

## NOTICES OF FINAL RULEMAKING

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

### NOTICE OF FINAL RULEMAKING

#### TITLE 4. PROFESSIONS AND OCCUPATIONS

#### CHAPTER 7. BOARD OF CHIROPRACTIC EXAMINERS

##### PREAMBLE

- 1. Sections Affected**

Article 12	<b><u>Rulemaking Action</u></b>
R4-7-1201	New Article
R4-7-1202	New Section
R4-7-1203	New Section
R4-7-1204	New Section
- 2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. § 32-904(B)(2)  
Implementing statute: A.R.S. § 32-932
- 3. The effective date of the rule:**

December 17, 2001
- 4. A list of all previous notices appearing in the Register addressing the proposed rule:**

Notice of Rulemaking Docket Opening: 5 A.A.R. 1318, May 7, 1999  
Notice of Proposed Rulemaking: 7 A.A.R. 492, January 19, 2001  
Notice of Rulemaking Docket Opening: 4 A.A.R. 2082, May 18, 2001  
Notice of Public Information: 4 A.A.R. 2534, June 15, 2001
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Patrice A. Pritzl, Executive Director  
Address: 5060 N. 19th Ave, Suite 416  
Phoenix, AZ 85015-3210  
Telephone: (602) 255-1444  
Fax: (602) 255-4289
- 6. An explanation of the rule, including the Agency's reasons for initiating the rule:**

The proposed rule will define the requirements to be met in order for an otherwise unlicensed doctor of chiropractic to provide charitable services under a restricted permit.
- 7. A reference to any study that the agency relied on in its evaluation of or justification for the final rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:**

Not applicable
- 8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable
- 9. The summary of the economic, small business, and consumer impact:**

The economic impact is minor. All services rendered under a restricted permit will be voluntary and uncompensated.

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

Minor technical changes have been made based on suggestions from G.R.R.C. staff.

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

The agency did not receive written or oral comment.

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

Not applicable

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

Not applicable

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

No

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

**TITLE 4. PROFESSIONS AND OCCUPATIONS**

**CHAPTER 7. BOARD OF CHIROPRACTIC EXAMINERS**

**ARTICLE 12. ~~RESERVED~~ RESTRICTED PERMITS**

Section

R4-7-1201. Eligibility for a Restricted Permit

R4-7-1202. Application for Restricted Permit

R4-7-1203. Issuance and Renewal of a Restricted Permit

R4-7-1204. Regulation

**ARTICLE 12. ~~RESERVED~~ RESTRICTED PERMITS**

**R4-7-1201. Eligibility for a Restricted Permit**

**A.** The Board shall grant a restricted permit to practice chiropractic in this state if the applicant:

1. Submits a complete application to the Board;
2. Meets all requirements under A.R.S. § 32-921(B)(1) through (B)(3) and (C) and A.R.S. § 32-932;
3. Has a Certificate of Attainment for Part I and Part II of the examination conducted by the National Board of Chiropractic Examiners (NBCE);
4. Takes and passes the Arizona jurisprudence examination with a score of at least 75%; and
5. Has not had a license to practice a health care profession suspended or revoked in any state.

**R4-7-1202. Application for Restricted Permit**

**A.** An applicant may obtain a restricted permit application package at the Board Office on any business day, or may request a package be mailed to the applicant. The applicant shall pay a non-refundable \$10 fee for each application package.

**B.** A completed restricted permit application package may be submitted to the Board office on any business day. The Board shall consider the date of application to be the date of receipt stamped by the Board office.

**C.** With the exception of the information required by subsection (12) of this subsection, an applicant shall submit a completed restricted permit application package to the Board at least 45 days before the date of the Arizona jurisprudence examination. A complete application package shall contain the following:

1. Two current identical color photographs showing the applicant's full face and a description of any identifying characteristics;
2. The applicant's full legal name and any former names or aliases;
3. All of the applicant's current home and office addresses, home and office phone numbers, office facsimile numbers, and all previous home or office addresses for the five years preceding the date of application;
4. The applicant's chiropractic college transcript and the applicant's certificate of attainment of passing scores for Parts I and II of the NBCE examination;
5. The applicant's social security number;
6. Any record of a conviction, guilty plea or nolo contendere plea to a misdemeanor or felony, even if the conviction or plea was sealed, expunged, set aside, or forgiven, and any record of an arrest, indictment, or civil penalty or criminal charge.
7. A completed fingerprint card and the \$25 processing fee;
8. A list of all other states or jurisdictions where the applicant is or has been licensed to practice chiropractic or licensed to practice any other health care profession, with a verification of good standing submitted directly to the Board by the licensing agency of the state or jurisdiction. The verification of good standing shall state whether the applicant has

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been denied a license, a license has been sanctioned or whether the applicant's license has been suspended or revoked;

9. Verification that the applicant has held an active license as a chiropractic physician for the 5 years immediately preceding application, submitted directly to the Board by the licensing agency of the state or jurisdiction;
10. A copy of the applicant's contract with a charitable clinic or organization that identifies the name and location of the organization and contains the information required by A.R.S. § 32-932(C) and documentation that the organization meets the requirements of § 501(C)(3) of the Internal Revenue Code;
11. A copy of the charitable clinic's or organization's bylaws;
12. A score of 75% or higher on the Arizona jurisprudence examination; and
13. The applicant's notarized signature attesting to the truthfulness of the information provided by the applicant.

**E.** The Board shall process a restricted permit application in accordance with R4-7-502 (D) through (J).

**R4-7-1203. Issuance and Renewal of a Restricted Permit**

**A.** The Board may issue a restricted permit for a period not to exceed 1 year or until December 31 of the year in which the restricted permit is issued, whichever period is lesser. The Board may renew the restricted permit for a period not to exceed 1 year upon submission to the Board of a complete permit renewal application.

**B.** A restricted permit holder who applies for renewal of the restricted permit shall provide the following information:

1. The restricted permit holder's full name;
2. All of the restricted permit holder's current home and office addresses, home and office phone numbers, and office facsimile numbers;
3. A copy of the restricted permit holder's contract with a charitable clinic or organization that identifies the name and location of the organization and contains the information required by A.R.S. § 32-932 (C), and documentation that the organization meets the requirements of § 501(C)(3) of the Internal Revenue Code;
4. The restricted permit holder's social security number;
5. A record of any professional disciplinary investigation or sanction taken against the restricted permit holder by a licensing board since the restricted permit holder last applied for a restricted permit in this or any other state, submitted directly to the Board by the licensing board;
6. A record of any civil penalty or conviction or plea agreement for a misdemeanor or a felony since the restricted permit holder last applied for renewal of the permit, submitted directly to the Board by the agency or court of jurisdiction;
7. A list of required continuing education courses that the restricted permit holder has completed; and
8. The restricted permit holder's signature attesting to the truthfulness of the information provided by the restricted permit holder.

**C.** The Board shall not renew a restricted permit if the restricted permit holder:

1. Has been the subject of disciplinary sanction in any jurisdiction or convicted of a felony or a misdemeanor involving moral turpitude;
2. Is currently under investigation for a violation of any state law relating to licensing of health care professionals, or charged with a felony or a misdemeanor involving moral turpitude.
3. Has two or more complaints filed against the restricted permit holder within the past year;
4. Fails to meet the requirements of A.R.S. § 32-932; or
5. Fails to submit a complete restricted permit renewal application before January 1 of the calendar year for which application is made.

**D.** The Board shall process a restricted permit renewal application in accordance with R4-7-503(Q) and R4-7-504.

**E.** The Board shall not issue or renew a restricted permit unless the Board approves the charitable clinic or organization by which the applicant will be employed. The Board shall not approve a charitable clinic or organization unless the clinic or organization:

1. Is licensed and in good standing under A.R.S. § 36-407;
2. Offers professional medical services;
3. Offers chiropractic services for which the clinic, organization or permit holder does not receive compensation; and
4. Operates in all other respects in accordance with state and federal law.

**R4-7-1204. Regulation**

**A.** A restricted permit holder shall comply with this Article and applicable provisions of A.R.S. § 32-900 et seq.

**B.** The Board or its designee may conduct periodic and random audits of the permit holder's patient records.

**C.** The Board may sanction a permit holder under A.R.S. § 32-924(A) for any violation of A.R.S. § 32-900 et seq.

NOTICE OF FINAL RULEMAKING

TITLE 18. ENVIRONMENTAL QUALITY

CHAPTER 4. DEPARTMENT OF ENVIRONMENTAL QUALITY - SAFE DRINKING WATER

PREAMBLE

**1. Sections Affected**

Article 8  
R18-4-801  
R18-4-802  
R18-4-803  
R18-4-804

**Rulemaking Action**

New Article  
New Section  
New Section  
New Section  
New Section

**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. §§ 49-202, 49-203, 49-351, 49-353(A)(3), 49-355, 49-358

Implementing statutes: A.R.S. §§ 49-355, 49-358

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

December 27, 2001

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

Notice of Rulemaking Docket Opening: 7 A.A.R. 69, January 5, 2001

Notice of Proposed Rulemaking: 7 A.A.R. 2702, June 29, 2001

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

Name: Anthony J. Bode, Manager, Program Development and Outreach, Drinking Water Section  
Kathryn D. Stevens, Capacity Development Program, Drinking Water Section

Address: Arizona Department of Environmental Quality  
3033 N. Central Ave. (M0248A)  
Phoenix, AZ 85012-2809

Telephone: Tony Bode (602) 207-4648  
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**6. An explanation of the rules, including the agency's reasons for initiating the rules:**

A. Background for Rulemaking

The primary purpose of the Safe Drinking Water Act (SDWA) is to ensure that drinking water supplied to consumers by public water systems is safe to drink and does not exceed prescribed maximum contaminant levels; that consumers are confident that their water is safe to drink; and that public water system operators are trained, certified, and knowledgeable regarding the public health reasons for drinking water standards.

This rulemaking will further these goals by establishing a program to assist water systems in complying with standards imposed by federal and state laws, rules, and regulations. Specifically, the program will provide information and technical assistance in managerial, accounting, engineering, and other technical areas to owners and operators of water systems. There are Sections on definitions, eligibility requirements, types of technical assistance, and other related topics.

The Department held workshops around the state to explain the rules and to receive comments from stakeholders. After publication of the Notice of Proposed Rulemaking, the Department held three oral proceedings to allow interested parties the opportunity to make oral comments on the record (July 31 in Tucson, August 1 in Phoenix, and August 2 in Flagstaff.)

B. Statutory Authority and History

The Safe Drinking Water Act Amendments of 1996 included the following findings:

(1) safe drinking water is essential to the protection of public health;

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(2) because the requirements of the Safe Drinking Water Act (42 U.S.C. §§ 300f et seq.) now exceed the financial and technical capacity of some public water systems, especially many small public water systems, the Federal Government needs to provide assistance to communities to help the communities meet Federal drinking water requirements;

(8) more effective protection of public health requires --

(A) a federal commitment to set priorities that will allow scarce federal, state, and local resources to be targeted toward the drinking water problems of greatest public health concern;

(B) maximizing the value of the different and complementary strengths and responsibilities of the federal and state governments in those states that have primary enforcement responsibility for the Safe Drinking Water Act; and

(C) prevention of drinking water contamination through well-trained system operators, water systems with adequate managerial, technical, and financial capacity, and enhanced protection of source waters of public water systems;

PL 104-182, 42 USCA § 300f, Section 3 (1996)

The Safe Drinking Water Act Amendments of 1996 added a section to the Act concerning capacity development (42 USCA § 300g-9, Section 119; PL 104-182 section 1420). This section states that a state with primacy will be penalized by reducing its entitlement to State Revolving Fund monies by 20% if the state fails to obtain “the legal authority or other means to ensure that all new community water systems and new nontransient, noncommunity water systems commencing operation after October 1, 1999, demonstrate technical, managerial, and financial capacity with respect to each national primary drinking water regulation in effect, or likely to be in effect, on the date of commencement of operations.” PL 104-182, Sec.1420(a), State Authority for New Systems. The Conference Report on the law discussing this section states:

The phrase “legal authority or other means” is intended to require a state to have the actual authority to ensure that all new community water systems demonstrate the technical, managerial and financial capacity to comply with the Safe Drinking Water Act. These could include regulations, training, and bonding requirements.

States are also to adopt and implement a capacity development strategy. This is intended to encourage states to continue to focus resources on capacity development initiatives. States are required to consider, solicit public comment on, and include as deemed appropriate by the state, a number of elements and criteria.

Joint Explanatory Statement of the Committee on Conference, H.R. Conf. Rep. No. 741, 104th Cong., 2nd Sess. 1996, 1996 U.S.C.A.N. 1432, 1996 WL 443735 (Leg. Hist.)

The Joint Explanatory Statement also states that Congress expects and encourages each state to tailor its capacity development strategy to the unique needs of the state, and that EPA should give deference to a state’s decisions regarding the content and implementation a state’s plan, provided the state solicits and considers public comment on the elements listed in section 1420(c), and adopts a strategy that includes appropriate provisions. The elements are:

- Methods or criteria to prioritize systems;
- Factors that encourage or impair capacity development;
- How the state will use the authority and resources of the SDWA;
- How the state will establish a baseline and measure improvements; and
- Procedures to identify interested parties.

PL 104-182, § 1420(c)(2)(A-E).

These elements were addressed partly in 18 A.A.C. 6, Capacity Development Requirements for a New Public Drinking Water System, adopted in 1999, which established a methodology by which the Department could evaluate the technical, managerial, and financial capacity of systems. However, 18 A.A.C. 6 applies only to new systems. The current rulemaking addresses the methods and criteria by which the Department will prioritize existing systems according to their need for technical, financial, and managerial capacity, and provide assistance to the systems with the greatest capacity development needs.

### C. Relationship Between Technical Assistance Program, Capacity Development Program, and Water Infrastructure Finance Authority

As the statutory history above indicates, this technical assistance rulemaking is inextricably linked to capacity development – one of the primary purposes of the technical assistance rulemaking is to ensure that water systems have adequate technical, managerial and financial capacity to comply with the Safe Drinking Water Act.

The Department has published a Capacity Development Strategy for Existing Public Water Systems, which is available from the Department (the report can also be downloaded at <http://www.adeq.state.az.us/envirom/water/dw/download/capdev.pdf>.) The Department’s Capacity Development Strategy will be updated via publication of an annual Capacity Development Report. The Capacity Development Strategy defines capacity as “a water system’s ability to

consistently provide safe drinking water for its customers.” Capacity development is defined as “an effort by the state of Arizona to help its drinking water systems improve their infrastructure, management, and financial operations so they can provide safe drinking water consistently, reliably, and cost effectively.”

There is an existing entity currently assisting public water systems in their capacity development efforts. The Water Infrastructure Finance Authority (WIFA), established pursuant to A.R.S. § 49-1201 et seq., provides financial assistance to political subdivisions, tribes, and eligible drinking water facilities for constructing, acquiring, or improving wastewater treatment facilities, drinking water facilities, nonpoint source projects, and other related water quality facilities and projects. The Department, pursuant to this rulemaking, will work with WIFA to increase capacity development of public water systems in Arizona by providing technical assistance to public water systems that do not come under the purview of WIFA’s operations.

D. Section-by-section Explanation of the Rules

R18-4-801 sets forth the definitions pertinent to 18 A.A.C. 4, Article 8.

R18-4-802 sets forth the components of the annual technical assistance plan.

R18-4-803 sets forth the criteria for the master priority list.

R18-4-804 sets forth criteria concerning technical assistance awards.

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

None

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

Not applicable

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

The rulemaking adds a new Article to the Arizona Administrative Code, 18 A.A.C. 4, Article 8, Technical Assistance. The rulemaking is primarily technical and administrative in nature. The purpose of the rulemaking is to establish a program to assist water systems in complying with standards imposed by federal and state laws, rules, and regulations. Pursuant to the new rules, the Department will provide information and technical assistance to owners and operators of water systems.

One component of Article 8 is the creation of a master priority list for all community and nontransient noncommunity public water systems; the list will be published in the annual capacity development report. The master priority list will rank public water systems according to criteria set forth in R18-4-803. The Water Infrastructure Finance Authority will utilize the master priority list in its funding decision process for technical assistance for community public water systems.

This rulemaking will have no discernable economic impact on the Department, other public agencies, state revenues, private persons, businesses, consumers, small businesses, or private and public employment. However, the Department anticipates that there will be an indirect impact on the public water systems and the public they serve as a result of the use of the Department’s ranking of public water systems by the Water Infrastructure Finance Authority. The following subsections address the impact of changes to the monitoring assistance program.

**The Arizona Department of Environmental Quality**

ADEQ will not realize an economic benefit from this rulemaking.

**Other Public Agencies**

ADEQ may incur a slight increase in administrative costs, and the state will incur normal rule development costs incidental to rulemaking, including review by the Governor’s Regulatory Review Council and the cost of publication by the Office of the Secretary of State. The Water Infrastructure Finance Authority will utilize the data in the master priority list developed pursuant to R18-4-803, and therefore may receive a small economic benefit as a result of the Department’s evaluation, which likely minimizes the evaluation work of the Authority.

**Private Persons and Businesses Directly Affected**

A public water system that receives the benefit of technical assistance from the Department may also receive an economic benefit, as the technical assistance will improve technical, managerial, or financial components of a public water system. The addition of Article 8 should not increase the cost of doing business to comply with these rules for affected public water systems.

**Consumers**

This rulemaking will indirectly benefit consumers served by affected public water systems, in the form of savings which public water systems could pass on to consumers.

**Private and Public Employment**

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The Department expects no measurable effect on private or public employment.

**State Revenues**

This rulemaking will not have an effect on state revenues.

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

The rule was reorganized to make the text more clear and concise, and minor technical, formatting, and grammatical changes were made. Also, the definitions Section was renumbered from R18-4-101 to R18-4-801. The most significant changes were to the criteria for the master priority list; the descriptive text associated with the listed criteria in the proposed rulemaking was removed, as it was felt that the information was self-evident, did not add any substantive information, and that the rule is therefore more clear and concise without the text. The purpose of the text removed in the final rulemaking was to state how the criteria would be used by the Department to rank public water systems for purposes of the master priority list, as specified in the prefatory statement to R18-4-803(B). An explanation of the changes to the individual criteria is provided below.

- There are several types of water systems; those that serve the most people will be ranked higher than smaller systems, e.g.: community owned will be given priority over, nontransient non-community, which in turn will be ranked higher than transient noncommunity systems;
- The greater the size of the population served by a water system, the more impact the assistance would have; therefore, larger systems will be ranked higher than smaller systems;
- Public water systems that use surface water are ranked higher than those that use ground water;
- Public water systems that participate in the monitoring assistance program are ranked higher than systems that do not;
- Public water systems that do not have a certified operator will be ranked higher than other systems, since they are likely in greater need of assistance; and
- Public water systems that have not received assistance from the Department or the Water Infrastructure Finance Authority in the last five years will be ranked higher than systems that have received assistance recently, in order to distribute technical assistance in an equitable manner.
- Another related revision is the elimination of the language limiting the amount of assistance to an individual water system to 25% of the total annual funding allocated by the Department for technical assistance. The Department still plans on following this guideline if possible; however, there may be years in which there is inadequate funding to provide technical assistance to any systems, or to only a few systems, in which case the 25% limitation would have the potential to prevent the most beneficial use of limited funds.

**11. A summary of comments and agency responses:**

The Department did not receive any written or verbal comments on this rule action.

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

Not applicable

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

Not applicable

**14. Were these rules previously adopted as emergency rules?**

No

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

**TITLE 18. ENVIRONMENTAL QUALITY**

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

**ARTICLE 8. TECHNICAL ASSISTANCE**

Section

R18-4-801. Definitions

R18-4-802. Technical Assistance Plan

R18-4-803. Master Priority List

R18-4-804. Technical Assistance Awards

**ARTICLE 8. TECHNICAL ASSISTANCE**

**R18-4-801. Definitions**

The terms in this Article have the following meanings, unless otherwise specified:

“Capacity” means a public water system’s ability to provide safe drinking water.

“Capacity development” means improving public water system technical, managerial, and financial components to improve a system’s ability to provide safe drinking water.

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

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

“Monitoring assistance program” means the program administered by the Department to assist public water systems with mandatory monitoring for contaminants, authorized by A.R.S. § 49-360 and Article 2 of this Chapter.

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

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

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

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

**R18-4-802. Technical Assistance Plan**

The Department shall include a technical assistance plan in the capacity development report it publishes annually. The technical assistance plan shall include a description of the types of technical assistance the Department expects to provide, the sources and uses of technical assistance, and a master priority list.

**R18-4-803. Master Priority List**

- A.** Each year the Department shall develop a master priority list that ranks public water systems according to their need for technical assistance.
- B.** The Department shall rank public water systems on the master priority list based on consideration of the following criteria:
  - 1. Size of population served.
  - 2. Type of public water system.
  - 3. Type of ownership.
  - 4. Water source (surface water or ground water).
  - 5. Participation in the monitoring assistance program.
  - 6. History of major monitoring or reporting deficiencies.
  - 7. History of acute or non-acute MCL violations.
  - 8. History of operation or maintenance violations.
  - 9. Lack of a certified operator.
  - 10. Prior assistance from the Department or the Water Infrastructure Finance Authority within the last five years, and
  - 11. Any or other measurable objective criteria related to the technical, managerial, or financial capacity of a public water system.
- C.** If all other criteria are equal, the Department shall assign priority to public water systems with the most operation or maintenance violations.
- D.** The Department shall publish the master priority list annually in the Arizona Administrative Register and hold an oral proceeding to obtain public comment on the master priority list.

**R18-4-804. Technical Assistance Awards**

- A.** The Department shall award technical assistance to the public water systems with the highest ranking on the master priority list, as funding permits.
- B.** The Department may provide technical assistance directly, or the Department may employ a consultant to provide the assistance.
- C.** If a public water system refuses technical assistance offered by the Department, or the Department determines that a public water system is not able to proceed with technical assistance within the next fiscal year, the Department shall bypass the public water system on the master priority list. The Department shall replace a bypassed public water system with the public water system next in line to receive technical assistance in accordance with the priority criteria in R18-4-803(B).