal Capacity under to R18-15-509(B).
 - v. 0 points if the project receives a combined score less than 40 points for Current Conditions under R18-15-509(B)(1) and Local Fiscal Capacity under R18-15-509 (B).
 - b. For requests for design project technical assistance, the Authority shall award points as follows:
PB = WSI + CR, where:
WSI = Water System Improvement
CR = Consolidation & Regionalization
 - i. Water System Improvement (WSI) -- The Authority shall award WSI points up to a maximum of 150 points from the following categories:
 - (1) A maximum of 100 points if the applicant's proposed project address deficiencies identified by the Department on the Department's Master Priority List for Capacity Development.
 - (2) 25 points if the applicant submitted a complete Capacity Development Plan to the Department.
 - (3) 25 points if the proposed project includes installation of meters.
 - ii. Consolidation & Regionalization (CR) -- The Authority shall award CR points up to a maximum of 50 points as follows:
 - (1) 20 points if the applicant is consolidating the physical facilities of existing multiple facilities.
 - (2) 20 points if the applicant is extending service to existing areas currently served by another facility.
 - (3) 5 points if the applicant is consolidating the operations of existing multiple facilities.
 - (4) 5 points if the applicant is consolidating the ownership of existing multiple facilities.
- 3. Local Fiscal Capacity (LFC) -- The Authority shall award LFC points up to a maximum of 100 points using the following formula:
LFC = MHI + UF + I, where:
LFC = Local Fiscal Capacity
MHI = Median Household Income
UF = User Fees
I = Indebtedness
 - a. Median Household Income (MHI) - The Authority shall divide the MHI from the area served by the applicant by the state's MHI (Service Area MHI/State MHI) to award points as follows:
 - i. 40 points if the area's MHI is less than 40% of the State's MHI.
 - ii. 30 points if the area's MHI is 40% to 60% of the State's MHI.
 - iii. 20 points if the area's MHI is 61% to 80% of the State's MHI.
 - iv. 10 points if the area's MHI is 81% to 100% of the State's MHI.
 - v. 0 points if the area's MHI is more than 100% of the State's MHI.
 - b. User Fees (UF) -- The Authority shall divide the applicant's proposed residential user fees, rates, and charges by the service area's MHI (Proposed User Fees, Rates and Charges/Area MHI) to award points as follows:
 - i. 30 points if the rates are more than 1.5% of the area's MHI.
 - ii. 15 points if the rates are between 1% and 1.5% of the area's MHI.
 - iii. 0 points if the rates area is less than 1% of the area's MHI.
 - c. Indebtedness (I) -- The Authority shall divide existing indebtedness and proposed indebtedness by the number of users (Indebtedness/Number of Users) and divide the result by the service area's MHI to award points as follows:
 - i. 30 points if the existing and proposed indebtedness is more than 1% of the area's MHI.
 - ii. 15 points if the existing and proposed indebtedness is between .5% and 1% of the area's MHI.
 - iii. 0 points if the existing and proposed indebtedness is less than .5% of the area's MHI.

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- d. The Authority may use the most recent United States census data to determine the applicant's and the state's median household income. If the Authority or the applicant determines that this data is insufficient, the applicant shall use a reliable and impartial entity to conduct an income survey of the applicant's service area. If the applicant's service area is included in more than one income area, the Authority may use an average of income areas to define the service area's median household income.

B. The Authority shall rank tied scores by placing the project with the lowest cost effectiveness above all other tied projects.

R18-15-510. Fundable Range for Drinking Water Project Technical Assistance Grants

A. The Board shall adopt a Fundable Range based on projects ranked on the Priority List. The Board shall not adopt a new Fundable Range for funding cycles where funds are not adequate to assist any projects.

B. The Authority shall prepare a draft and adopt a final Fundable Range at the same time and in the same manner as the Drinking Water Project Technical Assistance Priority List in accordance with R18-15-508(C), R18-15-508(D), and R18-15-508(E).

C. The Authority shall rank projects within the Fundable Range based on priority values obtained from the Drinking Water Project Technical Assistance Priority List and the year the applicant requires funding. The Fundable Range addressed by the section shall be limited to systems fewer than 10,001 people.

D. The Authority may provide project technical assistance grants to applicants eligible under this section.

E. As a guide to award project technical assistance grants or consultant contributions, the Board may require applicants to contribute to fund total project costs as follows:

1. 25% contribution towards total project costs if the project received 70 or more points for Local Fiscal Capacity pursuant to R18-15-509(D).
2. 50% contribution towards total project costs if the project received between 60 and 50 points for Local Fiscal Capacity pursuant to R18-15-509(D).
3. 75% contribution towards total project costs if the project received between 40 and 30 points for Local Fiscal Capacity pursuant to R18-15-509(D).
4. The applicant may only be eligible for a project technical assistance loan from the Authority if the applicant receives fewer than 30 points for Local Fiscal Capacity pursuant to R18-15-505(D).
5. An applicant's contribution can include cash contributions, in-kind contributions, and contributions financed by loans or debt from any source including a loan from the Authority. The Board may waive or modify the applicant's contribution for total project costs if the Board determines, at a public meeting, that the applicant is unable to fund the contribution in accordance with this subsection.

F. The Board shall make additions to the Fundable Range when each of the following conditions are met:

1. The project is on the Priority List for Drinking Water Project Technical Assistance.
2. Funds are available to cover the cost of the project and to honor funding commitments made to other projects.
3. The additions are made by the Board at a public meeting.

G. After an opportunity for public comment at a public meeting, the Board shall remove a project from the Fundable Range under any one of the following circumstances:

1. The project has been removed from the Priority List for Drinking Water Project Technical Assistance.
2. The project has received all technical assistance requested by the applicant.
3. The applicant fails to proceed with the project.

R18-15-511. Fundable Range for Drinking Water Project Technical Assistance Loans

A. The Board shall adopt a Fundable Range based on projects ranked on the Priority List. The Board shall not adopt a new Fundable Range for funding cycles where funds are not adequate to assist any projects.

B. The Authority shall prepare a draft and adopt a final Fundable Range at the same time and in the same manner as the Drinking Water Project Technical Assistance Priority List in accordance with R18-15-508(C), R18-15-508(D), and R18-15-508(E).

C. The Authority shall rank projects within the Fundable Range based on priority values obtained from the Priority List for Drinking Water Project Technical Assistance and the year the applicant requires funding.

D. The Authority shall provide only project technical assistance loans to applicants eligible under this section.

E. The Board shall make additions to the Fundable Range when each of the following conditions are met:

1. The project is on the Priority List for Drinking Water Project Technical Assistance.
2. Funds are available to cover the cost of the project and to honor funding commitments made to other projects.
3. The additions are made by the Board at a public meeting.

F. After an opportunity for public comment at a public meeting, the Board shall remove a project from the Fundable Range under any one of the following circumstances:

1. The project has been removed from the Priority List for Drinking Water Project Technical Assistance.
2. The project has received all technical assistance requested by the applicant.
3. The applicant fails to proceed with the project.

ARTICLE 6. HARDSHIP GRANT FUND

R18-15-601. Types of Assistance Available

- A. The Authority may provide hardship grants for any of the following purposes:
1. In accordance with A.R.S. § 49-1267(D)(1), financial assistance in the form of grants to political subdivisions and Indian tribes to design, plan, acquire, construct, or improve wastewater collection and treatment facilities.
 2. In accordance with A.R.S. § 49-1267(D)(2), technical assistance related to the operation and maintenance of wastewater systems.
- B. The ~~Board~~ Authority shall describe projects and proposed assistance in the Clean Water Revolving Fund Intended Use Plan; developed pursuant to R18-15-203 or the Technical Assistance Intended Use Plan developed pursuant to R18-15-501.

R18-15-602. Eligibility Requirements for Hardship Grant Financial Assistance

- A. To be eligible to receive financial assistance an applicant shall propose a project to design, plan, acquire, construct, or improve wastewater collection and treatment facilities owned by political subdivisions or Indian tribes.
- B. An applicant eligible under subsection (A) shall also meet all of the following requirements before receiving financial assistance:
1. The applicant has applied for financial assistance in accordance with R18-15-102(A), (B), and (E).
 2. The project is on the Clean Water Revolving Fund Priority List developed pursuant to ~~R18-15-204, R18-15-205, and R18-15-206~~ Article 2 of this Chapter or the project is on the Priority List for Clean Water Project Technical Assistance developed pursuant to Article 5 of this Chapter.
 3. The applicant is a community in a rural area.
 4. The applicant is a community of more than a single household but no more than 3,000 persons as measured by the most recent United States decennial census.
 5. The applicant is a community that lacks centralized wastewater treatment or collection systems or needs improvements to wastewater treatment systems.
 6. On the date the applicant applies for assistance, the per capita annual income of the community's residents does not exceed 80% of national per capita income.
 7. On the date the applicant applies for assistance, the community's local unemployment rate exceeds by one percentage point or more the most recently reported average yearly national unemployment rate.

R18-15-603. Hardship Grant Financial Assistance Awards

- A. The Board shall award financial or technical assistance to eligible applicants for proposed projects in priority order according to the priority ~~list lists~~ developed pursuant to ~~R18-15-204, R18-15-205, and R18-15-206~~ Articles 2 and 5 of this Chapter. If the ~~Board~~ Authority determines that an eligible applicant will not be able to proceed with a project, the Board shall bypass that project. The ~~Board~~ Authority shall provide written notice to the applicant that the project has been bypassed. The ~~Board~~ Authority shall replace the bypassed project with the next eligible applicant and eligible project ~~on the Clean Water Revolving Fund Priority List in rank order pursuant to priority lists developed pursuant to Articles 2 and 5 of this Chapter.~~
- B. The Board shall award financial or technical assistance to eligible applicants based on ~~the priority class assigned to an applicant's project under R18-15-205,~~ the local fiscal capacity points assigned to an applicant under ~~R18-15-206(G), R18-15-205(D) or R18-15-505(D)~~ and an applicant's ability to generate sufficient revenues to pay debt service.

ARTICLE 7. INTEREST RATE SETTING AND FORGIVABLE PRINCIPAL

R18-15-701. Interest Rate Setting and Forgivable Principal

- A. The Authority shall prescribe the rate of interest, including interest rates as low as 0% on Authority loans, bond purchase agreements, and linked deposit guarantees based on ~~the priority class assigned to an applicant's project under R18-15-205 or R18-15-305,~~ the local fiscal capacity points assigned to an applicant under ~~R18-15-206(G) or R18-15-306(G)~~ R18-15-205(D) or R18-15-305(D), and an applicant's ability to generate sufficient revenues to pay debt service.
- B. The Authority may forgive principal on Authority loans, bond purchase agreements, and linked deposit guarantees made to local units of government to plan, acquire, construct, or improve drinking water facilities.
- C. In accordance with subsection (B) of this Section, the Authority may forgive principal based on ~~the priority class assigned to an applicant's project under R18-15-305,~~ the local fiscal capacity points assigned to an applicant under ~~R18-15-306(G)~~ R18-15-305(D), and an applicant's ability to generate sufficient revenues to pay debt service.