

# Arizona Administrative REGISTER

Published by the Department of State ~ Office of the Secretary of State

Vol. 21, Issue 37

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September 11, 2015

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# From the Publisher

## ABOUT THIS PUBLICATION

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

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

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

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

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

## ABOUT RULES

Rules can be: made (all new text); amended (rules on file, changing text); repealed (removing text); or renumbered (moving rules to a different Section number).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

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 New rules in this publication (whether proposed or made) are denoted with underlining; repealed text is stricken.

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

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

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

## LEGAL CITATIONS AND FILING NUMBERS

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

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

# Arizona Administrative REGISTER

Vol. 21

Issue 37

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**ADMINISTRATIVE REGISTER**  
The printed version of the *Administrative Register* is the official publication of Arizona state agency rules.

Rates: \$275 yearly  
New subscriptions, renewals and address changes contact customer service at  
(602) 364-3224.

This publication is available online for free at [www.azsos.gov](http://www.azsos.gov).

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

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

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# Participate in the Process

## Look for the Agency Notice

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

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

## Attend a public hearing/meeting

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

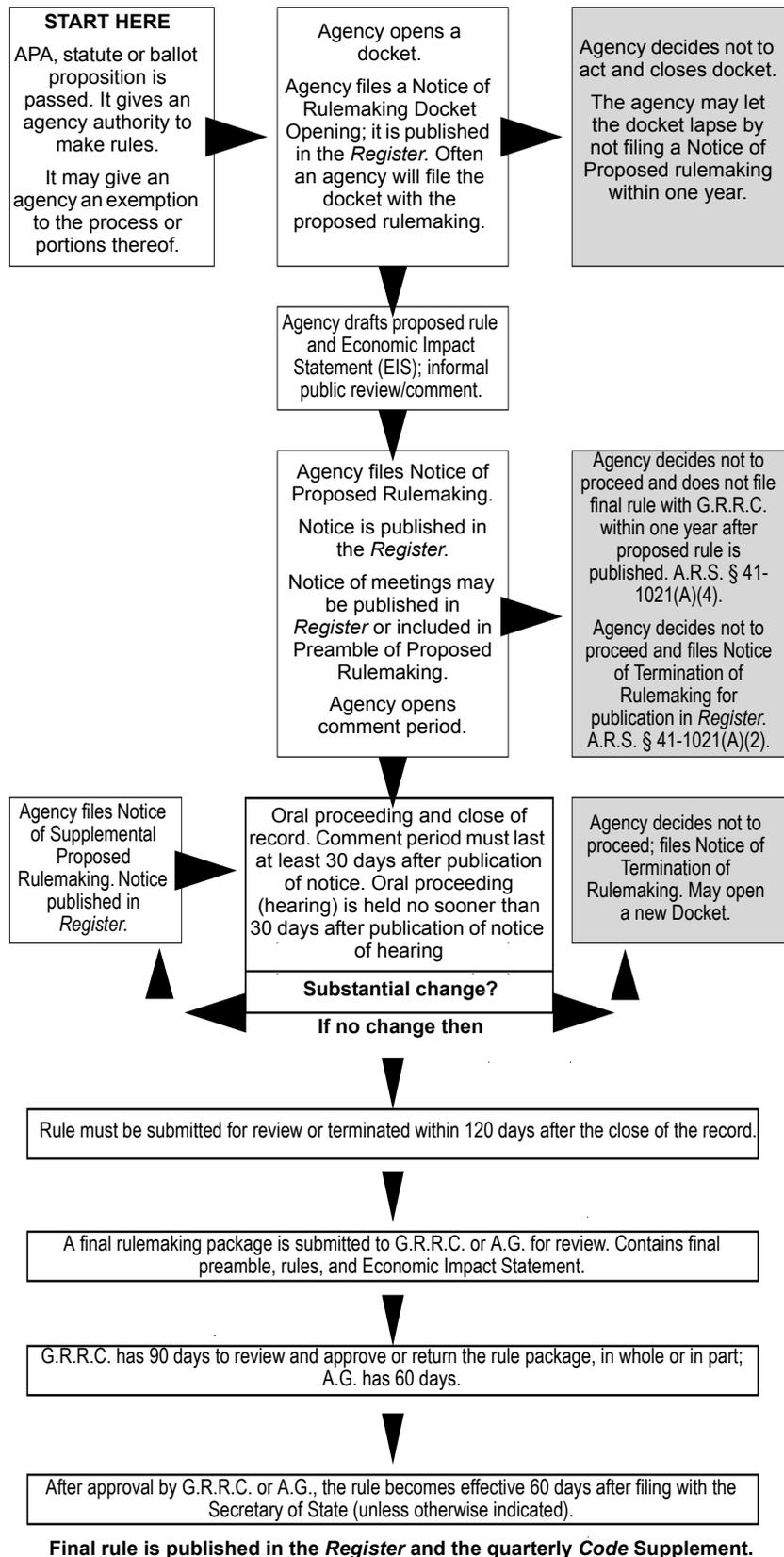
An agency may not have a public meeting scheduled on the Notice of Proposed Rulemaking. If not, you may request that the agency schedule a proceeding. This request must be put in writing within 30 days after the published Notice of Proposed Rulemaking.

## Write the agency

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

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

# Arizona Regular Rulemaking Process



## Definitions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## Acronyms

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

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

APA – *Administrative Procedure Act*

A.R.S. – *Arizona Revised Statutes*

CFR – *Code of Federal Regulations*

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

FR – *Federal Register*

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

U.S.C. – *United States Code*

## About Preambles

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

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

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

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## NOTICES OF PROPOSED RULEMAKING

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

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

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

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

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

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### NOTICE OF PROPOSED RULEMAKING

#### TITLE 9. HEALTH SERVICES

#### CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS) ADMINISTRATION

[R15-105]

#### PREAMBLE

- |   |  |
|---|--|
| <b>1. <u>Article, Part, or Section Affected (as applicable)</u></b><br>R9-22-712.05 | <b><u>Rulemaking Action</u></b><br>Amend |
|---|--|
- 2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):**  
Authorizing statute: A.R.S. § 36-2903.01  
Implementing statute: A.R.S. § 36-2903.01
- 3. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed rule:**  
Notice of Rulemaking Docket Opening: 21 A.A.R. 1835, September 11, 2015 (*in this issue*)
- 4. The agency's contact person who can answer questions about the rulemaking:**  
Name: Mariaelena Ugarte  
Address: AHCCCS  
Office of Administrative Legal Services  
701 E. Jefferson, Mail Drop 6200  
Phoenix, AZ 85034  
Telephone: (602) 417-4693  
Fax: (602) 253-9115  
E-mail: AHCCCSRules@azahcccs.gov  
Web site: www.azahcccs.gov
- 5. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:**  
A.R.S. § 36-2903.01 requires the Administration to describe in rule how GME appropriated funds for distribution to hospitals for direct costs of the GME programs established or expanded on or after July 1, 2006. In addition the rule describes how indirect GME costs for programs located in a county with a population of less than 500,000 are calculated and distributed and how funds and certified public expenditures apply to other indirect program costs. The intention of this rulemaking is to modify the method of allocating funds for indirect GME costs to permit payments that will cover a greater portion of the costs reported by the GME programs. Pursuant to A.R.S. § 36-2903.01(G)(9), certain public entities are permitted to transfer funds to the AHCCCS Administration to support these payments. In addition, AHCCCS would like to make additional clarifying changes to the rule.



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

A study was not referenced or relied upon when revising these regulations.

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

Not applicable

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

The Administration anticipates a moderate economic impact on the implementing agency, small businesses and consumers. The proposed rulemaking intends to calculate the maximum payment for the indirect cost of graduate medical education. The rulemaking will benefit hospitals operating GME programs because the proposed rule amendment, which will not require additional State funding, will expand payments in support of graduate medical education. Payments to Arizona training hospitals are expected to increase or enhance payments by approximately \$81,000,000 annually without use of additional State funds.

Minimal impact = \$0 - \$1M

Moderate impact = \$1M - \$100M

Maximum impact = \$100M on up

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

Name: Mariaelena Ugarte  
Address: AHCCCS  
Office of Administrative Legal Services  
701 E. Jefferson, Mail Drop 6200  
Phoenix, AZ 85034  
Telephone: (602) 417-4693  
Fax: (602) 253-9115  
E-mail: AHCCCSRules@azahcccs.gov  
Web site: www.azahcccs.gov

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

Proposed rule language will be available on the AHCCCS website [www.azahcccs.gov](http://www.azahcccs.gov) the week of August 24, 2015. Please send written or email comments to the above address by the close of the comment period, 5:00 p.m., October 13, 2015.

Date: October 13, 2015  
Time: Noon  
Location: AHCCCS  
701 E. Jefferson  
Phoenix, AZ 85034  
Nature: Public Hearing

Date: October 13, 2015  
Time: Noon  
Location: ALTCS: Arizona Long-Term Care System  
1010 N. Finance Center Dr., Suite 201  
Tucson, AZ 85710  
Nature: Public Hearing

Date: October 13, 2015  
Time: Noon  
Location: 2717 N. 4th St., Suite 130  
Flagstaff, AZ 86004  
Nature: Public Hearing

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

No other matters have been prescribed.



- a. **Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**  
Not applicable
  - b. **Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:**  
Not applicable
  - c. **Whether a person submitted an analysis to the agency that compares the rule’s impact of the competitiveness of business in this state to the impact on business in other states:**  
No analysis was submitted.
12. **A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:**  
None
13. **The full text of the rules follows:**

TITLE 9. HEALTH SERVICES

CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS) ADMINISTRATION

ARTICLE 7. STANDARDS FOR PAYMENTS

Section  
R9-22-712.05. Graduate Medical Education Fund Allocation

ARTICLE 7. STANDARDS FOR PAYMENTS

**R9-22-712.05. Graduate Medical Education Fund Allocation**

- A. Graduate medical education (GME) reimbursement as of September 30, 1997. Subject to legislative appropriation, the Administration shall make a distribution based on direct graduate medical education costs as described in A.R.S. § 36-2903.01(H)(9)(a).
- B. Subject to available funds and approval by CMS, the Administration shall annually distribute monies appropriated for the expansions of GME programs approved by the Administration to hospitals for direct program costs eligible for funding under A.R.S. § 36-2903.01(H)(9)(b). A GME program is deemed to be established as of the date of its original accreditation. All determinations that are necessary to make distributions described by this subsection shall be made using information possessed by the Administration as of the date of reporting under subsection (B)(3).
  - 1. Eligible health care facilities. A health care facility is eligible for distributions under subsection (B) if all of the following apply:
    - a. It is a hospital in Arizona that is the sponsoring institution of, or a participating institution in, one or more of the GME programs in Arizona;
    - b. It incurs direct costs for the training of residents in the GME programs, which costs are or will be reported on the hospital’s Medicare Cost Report;
    - c. It is not administered by or does not receive its primary funding from an agency of the federal government.
  - 2. Eligible resident positions. For purposes of determining program allocation amounts under subsection (B)(4) the following resident positions are eligible for consideration to the extent that the resident training takes place in Arizona and not at a health care facility made ineligible under subsection (B)(1)(c):
    - a. Filled resident positions in approved programs established as of October 1, 1999 at hospitals that receive funding as described in A.R.S. § 36-2903.01(H)(9)(a) that are additional to the number of resident positions that were filled as of October 1, 1999; and
    - b. All filled resident positions in approved programs other than GME programs described in A.R.S. § 36-2903.01(H)(9)(a) that were established before July 1, 2006.
  - 3. Annual reporting. By April 1st of each year, each GME program and each hospital seeking a distribution under subsection (B) shall provide the applicable information listed in this subsection to the Administration:
    - a. A GME program shall provide all of the following:
      - i. The program name and number assigned by the accrediting organization;
      - ii. The original date of accreditation;
      - iii. The names of the sponsoring institution and all participating institutions current as of the date of reporting;
      - iv. The number of approved resident positions and the number of filled resident positions current as of the date of reporting;
      - v. For programs established as of October 1, 1999, the number of resident positions that were filled as of October 1, 1999, if the program has not already provided this information to the Administration;
    - b. A hospital seeking a distribution under subsection (B) shall provide all of the following that apply:



- i. If the hospital uses the Intern and Resident Information System (IRIS) for tracking and reporting its resident activity to the fiscal intermediary, copies of the IRIS master and assignment files for the hospital's two most recently completed Medicare cost reporting years as filed with the fiscal intermediary;
    - ii. If the hospital does not use the IRIS or has less than two cost reporting years available in the form of the IRIS master and assignment files, the information normally contained in the IRIS master and assignment files in an alternative format for the hospital's two most recently completed Medicare cost reporting years;
    - iii. At the request of the Administration, a copy of the hospital's Medicare Cost Report or any part of the report for the most recently completed cost reporting year.
  4. Allocation of expansion funds. Annually the Administration shall allocate available funds to each approved GME program in the following manner:
    - a. Information provided by hospitals under subsection (B)(3)(b) shall be used to determine the program in which each eligible resident is enrolled and the number of days that each eligible resident worked in any area of the hospital complex or in a non-hospital setting under agreement with the reporting hospital during the period of assignment to that hospital. For this purpose, the Administration shall use data relating to the most recent 12-month period that is common to all information provided under subsections (B)(3)(b)(i) and (ii).
    - b. The number of eligible residents allocated to each participating institution within each approved GME program shall be determined as follows:
      - i. Total the number of days determined for each participating institution under subsection (B)(4)(a) and divide each total by 365.
      - ii. Proportionally adjust the result of subsection (B)(4)(b)(i) for each participating institution within each program according to the number of residents determined to be eligible under subsection (B)(2).
    - c. The number of allocated eligible residents determined under subsection (B)(4)(b)(ii) shall be adjusted for Arizona Medicaid utilization using the most recent Medicare Cost Report information on file with the Administration as of the date of reporting under subsection (B)(3) and the Administration's inpatient hospital claims and encounter data for the time period corresponding to the Medicare Cost Report information for each hospital. The Administration shall use only those inpatient hospital claims paid by the Administration and encounters that were adjudicated by the Administration as of the date of reporting under subsection (B)(3). The Medicaid-adjusted eligible residents shall be determined as follows:
      - i. For each hospital, the total AHCCCS inpatient hospital days of care shall be divided by the total Medicare Cost Report inpatient hospital days, multiplied by 100 and rounded up to the nearest multiple of 5 percent.
      - ii. The number of allocated eligible residents determined for each participating hospital under subsection (B)(4)(b)(ii) shall be multiplied by the percentage derived under subsection (B)(4)(c)(i) for that hospital. The number of allocated eligible residents determined under subsection (B)(4)(b)(ii) for a participating institution that is not a hospital and not a health care facility made ineligible under subsection (B)(1)(c) shall be multiplied by the percentage derived under subsection (B)(4)(c)(i) for the program's sponsoring institution or, if the sponsoring institution is not a hospital, the sponsoring institution's affiliated hospital. The number of allocated eligible residents determined under subsection (B)(4)(b)(ii) for a participating institution that is made ineligible under subsection (B)(1)(c) shall be multiplied by zero percent.
    - d. The total allocation for each approved program shall be determined by multiplying the Medicaid-adjusted eligible residents determined under subsection (B)(4)(c)(ii) by the per resident conversion factor determined below and totaling the resulting dollar amounts for all participating institutions in the program. The per resident conversion factor shall be determined as follows:
      - i. Calculate the total direct GME costs from the most recent Medicare Cost Reports on file with the Administration for all hospitals that have reported such costs.
      - ii. Calculate the total allocated residents determined under subsection (B)(4)(b)(i) for those hospitals described under subsection (B)(4)(d)(i).
      - iii. Divide the total GME costs calculated under subsection (B)(4)(d)(i) by the total allocated residents calculated under subsection (B)(4)(d)(ii).
  5. Distribution of expansion funds. On an annual basis subject to available funds, the Administration shall distribute the allocated amounts determined under subsection (B)(4) in the following manner:
    - a. The allocated amounts shall be distributed in the following order of priority:
      - i. To eligible hospitals that do not receive funding in accordance with A.R.S. § 36-2903.01(H)(9)(a) for the direct costs of programs established before July 1, 2006;
      - ii. To eligible hospitals that receive funding in accordance with A.R.S. § 36-2903.01(H)(9)(a) for the direct costs of programs established before July 1, 2006;
    - b. The allocated amounts shall be distributed to the eligible hospitals in each approved program in proportion to the number of Medicaid-adjusted eligible residents allocated to each hospital within that program under subsection (B)(4)(c)(ii).
    - c. If funds are insufficient to cover all distributions within any priority group described under subsection (B)(5)(a), the Administration shall adjust the distributions proportionally within that priority group.



- C. Subject to available funds and approval by CMS, the Administration shall annually distribute monies appropriated for the expansions of GME programs approved by the Administration to hospitals for direct program costs eligible for funding under A.R.S. § 36-2903.01(H)(9)(c)(i). A GME program is deemed to be established as of the date of its original accreditation. All determinations that are necessary to make distributions described by this subsection shall be made using information possessed by the Administration as of the date of reporting under subsection (C)(3).
1. Eligible health care facilities. A health care facility is eligible for distributions under subsection (C) if it meets all the conditions of subsections (B)(1)(a) through (c).
  2. Eligible resident positions. For purposes of determining program allocation amounts under subsection (C)(4), the following resident positions are eligible for consideration to the extent that the resident training takes place in Arizona and not at a health care facility made ineligible under subsection (B)(1)(c):
    - a. All filled resident positions in approved programs established on or after July 1, 2006; and
    - b. For approved programs established on or after July 1, 2006 that have been established for less than one year as of the date of reporting under subsection (C)(3) and have not yet filled their first-year resident positions, all prospective residents reasonably expected by the program to be enrolled as a result of the most recently completed annual resident match.
  3. Annual reporting. By April 1st of each year, each GME program and each hospital seeking a distribution under subsection (C) shall provide to the Administration:
    - a. A GME program shall provide all of the following:
      - i. The requirements of subsections (B)(3)(a)(i) through (iv);
      - ii. The academic year rotation schedule on file with the program current as of the date of reporting; and
      - iii. For programs described under subsection (C)(2)(b), the number of residents expected to be enrolled as a result of the most recently completed annual resident match.
    - b. A hospital seeking a distribution under subsection (C) shall provide the requirements of subsection (B)(3)(b).
  4. Allocation of expansion funds. Annually the Administration shall allocate available funds to approved GME programs in the following manner:
    - a. Information provided by hospitals in accordance with subsection (B)(3)(b) shall be used to determine the program in which each eligible resident is enrolled and the number of days that each eligible resident worked in any area of the hospital complex or in a non-hospital setting under agreement with the reporting hospital during the period of assignment to that hospital. For this purpose, the Administration shall use data relating to the most recent 12-month period that is common to all information provided in accordance with subsections (B)(3)(b)(i) and (ii).
    - b. For approved programs whose resident activity is not represented in the information provided in accordance with subsection (B)(3)(b), information provided by GME programs under subsection (C)(3)(a) shall be used to determine the number of days that each eligible resident is expected to work at each participating institution.
    - c. The number of eligible residents allocated to each participating institution for each approved GME program shall be determined by totaling the number of days determined under subsections (C)(4)(a) and (b) and dividing the totals by 365.
    - d. The number of allocated residents determined under subsection (C)(4)(c) shall be adjusted for Arizona Medicaid utilization in accordance with subsection (B)(4)(c).
    - e. The total allocation for each approved program shall be determined in accordance with subsection (B)(4)(d).
  5. Distribution of expansion funds. On an annual basis subject to available funds, the Administration shall distribute the allocated amounts determined under subsection (C)(4) to the eligible hospitals in each approved program in proportion to the number of Medicaid-adjusted eligible residents allocated to each within that program under subsection (C)(4)(d).
- D. Subject to available funds and approval by CMS, the Administration shall annually distribute monies appropriated for GME programs approved by the Administration to hospitals for indirect program costs eligible for funding under A.R.S. § 36-2903.01(H)(9)(c)(ii). A GME program is deemed to be established as of the date of its original accreditation. All determinations that are necessary to make distributions described by this subsection shall be made using information possessed by the Administration as of the date of reporting under subsection (D)(3).
1. Eligible health care facilities. A health care facility is eligible for distributions under subsection (D) if all of the following apply:
    - a. It is a hospital in Arizona that is the sponsoring institution of or a participating institution in one or more of the GME programs in Arizona or is the base hospital for one or more of the GME programs in Arizona whose sponsoring institutions are not hospitals;
    - b. It incurs indirect program costs for the training of residents in the GME programs, which costs are or will be calculated on the hospital's Medicare Cost Report or are reimbursable under the Children's Hospitals Graduate Medical Education Payment Program administered by HRSA;
    - c. It is not administered by or does not receive its primary funding from an agency of the federal government.
  2. Eligible resident positions. For purposes of determining program allocation amounts under subsection (D)(4) the following resident positions are eligible for consideration to the extent that the resident training takes place in Arizona and not at a health care facility made ineligible under subsection (D)(1)(c):



- a. Any filled resident position in an approved program that includes a rotation of at least one month per year in a county other than Maricopa or Pima whose population was less than 500,000 persons at the time the residency rotation was added to the academic year rotation schedule;
  - b. For approved programs that have been established for less than one year as of the date of reporting under subsection (D)(3) and have not yet filled their first-year resident positions, all prospective residents reasonably expected by the program to be enrolled as a result of the most recently completed annual resident match who will perform rotations of at least one month per year in a county other than Maricopa or Pima whose population was less than 500,000 persons at the time the residency rotation was added to the academic year rotation schedule.
3. Annual reporting. By April 1st of each year, each GME program and each hospital seeking a distribution under subsection (D) shall provide to the Administration:
- a. A GME program shall provide all of the following:
    - i. The requirements of subsections (B)(3)(a)(i) through (iv);
    - ii. The academic year rotation schedule on file with the program current as of the date of reporting;
    - iii. For programs described under subsection (D)(2)(c), the number of residents expected to be enrolled as a result of the most recently completed annual resident match.
  - b. A hospital seeking a distribution under subsection (D) shall provide the requirements of subsection (B)(3)(b)(iii).
4. Allocation of funds for indirect program costs. Annually the Administration shall allocate available funds to approved GME programs in the following manner:
- a. Using the information provided by programs under subsection (D)(3), the Administration shall determine for each program the number of residents in the program who are eligible under subsection (D)(2) and the number of months per year that each eligible resident will perform rotations in counties described by subsection (D)(2), multiply the number of eligible residents by the number of months and multiply the result by the per resident per month conversion factor determined under subsection (D)(4)(b).
  - b. Using the most recent Medicare Cost Reports on file with the Administration for all hospitals that have calculated a Medicare indirect medical education payment, the Administration shall determine a per resident per month conversion factor as follows:
    - i. Calculate each hospital's Medicaid share by dividing the AHCCCS inpatient hospital days of care by the total inpatient hospital days from the Medicare Cost Report. For this purpose, the Administration shall use the information described by subsection (B)(4)(c) for adjusting allocated residents for Arizona Medicaid utilization.
    - ii. Calculate each hospital's Medicare share by dividing the Medicare inpatient days on the Medicare Cost Report by the total inpatient hospital days on the Medicare Cost Report.
    - iii. Divide the Medicaid share by the Medicare share and multiply the resulting ratio by the indirect medical education payment calculated on the Medicare Cost Report.
    - iv. Total the results for all hospitals, divide the result by the total allocated residents determined under subsection (B)(4)(b)(ii) for these hospitals, and divide that result by 12.
5. Distribution of funds for indirect program costs. On an annual basis subject to available funds, the Administration shall distribute ~~the allocated amounts determined under subsection (D)(4) to the program's sponsoring hospital or the program's base hospital if the sponsoring institution is not a hospital, up to but not exceeding:~~
- a. ~~The amount calculated for the hospital at subsection (D)(4)(b)(iii), or~~
  - b. ~~The median of all amounts calculated at subsection (D)(4)(b)(iii) if no amount was calculated for the hospital.~~ to each eligible hospital the amount calculated for the hospital at subsection (D)(4)(a).
- E. Reallocation of funds. If funds appropriated for subsection (B) are not allocated by the Administration and funds appropriated for subsections (C) and (D) are insufficient to cover all distributions under subsections (C)(5) and (D)(5), the funds not allocated under subsection (B) shall be allocated under subsections (C) and (D) to the extent of the calculated distributions. If funds are insufficient to cover all distributions under subsections (C)(5) and (D)(5), the Administration shall adjust the distributions proportionally. If funds appropriated for subsections (C) and (D) are not allocated by the Administration and funds appropriated for subsection (B) are insufficient to cover all distributions under subsection (B)(5), the funds not allocated under subsections (C) and (D) shall be allocated under subsection (B) to the extent of the calculated distributions.
- F. The Administration may enter into intergovernmental agreements with local, county, and tribal governments wherein local, county and tribal governments may transfer funds or certify public expenditures to the Administration. Such funds or certification, subject to approval by CMS, will be used to qualify for additional federal funds. Those funds will be used for the purposes of reimbursing hospitals that are eligible under subsection (D)(1) and specified by the local, county, or tribal government for indirect program costs other than those reimbursed under subsection (D). ~~The Administration shall allocate available funds. Funds transferred and available under this subsection shall be distributed~~ in accordance with subsection (D) except that reimbursement with such funds is not limited to resident positions or rotations in counties with populations of less than 500,000 persons. On an annual basis subject to available funds, the Administration shall distribute to each eligible hospital the greatest among the following amounts, less any amounts distributed under subsection (D)(5):



1. The amount that results from multiplying the total number of eligible residents allocated to the hospital under subsection (B)(4)(b)(ii) times 12 times the per resident per month conversion factor determined under subsection (D)(4)(b);
2. The amount calculated for the hospital at subsection (D)(4)(b)(iii);
3. The median of all amounts calculated at subsection (D)(4)(b)(iii) if the hospital does not have an indirect medical education payment calculated on the Medicare Cost Report.



NOTICES OF PROPOSED EXEMPT RULEMAKING

This section of the Arizona Administrative Register contains Notices of Proposed Exempt Rulemaking. An agency may be exempt from rulemaking standards outlined in the Arizona Administrative Procedures Act (APA).

An agency's exemption is listed in the Preamble of the rulemaking as specified under: A.R.S. §§ 41-1005 or 41-1057; or a specific statute; or if a rule is promulgated by the Corporation Commission, it is exempt from Attorney General review under a court decision as determined by the Commission.

If an agency determines it is exempt under the law or court decision, the law may still require publication of the Proposed Exempt Rulemaking in this section to solicit and review public comments on the rulemaking.

Some agencies, even though completely exempt, may still elect to follow certain provisions of the APA, such as circulating its exempt rulemaking for comment. If an agency chooses this option, our office encourages filing the notice with our office for publication in the Register.

Please note, if a statute dictates that an agency is completely exempt from the rulemaking process, the agency is authorized to file a Notice of Exempt Rulemaking.

In all cases, an agency must still follow the procedures as established by our office in order to have its rulemaking package published.

The Office of the Secretary of State is the filing office and publisher of these rules. Questions about the interpretation of the proposed exempt rule should be directed to the agency proposing them. Refer to Item #5 of the Preamble to contact the person charged with the rulemaking.

NOTICE OF PROPOSED EXEMPT RULEMAKING

TITLE 2. ADMINISTRATION

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

[R15-114]

PREAMBLE

- 1. Article, Part or Sections Affected (as applicable) Rulemaking Action
2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific) and the statute or session law authorizing the exemption:
3. The effective date of the rule and the agency's reason it selected the effective date:
4. A list of all notices published in the Register as specified in R9-1-409(A) that pertain to the record of the exempt rulemaking:
5. The agency's contact person who can answer questions about the rulemaking:
6. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered to include an explanation about the rulemaking:



The Commission's rulemakings are exempt from Title 41, Ch. 6, Article 3, pursuant to A.R.S. § 16-956.

7. **A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**  
Not applicable
8. **A showing of good cause why the rule is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:**  
Not applicable
9. **The summary of the economic, small business, and consumer impact, if applicable:**  
Not applicable
10. **A description of any changes between the proposed rulemaking, including any supplemental proposed rulemaking, and final rulemaking package, (if applicable):**  
The proposed rule amendment clarifies the process in which the Commission will find reasonable cause in a matter that relates to the reporting requirements of A.R.S. § 16-913. The proposed amendment was developed by the Commission during a review of its rules and was proposed in an open meeting on August 20, 2015. There were no Notices of Supplemental Proposed Rulemaking related to this Section, and no other substantive changes are being made.
11. **An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments, if applicable:**  
The Commission solicits public comment throughout the rulemaking process.
12. **Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules. When applicable, matters shall include, but not be limited to:**
  - a. **Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**  
Not applicable
  - b. **Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than the federal law and if so, citation to the statutory authority to exceed the requirements of the federal law:**  
Not applicable
  - c. **Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:**  
Not applicable
13. **A list of any incorporated by reference material and its location in the rules:**  
Not applicable
14. **Whether this rule previously made, amended, repealed or renumbered as an emergency rule. If so, the agency shall state where the text changed between the emergency and the exempt rulemaking packages:**  
The rule was not previously made, amended, repealed, or renumbered as an emergency rule.
15. **The full text of the rules follows:**

## TITLE 2. ADMINISTRATION

### CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

#### ARTICLE 2. COMPLIANCE AND ENFORCEMENT PROCEDURES

Section  
R2-20-208. Complaint processing; notification

#### ARTICLE 2. COMPLIANCE AND ENFORCEMENT PROCEDURES

##### **R2-20-208. Complaint processing; notification**

- A. If the Commission, either after reviewing a complaint-generated recommendation as described in A.A.C. R2-20-206 and any response of a respondent submitted pursuant to A.A.C. R2-20-205, or after reviewing an internally generated recommendation as described in A.A.C. R2-20-207, determines by an affirmative vote of at least 3 of its members that it has reason to believe a respondent has violated a statute or rule over which the Commission has jurisdiction, the Commission shall notify such respondent of the Commission's finding, setting forth the sections of the statute or rule alleged to have been violated and the alleged factual basis supporting the finding. In accordance with A.R.S. § 16-957(A), the Commission shall serve on the respondent an order requiring compliance within 14 days. During that period, the respondent may provide any explanation to the Commission, comply with the order, or enter into a public administrative settle-



ment with the Commission. If the complaint has been filed with the Arizona Secretary of State's Office and involves reporting requirements under A.R.S. § 16-913, the Commission shall defer to the Secretary of State's determination of reasonable cause and shall find reason to believe if the Secretary finds reasonable cause.

- B.** No change
- C.** No change



NOTICES OF FINAL EXEMPT RULEMAKING

This section of the Arizona Administrative Register contains Notices of Final Exempt Rulemaking.

The Office of the Secretary of State is the filing office and publisher of these rules. Questions about the

interpretation of the final exempt rule should be addressed to the agency proposing them. Refer to Item #5 to contact the person charged with the rulemaking.

NOTICE OF FINAL EXEMPT RULEMAKING

TITLE 17. TRANSPORTATION

CHAPTER 5. DEPARTMENT OF TRANSPORTATION
COMMERCIAL PROGRAMS

[R15-106]

PREAMBLE

- 1. Article, Part, or Section Affected (as applicable) Rulemaking Action
Article 9 New Article
R17-5-901 New Section
R17-5-902 New Section
R17-5-903 New Section
R17-5-904 New Section
R17-5-905 New Section
R17-5-906 New Section
2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific), and the statute or session law authorizing the exemption:
Authorizing statutes: A.R.S. §§ 28-366, 41-2065(A)(4), and Laws 2015, Ch. 235, § 15
Implementing statutes: A.R.S. §§ 28-9552, 28-9556, and 41-2052
Statute or session law authorizing the exemption: Laws 2015, Ch. 235, §§ 14 and 15
3. The effective date of the rule and the agency's reason it selected the effective date:
August 21, 2015 (upon filing with the Office of the Secretary of State).
a. If the agency selected a date earlier than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the earlier date and state the reason or reasons the agency selected the earlier effective date as provided in A.R.S. § 41-1032(A)(1) through (5):
This rulemaking provides a written process for making available to the Department for review, records required to be maintained by the owners of livery vehicles, taxis, and limousines under A.R.S. § 41-2097, and records required to be maintained by transportation network companies under A.R.S. §§ 28-9554 through 28-9556, in relation to:
Vehicle safety and emissions inspections;
Driver pre-employment criminal background checks; and
Owner enforcement of a zero-tolerance policy on the use of drugs or alcohol by drivers providing, or available to provide, passenger transportation.
As provided under A.R.S. § 41-1032(A)(1), the immediate effectiveness of these rules will preserve the public peace, health, or safety by allowing the Department of Transportation or the Department of Weights and Measures (as applicable) to collect and record information relating to a transportation service provider's agent for service of process or designated point of contact.
The rules benefit the public by allowing the Department to expedite issuance of transportation network company permits in support of innovative ride sharing technology that will provide Arizona citizens with new job opportunities and more options for hiring a vehicle for in-state travel.
b. If the agency selected a date later than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the later date and state the reason or reasons the agency selected the later effective date as provided in A.R.S. § 41-1032(B):
Not applicable



**4. A list of all notices published in the Register as specified in R1-1-409(A) that pertain to the record of the exempt rulemaking:**

None

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

Name: Yasmine Lopez  
Address: Arizona Department of Transportation, Motor Vehicle Division  
Vehicle for Hire Program  
1801 W. Jefferson St., Mail Drop 546M  
Phoenix, AZ 85007  
Telephone: (602) 712-5948  
Fax: (623) 931-5754  
E-mail: YLopez@azdot.gov  
Web site: <http://www.azdot.gov/mvd/professional-services/vehicle-for-hire>

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

Laws 2015, Chapter 235, requires the owners of transportation network companies to maintain certain records that shall be made available to the Department of Transportation on request as provided under A.R.S. Title 28, Chapter 30, Article 3. Additionally, the new laws require that the owners of taxis, livery vehicles, and limousines used to provide passenger transportation maintain certain records and make those records available to the Department of Weights and Measures on request. Therefore, the Department of Transportation and the Department Weights and Measures must coordinate rulemaking efforts to ensure successful implementation of the legislative changes provided under Laws 2015, Chapter 235.

As provided under A.R.S. § 41-2097, the Department of Weights and Measures may continue to enforce certain provisions relating to the owners of taxis, livery vehicles, and limousines until July 1, 2016, when regulatory oversight of all for-hire transportation service providers finally transitions to the Department of Transportation. Those provisions include requesting for review all records relating to vehicle maintenance, drug testing of vehicle operators, and criminal background checks conducted on drivers (whether employees or lessees).

This rulemaking establishes the process the Department of Transportation may use when necessary to measure a transportation service provider's level of compliance with the new laws. The rules provide the guidelines necessary for the Department to establish appropriate business relationships and perform adequate oversight to ensure the successful and continued operation of livery vehicles, taxis, transportation network company vehicles, transportation network companies, and limousines throughout the state.

To facilitate the transition of the regulatory oversight of all for-hire transportation service providers from the Department of Weights and Measures to the Department of Transportation, this rulemaking:

Creates a new Article for all rules applicable to for-hire transportation service providers, including the owners of taxis, livery vehicles, limousines, and transportation network companies;

Authorizes the issuance of a new transportation network company permit to a person that meets the statutory requirements of a transportation network company as prescribed under A.R.S. Title 28, Chapter 30, Article 3;

Establishes the application fee the Department shall charge for the issuance of a transportation network company permit;

Provides all owners of livery vehicles, taxis, limousines, and transportation network companies a written process for making certain records available to either the Department of Weights and Measures or the Department of Transportation for review (as applicable); and

Ensures that transportation network companies are regulated under A.R.S. Title 28, Chapter 30, Article 3, and not as a taxi, livery vehicle, or limousine service.

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

The agency did not review or rely on any study relevant to the rules.

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

Laws 2015, Chapter 235, extends the state preemption of municipal regulation to include transportation network companies and their use of transportation network company vehicles. However, an exception provided under A.R.S. § 41-2052 will allow the operator of a public airport to establish the number of livery vehicles, taxis, transportation network company vehicles, transportation network companies, and limousines that may conduct business



at the public airport or set additional or more restrictive requirements for the conduct of that business at the public airport.

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

Laws 2015, Ch. 235, § 14, expressly provides the Department of Weights and Measures or the Department of Transportation, as applicable, an exemption from the rulemaking requirements of A.R.S. Title 41, Chapter 6. For this rulemaking, the Department is not required to prepare and file the economic, small business, and consumer impact statement generally required under the Administrative Procedure Act.

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

Not applicable

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

Not applicable

**12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules. When applicable, matters shall include, but not be limited to:**

There are no other matters prescribed by statute applicable to the Department or to any specific rule or class of rules.

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

The rules provide for the issuance of a transportation network company permit to a person that meets the statutory requirements of a transportation network company as prescribed under A.R.S. Title 28, Chapter 30, Article 3. The transportation network company permit is a “general permit” in that the activities and practices authorized by this class of license are the same for all companies issued the permit.

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

The rules are not more stringent than any applicable federal law.

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

No analysis was submitted to the Department.

**13. A list of any incorporated by reference material and its location in the rule:**

The rules incorporate no material by reference.

**14. Whether the rule was previously made, amended, repealed or renumbered as an emergency rule. If so, the agency shall state where the text changed between the emergency and the exempt rulemaking packages:**

The rules were not previously made, amended, repealed or renumbered as an emergency rule.

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

**TITLE 17. TRANSPORTATION**

**CHAPTER 5. DEPARTMENT OF TRANSPORTATION  
COMMERCIAL PROGRAMS**

**ARTICLE 9. TRANSPORTATION SERVICE PROVIDERS**

Section

- R17-5-901. Definitions
- R17-5-902. Transportation Network Company Permit - Initial Application; Issuance; Fee
- R17-5-903. Transportation Network Company Permit - Renewal Application; Issuance; Fee
- R17-5-904. Transportation Network Company Permit and Renewal - General Provisions
- R17-5-905. Transportation Service Provider - Record Review
- R17-5-906. Transportation Service Provider - Designated Point of Contact

**ARTICLE 9. TRANSPORTATION SERVICE PROVIDERS**

**R17-5-901. Definitions**

In addition to the definitions provided under A.R.S. § 28-9551, when applicable to a transportation network company, and A.R.S. § 41-2051, when applicable to an owner of a taxi, livery vehicle, or limousine, the following definitions apply to this Article unless otherwise specified:



“Applicant” means a person that meets the statutory requirements of a transportation network company as prescribed under A.R.S. Title 28, Chapter 30, Article 3.

“Designated point of contact” means a person employed by a transportation service provider who has the authority to gather and provide records to the Department on request.

“Transportation network company permit” means a document issued by the Department to an applicant that meets the requirements prescribed under A.R.S. Title 28, Chapter 30, Article 3, as authorization to conduct transportation network services in this state.

“Transportation service provider” means the owner of a taxi, livery vehicle, limousine, or transportation network company.

“Violation” means a failure to maintain or make available to the Department any records the transportation service provider is required to maintain and provide to the Department on request as provided under A.R.S. §§ 28-9554 through 28-9556, when applicable to a transportation network company, and A.R.S. § 41-2097, when applicable to an owner of a taxi, livery vehicle, or limousine.

**R17-5-902. Transportation Network Company Permit - Initial Application; Issuance; Fee**

- A.** An applicant for a transportation network company permit issued by the Department under A.R.S. § 28-9552, shall apply to the Department by:
1. Completing and submitting online the application form provided by the Department at [www.azdot.gov](http://www.azdot.gov);
  2. Providing the full name and contact information of the applicant’s agent for service of process in this state;
  3. Certifying that the transportation network company meets the requirements of A.R.S. Title 28, Chapter 30, Article 3;
  4. Filing a legible illustration of the applicant’s trade dress; and
  5. Paying a \$1,000 application fee as provided under A.R.S. § 28-9552(A).
- B.** Upon receipt and acceptance of all required documents, fees, and certifications, the Department shall issue to an applicant a transportation network company permit.
- C.** The application fee paid to the Department under subsection (A) is refundable in full if the transportation network company permit application is:
1. Denied by the Department, or
  2. Withdrawn by the applicant before the Department issues a transportation network company permit.
- D.** A transportation network company permit issued by the Department under this Section expires three years after issuance and may be renewed as provided under R17-5-903.

**R17-5-903. Transportation Network Company Permit - Renewal Application; Issuance; Fee**

- A.** A transportation network company shall apply to the Department for renewal of a transportation network company permit issued by the Department under A.R.S. § 28-9552 and R17-5-902, no earlier than 90 days, and no later than 30 days, before the permit expires by:
1. Completing and submitting online the renewal application form provided by the Department at [www.azdot.gov](http://www.azdot.gov);
  2. Filing with the Department a legible illustration of the applicant’s trade dress if different than the illustration already on file with the Department;
  3. Certifying that the transportation network company meets the requirements of A.R.S. Title 28, Chapter 30, Article 3; and
  4. Paying a \$1,000 renewal application fee as provided under A.R.S. § 28-9552(A).
- B.** Upon receipt and acceptance of all required documents, fees, and certifications, the Department shall issue to an applicant a transportation network company permit renewal.
- C.** A transportation network company permit renewal issued by the Department under this Section expires three years after the date the existing transportation network company permit expires.
- D.** The holder of an expired transportation network company permit may apply to the Department for a new transportation network company permit using the initial application procedure provided under R17-5-902.

**R17-5-904. Transportation Network Company Permit and Renewal - General Provisions**

- A.** A transportation network company permit or renewal issued by the Department under this Article shall include an assigned number that remains effective until either withdrawn by the Department or until it expires.
- B.** A transportation network company permit or renewal issued by the Department under this Article shall not be transferred or assigned, in whole or in part, to any person other than the person to whom the permit is issued, except upon a merger, change in control, or sale of substantially all of the transportation network company’s assets to an entity that assumes the duties and obligations of the permit. The transportation network company shall notify the Department within 30 days of such a transfer or assignment, and the Department shall have 30 days beginning on such notification to nullify the transfer or assignment based on the criteria set forth in this Article. An initial public offering shall not be deemed to trigger a transfer or assignment under this Section.

**R17-5-905. Transportation Service Provider - Record Review**

- A.** The Department, after providing reasonable notice to a transportation service provider, may review with or without cause all records a transportation service provider is required to make available to the Department on request as provided under A.R.S. §§ 28-9554 through 28-9556, when applicable to a transportation network company, and A.R.S. §



41-2097, when applicable to an owner of a taxi, livery vehicle, or limousine.

- B.** A transportation service provider shall make all records described under subsection (A) available to the Department for review at an Arizona location.
- C.** The Department shall conduct a record review during the transportation service provider's normal business hours.
- D.** The Department shall provide a copy of its review report to the transportation service provider's designated point of contact. The report shall include the review results and indicate any violations found.

**R17-5-906      Transportation Service Provider - Designated Point of Contact**

- A.** A transportation service provider shall provide to the Department the name and contact information of the transportation service provider's designated point of contact in this state.
- B.** A transportation service provider shall notify the Department within 10 business days of making a change to the name or contact information of the transportation service provider's designated point of contact in this state.



NOTICES OF EMERGENCY RULEMAKING

This section of the Arizona Administrative Register contains Notices of Emergency Rulemaking.

The Office of the Secretary of State is the filing office and publisher of these rules.

Questions about the interpretation of the emergency rules should be addressed to the agency proposing them.

Refer to Item #5 to contact the person charged with the rulemaking.

NOTICE OF EMERGENCY RULEMAKING

TITLE 15. REVENUE

CHAPTER 10. DEPARTMENT OF REVENUE
GENERAL ADMINISTRATION

[R15-107]

PREAMBLE

- 1. Articles, Parts or Sections Affected (as applicable) Rulemaking Action
Article 7 New Article
R15-10-702 New Section
R15-10-703 New Section
R15-10-704 New Section
R15-10-706 New Section
2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):
Authorizing statute: A.R.S. § 42-1004
Implementing statute: Laws 2015, First Regular Session, Chapter 10, § 19
3. The effective date of the rules:
August 19, 2015
a. If the agency selected a date earlier than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the earlier date and state the reason or reasons the agency selected the earlier effective date as provided in A.R.S. § 41-1032(A)(1) through (5):
These rules are effective immediately upon filing with the Secretary of State's Office in order to comply with the deadlines set forth in Laws 2015, First Regular Session, Chapter 10, § 19. The need for an immediate effective date is not due to a delay or inaction on the agency's part.
b. If the agency selected a date later than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the later date and state the reason or reasons the agency selected the later effective date as provided in A.R.S. § 41-1032(B):
N/A
4. Citations to all related emergency rulemaking notices published in the Register as specified in R1-1-409(A) that pertain to the record of this Notice of Emergency Rulemaking?
N/A
5. The agency's contact person who can answer questions about the rulemaking:
Name: Christie Comanita
Address: Department of Revenue
1600 W. Monroe
Phoenix, AZ 85007
Telephone: (602) 716-6791
Fax: (602) 716-7995
E-mail: ccomanita@azdor.gov
6. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:
The rules provide guidance and direction for the administration of the Arizona Tax Recovery Program. Laws 2015, First Regular Session, Chapter 10, § 19, states that the Department of Revenue may make emergency rules as nec-



essary to administer the Program.

The tax recovery program is an opportunity for taxpayers to settle their tax liabilities at the lowest possible cost. The program is authorized by Laws 2015, First Regular Session, Chapter 10, § 19. Both individuals and businesses that owe back taxes may apply for the tax recovery program subject to certain conditions. A taxpayer must pay the total tax due for all tax recovery periods with the application. If a taxpayer fails to pay the entire amount of tax due, tax recovery will not be granted. If a taxpayer is granted tax recovery, the department will waive or abate civil penalties and interest that were or could have been assessed for the periods covered by the application. In addition, if tax recovery is granted, no civil, administrative, or criminal actions will be brought against the taxpayer for the periods covered by the application.

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

N/A

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

N/A

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

N/A per A.R.S. § 41-1055(D).

**10. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules. When applicable, matters shall include but are not limited to:**

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

N/A

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

N/A

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

N/A

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

None

**12. An agency explanation about the situation justifying the rulemaking as an emergency rule:**

The Legislature has authorized the adoption of emergency rules in Laws 2015, First Regular Session, Chapter 10, § 19, paragraph K, subparagraph 2 by providing that the Director of the Department of Revenue may adopt emergency rules pursuant to § 41-1026, as necessary to administer the program. These rules meet the emergency requirements because they are necessary to comply with deadlines imposed under the program and to avoid serious prejudice to the public interest or the interest of the taxpayers of Arizona.

**13. The date the Attorney General approved the emergency rules:**

August 19, 2015

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

**TITLE 15. REVENUE**

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

**ARTICLE 7. TAX RECOVERY PROGRAM**

Section

R15-10-702. General

R15-10-703. Tax Periods Under Audit

R15-10-704. Gross Income Tax Return

R15-10-706. Application of Payments and Credits



ARTICLE 7. TAX RECOVERY PROGRAM

R15-10-702. General

- A. The Arizona Department of Revenue has established a Tax Recovery Program for the period of September 1, 2015 through October 31, 2015, as required under Laws 2015, First Regular Session, Chapter 10, § 19.
B. The Tax Recovery Program applies to tax liabilities for the following:
1. Income tax, including individual, corporate and fiduciary;
2. Transaction privilege tax;
3. Severance tax;
4. Use tax;
5. Telecommunications excise tax;
6. County excise taxes;
7. Tax on water use;
8. Jet fuel excise and use tax;
9. Car rental surcharge levied under A.R.S. § 5-839;
10. Tax on hotels levied under A.R.S. § 5-840;
11. County jail district excise tax levied under A.R.S. § 48-4022;
12. Car rental surcharge for major league spring training levied under A.R.S. § 48-4234;
13. Public health services district transaction privilege tax or property tax levied under A.R.S. § 48-5805;
C. To qualify for the Tax Recovery Program, the taxpayer must submit a complete and correct application for recovery and such application must be received by the department no later than November 2, 2015. The taxpayer does not qualify for recovery under the Tax Recovery Program if any amount of the unpaid tax is not included with the application.
D. Any return or report filed under the Tax Recovery Program is subject to verification as provided in law.

R15-10-703. Tax Periods Under Audit

- A. A taxpayer may apply for tax recovery for a tax period under audit only if the application for tax recovery contains all of the tax periods under audit that are within the liability period as defined by Laws 2015, First Regular Session, Chapter 10, § 19. The department shall reject as incomplete an application that contains less than all of the tax periods under audit that are within the liability period. A taxpayer shall not include on an application for tax recovery any tax periods occurring after the liability period, even if included in the tax periods under audit.
B. For purposes of this Section, "tax periods under audit" means all of the tax periods
1. that were included in:
a. proposed assessments issued by the department that were mailed to the taxpayer at the same time;
b. department requests for tax returns that were mailed to the taxpayer at the same time;
c. department requests for information that were mailed to the taxpayer at the same time; or
d. department requests for scheduling an audit that were mailed to the taxpayer at the same time; and
2. for which the taxpayer continues to have administrative or judicial appeal rights.

R15-10-704. Gross Income Tax Return

- A. An individual taxpayer that does not have sufficient information to fully complete the Arizona personal income tax return may file a gross income tax return. To file a gross income tax return, a taxpayer shall complete the form, Arizona Tax Recovery Application – Individual Gross Income Tax Return.
B. A taxpayer that files a gross income tax return shall use the following table to calculate the tax due. The tax rate is determined by locating the income range of the gross income for the tax year for which recovery is sought. The gross income for the year shall be multiplied by the tax rate listed under the income range for that tax year. For example, for 2004 if gross income is \$50,000, the tax due is \$975 (\$50,000 X .0195).

Table with 5 columns: Tax Year, \$0 Through-\$39,999, \$40,000 Through \$99,999, \$100,000 Through \$199,999, \$200,000 And Above. Rows include tax rates for years 2001-2005.



<u>2006</u>	<u>.0114</u>	<u>.0179</u>	<u>.0234</u>	<u>.0374</u>
<u>2007</u>	<u>.0105</u>	<u>.0167</u>	<u>.0217</u>	<u>.0350</u>
<u>2008</u>	<u>.0102</u>	<u>.0167</u>	<u>.0216</u>	<u>.0336</u>
<u>2009</u>	<u>.0097</u>	<u>.0168</u>	<u>.0217</u>	<u>.0331</u>
<u>2010</u>	<u>.0098</u>	<u>.0171</u>	<u>.0221</u>	<u>.0336</u>
<u>2011</u>	<u>.0099</u>	<u>.0174</u>	<u>.0226</u>	<u>.0343</u>
<u>2012</u>	<u>.0101</u>	<u>.0177</u>	<u>.0228</u>	<u>.0347</u>
<u>2013</u>	<u>.0101</u>	<u>.0178</u>	<u>.0229</u>	<u>.0338</u>

**R15-10-706. Application of Payments and Credits**

- A.** Payments received pursuant to a tax recovery application shall be applied to the tax periods on the application. Partial payment for a tax period will be applied to the tax liability starting with the oldest tax period and progressing chronologically until all the payments have been applied, but will not entitle the taxpayer to the benefits under the Tax Recovery Program. The taxpayer will remain subject to the full penalty and interest.
- B.** Tax periods for which the taxpayer is entitled to a refund or credit may be included on a tax recovery application. The credit shall be applied to other tax periods included in the application in the order described in subsection (A).
- C.** For purposes of determining the total tax due from a taxpayer applying for tax recovery, credits from overpayment of other tax periods shall be applied as if a payment had been received on the fifteenth day of April of the year following the calendar year of the tax period of the overpayment. For example, a taxpayer has an overpayment of income tax for calendar year 2004 and an under payment of income tax for calendar year 2005. The credit from the overpayment in 2004 will be applied to the 2005 liability as if it were a payment made on April 15, 2005.
- D.** No refund shall be given to a taxpayer for payments made or credits applied prior to September 1, 2015 for any tax periods included in a tax recovery application. If a credit for overpayment in one or more of the tax periods contained in a tax recovery application exceeds the total tax liabilities for all other tax periods contained in the application, the amount due shall be reduced to zero but no refund shall be paid.

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## NOTICES OF RULEMAKING DOCKET OPENING

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

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

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

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

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

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### NOTICE OF RULEMAKING DOCKET OPENING

#### STATE RETIREMENT SYSTEM BOARD

[R15-109]

- 1. Title and its heading:** 2, Administration  
**Chapter and its heading:** 8, State Retirement System Board  
**Article and its heading:** 1, Retirement System; Defined Benefit Plan  
**Section number:** R2-8-115, R2-8-118, R2-8-122, R2-8-126

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

R2-8-115 provides notice to members of the public regarding the procedures for distribution of a member's contributions upon the member's death, upon termination of ASRS employment, or upon the filing of a domestic relations order. The ASRS will amend R2-8-115 to reflect that Ending Payroll Verification may be completed electronically by the employer. It will also amend the rule to state that the ASRS may require a copy of a government issued ID to verify the identity of a withdrawing member who has been inactive for 5+ years and has \$1,000+ on their account balance.

R2-8-118 provides notice to members of the public of how the ASRS calculates and applies interest rates. The ASRS will amend this rule to clarify that "voluntary additional contributions" refers to contributions that are made pursuant to a service purchase, reinstatement, etc.

R2-8-122 provides notice to members of the public regarding when contributions are due and the interest rate for delinquent contributions. The ASRS will amend the rule to be more concise by referring to the ASRS by the agency acronym and by removing unnecessary language such as "without limitation."

R2-8-126 provides notice to members of the public regarding what type of annuity the member may elect based on age and/or dollar amount. The ASRS will amend subsections (B), (C), and (D) of this rule to better clarify for which annuity options each age group is eligible.

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

None

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

Name: Jessica A. Ross, Rule Writer  
Address: Arizona State Retirement System  
3300 N. Central Ave., Suite 1400  
Phoenix, AZ 85012-0250  
Telephone: (602) 240-2039  
Fax: (602) 264-6113  
E-Mail: JessicaR@azasrs.gov  
Website: www.azasrs.gov

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

The Board will accept comments during business hours at the address listed in item 4. Information regarding an oral proceeding will be included in the Notice of Proposed Rulemaking.

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

## NOTICE OF RULEMAKING DOCKET OPENING

### ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS) ADMINISTRATION

[R15-108]

1. **Title and its heading:** 9, Health Services  
**Chapter and its heading:** 22, Arizona Health Care Cost Containment System - Administration  
**Article and its heading:** 7, Standards for Payments  
**Section numbers:** R9-22-712.05 (*As part of this rulemaking, the Administration may add, delete, or modify Sections as necessary.*)
2. **The subject matter of the proposed rule:**  
A.R.S. § 36-2903.01 requires the Administration to describe in rule how GME appropriated funds for distribution to hospitals for direct costs of the GME programs established or expanded on or after July 1, 2006. In addition the rule describes how indirect GME costs for programs located in a county with a population of less than 500,000 are calculated and distributed and how funds and certified public expenditures apply to other indirect program costs. The intention of this rulemaking is to modify the method of allocating funds for indirect GME costs to permit payments that will cover a greater portion of the costs reported by the GME programs. Pursuant to A.R.S. § 36-2903.01(G)(9), certain public entities are permitted to transfer funds to the AHCCCS Administration to support these payments. In addition, AHCCCS would like to make additional clarifying changes to the rule.
3. **A citation to all published notices relating to the proceeding:**  
Notice of Proposed Rulemaking: 21 A.A.R. 1815, September 11, 2015 (*in this issue*)
4. **The name and address of agency personnel with whom persons may communicate regarding the rule:**  
Name: Mariaelena Ugarte  
Address: AHCCCS  
Office of Administrative Legal Services  
701 E. Jefferson, Mail Drop 6200  
Phoenix, AZ 85034  
Telephone: (602) 417-4693  
Fax: (602) 253-9115  
E-mail: AHCCCSrules@azahcccs.gov
5. **The time which the agency will accept written comments and the time and place where oral comments may be made:**  
The Administration will accept written comments Monday through Friday, 8 a.m. to 5 p.m., at the address indicated in question #4. Public hearings will be scheduled later to provide a forum for interactive discussion with interested parties. E-mail comments will be accepted.
6. **A timetable for agency decisions or other action on the proceeding, if known:**  
The Administration has initiated this rulemaking within the 60-day time period as stated under A.R.S. § 41-1033. The Notice of Proposed Rulemaking is published along with this notice.



NOTICES OF PROPOSED DELEGATION AGREEMENT

This section of the Arizona Administrative Register contains Notices of Proposed Delegation Agreements.

The Administrative Procedure Act requires the publication of notices of proposed delegation agreements in the Register. A delegation agreement is an agreement between an agency and a political subdivision that authorizes the political subdivision to exercise functions, powers, or duties conferred on the delegating agency by a provision of law.

Delegation agreements are not intergovernmental agreements pursuant to A.R.S. Title 11, Chapter 7, Article 3. For at least 30 days after publication of the Notice of Proposed Delegation Agreement in the Register, the agency shall provide persons the opportunity to submit in writing statements, arguments, data, and views on the proposed delegation agreement and shall provide an opportunity for a public hearing if there is sufficient interest. The delegating agency shall follow the procedures for delegation agreements specified in A.R.S. Title 41, Chapter 6, Article 8.

NOTICE OF PROPOSED DELEGATION AGREEMENTS

[M15-221]

1. Name of the agency proposing the delegation agreement:

Arizona Department of Environmental Quality

2. The name of the political subdivisions to which functions, powers and duties of the agency are proposed to be delegated:

Eager Fire Department, 111 N. Butler St., Eager, AZ 85925

3. The name, address, and telephone number of agency personnel to whom persons may direct questions or comments:

Name: Balaji Vaidyanathan, Manager, Air Quality Permits Section
Address: Arizona Department of Environmental Quality, 1110 W. Washington St., Phoenix, AZ 85007
Phone: (602) 771-4527
E-mail: bv1@azdeq.gov

4. A summary of the delegation agreements and the subjects and issues involved:

Pursuant to A.R.S. §§ 49-107 and 49-501(D), the Arizona Department of Environmental Quality proposes to delegate authority to the Local Agency ("LA") listed above, program elements identified by A.R.S. § 49-501 and A.A.C. R18-2-602 pertaining to issuing permits for open burning, subject to certain conditions and limitations described in the delegation agreement.

5. Copies of the proposed delegation agreement may be obtained from the agency as follows:

A copy of the proposed Agreement may be obtained by request to the ADEQ Central Office for public records pertaining to the delegation of the issuance of open burn permits.

Or contact: Sherri L. Zendri, Administrative Counsel, Arizona Department of Environmental Quality, Office of Administrative Counsel, 1110 W. Washington, Phoenix, AZ 85007
Telephone: (602) 771-2242
E-mail: slz@azdeq.gov

6. The schedule of public hearings on the proposed delegation agreement:

Where there is sufficient public interest, ADEQ will hold a public hearing to receive public comments, in accordance with A.R.S. § 41-1081. The time, place, and location of the hearings will be provided in the corresponding Notice of Public Hearing pursuant to A.A.C. R18-1-401 and R18-1-402.

ADEQ accepts written statements, arguments, data, and views on the proposed delegation agreement that are received within 30 days after the date of the publication of this notice in the Register by 5:00 p.m. or postmarked not later than that date.

After the conclusion of the public comment period and hearing, if any, the agency shall prepare a written summary responding to the comments received, whether oral or written. The agency shall consider the comments received from the public in determining whether to enter into the proposed delegation agreement. The agency shall give written notice to those persons who submitted comments of the agency's decision on whether to enter into the pro-



posed delegation agreement.

To request an auxiliary aid or service for accessible communication, please contact Alicia Pollard at (602) 771-4791 or at [aap@azdeq.gov](mailto:aap@azdeq.gov) or dial 7-1-1 for TTY/TTD Services.



NOTICES OF PUBLIC INFORMATION

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

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

NOTICE OF PUBLIC INFORMATION

DEPARTMENT OF CHILD SAFETY

[M15-222]

- 1. Name of the Agency: Department of Child Safety (DCS)
2. The topic of the public information matter: Soliciting public input on proposed rules for the following topics. Definitions and General Requirements for Child Placing Agencies and Child Welfare Agencies, Child Placement Agency Licensing Requirements, and Licensing Process and Licensing Requirements for Child Welfare Agencies Operating Residential Group Care Facilities and Outdoor Experience Programs.
3. The Public Information relating to the topic: The Department of Child Safety was granted rulemaking authority under A.R.S. § 8-453(A)(5), and an 18-month exemption from the rulemaking requirements of Title 41, Chapter 6 under Arizona Laws 2014, Second Special Session, Chapter 1, Section 158 (Senate Bill 1001).
4. The name and address of agency personnel to whom questions and comments may be addressed: Complete information and an opportunity to provide written comments online regarding the proposed rules can be found at: https://dcs.az.gov/about/dcs-rules-rulemaking

NOTICE OF PUBLIC INFORMATION

DEPARTMENT OF ENVIRONMENTAL QUALITY

[M15-223]

- 1. A.R.S. Title and its heading: 49, The Environment
A.R.S. Chapter and its heading: 2, Water Quality Control
A.R.S. Article and its heading: 2.1, Total Maximum Daily Loads
Section: A.R.S. § 49-234, Total maximum daily loads; implementation plans
2. The public information relating to the listed statute: Pursuant to A.R.S. § 49-234, the Arizona Department of Environmental Quality (Department or ADEQ) is required to develop a total maximum daily load (TMDL) for navigable waters that are listed as impaired.



Public notice of the opportunity for public comment on the draft “Gila River – Centennial Wash to Gillespie Dam Reach 15070101-008 TMDLs for Total Boron & Total Selenium (Chronic)” was published in the *Buckeye Valley News*, a newspaper of general circulation in the vicinity of the impaired reach, in April 2015. The public comment period extended from April 23, 2015 to May 29, 2015.

### **3. Total Maximum Daily Loads (TMDLs)**

#### **A. TMDL Process**

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

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

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

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

**Describe quantified water quality goals, targets, or endpoints:** The TMDL must establish numeric endpoints for the water quality standards, including beneficial uses to be protected, as a result of implementing the TMDLs. This often requires an interpretation that clearly describes the linkage(s) between factors impacting water quality standards.

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

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

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

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

**Provide implementation recommendations for pollutant reduction actions:** The TMDLs should provide a specific process and schedule for achieving pollutant reduction targets.

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

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

1. Prepare a draft estimate of the total amount of each pollutant that causes impairment from all sources that may be added to a navigable water while still allowing the navigable water to achieve and maintain applicable surface water quality standards;



2. Determine draft allocations among the contributing sources that are sufficient to achieve the total loadings;
3. Provide public notice and allow for comment on each draft estimate and draft allocation and shall prepare written responses to comments received on the draft estimates and draft allocations.
4. Publish the determinations of total pollutant loadings that will not result in impairment and the draft allocations among the contributing sources that are sufficient to achieve the total loadings that it intends to submit initially to the regional administrator, along with a summary of the responses to comments on the estimated loadings and allocations, in the A.A.R. at least forty-five days before the submission of the loadings and allocations to the regional administrator.

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

#### ***B. TMDLs for the Gila River Reach 15070101-008***

The Arizona Department of Environmental Quality (ADEQ) 1992 Clean Water Act (CWA) §303[d] Impaired Waters List listed the Gila River from Centennial Wash to the Gillespie Dam (HUC #15070101-008) as impaired for the Agricultural Irrigation (AgI) designated use due to total boron exceedances. Twenty-one of 23 samples collected in the 1989-90 period exceeded the AgI designated use criterion of 1,000 µg/L. These values were dissolved boron values, which were used as surrogates for total boron in the assessment. The reach has subsequently remained on the state's § 303(d) list for each assessment period since 1992 for the same impairment.

ADEQ's 2004 CWA §303[d] Impaired Waters List subsequently listed Reach 15070101-008 as impaired for the Aquatic and Wildlife effluent dependent water (A&Wedw) designated use due to chronic selenium exceedances. The reach was listed as impaired due to 18 of 23 samples from 1998 to 2002 exceeding the A&Wedw chronic standard of 2 µg/L. The reach has continued to be listed as impaired for selenium in each water quality assessment since 2004.

A two-year Total Maximum Daily Load (TMDL) investigation was undertaken in the summer of 2012 to identify the sources and causes of the impairments and to quantify the reductions necessary for the reach to attain water quality standards. Both impairment analytes were investigated simultaneously. Data were collected in storm flow and non-storm flow conditions on the Gila and Salt rivers at multiple locations and on tributaries and canals feeding the Gila or Hassayampa rivers. Both impairments were confirmed, and critical conditions and locations were identified. Critical conditions for both boron and selenium exceedances were found to be low-flow and non-storm conditions. Sampling for this TMDL project focused primarily upon "base flow" (i.e., continuous discharged flow) conditions, with storm flow data serving a subsidiary role. Boron and selenium both exhibited concentrations inversely proportional to flow magnitudes throughout the historical record, and both showed a similar pattern in project sampling.

Results of the TMDL study confirm that the reach is consistently impaired for both total boron and total selenium, with flow during dry conditions (60-90 percent flow exceedance range) identified as the most problematic flow regime. Only in flood or high-flow conditions do concentrations of the impairment analytes approach the attainment of standards. The reductions required to attain water quality standards are substantial, ranging from a low of 62.7 percent (boron, moist conditions) up to 93.6 percent (selenium, dry conditions). Low flows exacerbate loading problems. Concentration and load duration curves included in the document graphically depict the analytes' levels relative to water quality standards through the entire range of Gila River flows.

Nonpoint source contributors to the water quality problems include the following: discharges of agricultural irrigation tail and drain water, along with degraded excess irrigation supply water; certain industrial and wastewater discharges to the canal systems; and brackish or saline pumped groundwater discharges from the state-designated "waterlogged area." Interflow of infiltrated irrigation water finding its way to the Gila River channel also plays a role in the southwest project area. The principal problem consists of the recycling of irrigation water within and across irrigation districts after irrigation use, which leads to highly degraded water quality. The problems are persistent, as evidenced by repeated exceedances since the late 1980s, and significant, with exceedances routinely surpassing standards by a multiple factor for both boron and selenium.

Selected dischargers in the project area have been granted higher selenium permit limits than the Aquatic and Wildlife-effluent dependent water (A&Wedw) selenium standard based on the rationale that they discharge to the Buckeye Water Conser-



vation and Drainage District canal system with an Agricultural Irrigation (AgI) designated use (Se standard of 20 µg/L) instead of the Gila River or its tributaries. This rationale is not defensible in this TMDL analysis, since canal discharges are likely to negatively impact loading in the impaired reach due to their hydrologic persistence and a higher unlikelihood of infiltration as compared to tributary discharges. Waste load allocations and recommendations for revised permit limits are established in the TMDL that are consistent with the attainment of water quality standards in the impaired reach. The conservative assumptions inherent in the TMDL analysis permitted the accommodation of modified higher-concentration permit limits for selenium in a separate subsidiary analysis, assuming all other TMDL load and waste load targets are met. In addition to the explicit margin of safety, a modest buffer of assimilative capacity remains after WLA assignments.

#### TMDL CALCULATIONS

The TMDL calculations are based on flow and concentration data analyzed using load and concentration duration curves. The standard TMDL equation presented below is generally used for the determination of loading capacity and the resulting load reductions necessary to meet TMDL target values:

$$\text{TMDL} = \sum \text{WLA} + \sum \text{LA} + \text{MOS}$$

Where WLA is waste load allocation (point sources), LA is load allocation (nonpoint sources and natural background), and MOS is a margin of safety. In these TMDLs, due to factors restricting ADEQ's ability to comprehensively account for each of the elements of the TMDL equation, including consumptive use of water in the canal systems and areas ADEQ was unable to sample, the general TMDL equation has limited applicability. Aggregate load capacities and total loads, including natural background, WLAs, and load allocations, are determined for the entire project area as measured in the impaired reach. A 10% margin of safety for loads is determined at this level of analysis. Consideration of permittee and zone loading on a smaller scale relies upon a concentration based approach for evaluation of aggregate loads including both permittee discharges and non-point source loading. A 10% concentration margin of safety was applied in zone calculations. Permittee loading was considered in hybridized form by both permit concentration limits and design capacities of facilities. The TMDLs are premised on a concentration-neutral approach, which asserts that if all permitted dischargers are discharging at or below the water quality standards of the Gila River, and all zone discharges adhere to the water quality standard, loading in the impaired reach should be consistent with the Gila River achieving attainment of water quality standards. A corollary of this premise is that in those cases where concentrations are permitted at levels above the water quality standard, additional loading attributable to the higher concentrations must be offset by a buffer of additional assimilative capacity of the receiving waters elsewhere, either in the system itself or in the analysis.

#### MARGIN OF SAFETY

A baseline margin of safety of 10 percent is subtracted from the TMDL allowance for each flow class to buffer against uncertainties in analysis, including variability and error associated with flow measurement, variability in laboratory analyses and other uncertainties associated with sampling. The margin is expressed as a load value for aggregated elements of the TMDL equation in the impaired reach, and as a concentration reduction in the zone analyses comprising the project area.

An additional implicit margin of safety is present for selenium based on the undertaking of a more conservative analysis for selenium, where lower-bound flows were used to establish load targets for each category instead of the mid-point flow was used for boron. The implicit margin of safety is quantified at 349 g/day of selenium, corresponding to an assimilative capacity buffer of 71.4 cfs at the Gila River selenium water quality standard of 2 µg/L. The implicit margin of safety was tapped to provide for accommodation of certain higher-limit permittees in the project area, who were required to meet more stringent WLAs than their current permit limits mandate. Assimilative capacity of 30.9 cfs remains as an implicit margin of safety after application.

#### WASTE LOAD ALLOCATIONS

##### *AZPDES/NPDES Permits*

##### Selenium WLAs

The selenium TMDL analysis was framed more conservatively than the boron TMDL analysis. Whereas the boron load duration analysis used mid-point flows of each flow category for the determination of category targets, the selenium analysis used lower-bound flows for the setting of category targets. When analyzed in the aggregate, the use of lower-bound flows for the analysis results in a weighted average buffer of 71.4 cfs of additional assimilative capacity available to accommodate the greater selenium loading of higher-limit permittees. See Table 1. Assimilative flow capacity buffer<sup>1</sup> for a flow summary.

This buffer allows for some discharge concentrations over the water quality standard of the impaired reach. However, existing permit limits higher than the Gila River’s chronic selenium standard will require modification to be consistent with the assimilative capacity available.

<i>Flow Category</i>	<i>Median Flows, cfs</i>	<i>Weight</i>	<i>Lower-Bound Flows, cfs</i>	<i>Weight</i>
1	764	0.1	320	0.1
2	166	0.3	113	0.3
3	86	0.2	63	0.2
4	34	0.3	14	0.3
5	9.3	0.1	4.07	0.1
	Weighted Flow	154.5	Weighted Flow	83.1
			Difference:	71.4

**Table 1. Assimilative flow capacity buffer**

Three dischargers in the TMDL project area are currently permitted to discharge selenium concentrations consistent with the AgI standard of 20 µg/L for Phoenix-area canals or with site-specific limits. These dischargers include the City of Goodyear 157<sup>th</sup> Ave. WRF (Outfall 2), JRC Goodyear, LLC (Outfalls 1, 2, and 3), and certain wells of the Salt River Project. These facilities or operations hold AZPDES permit #s 22357, 25747, and 24341 respectively. Canal water has been observed to persist after transit through the canal systems and is thereby adding excess loading for selenium to the impaired reach. Consequently, to ensure concentration-neutral conditions consistent with the identified buffer, it is necessary to evaluate discharge monitoring reported data for each permittee with the higher limits to determine current performance and set appropriate waste-load allocations for these facilities/operations.

Pre-TMDL permit limits for selenium are shown in Table 4. Determination of current performance for the three permittees with higher limits proceeded through the examination of the last three to five years of reported selenium data and additional data submitted by permittees during the public comment period. For the wells of the Salt River Project south of I-10 in SRP’s Area 26 (bounded on the east by 83<sup>rd</sup> Avenue), due to limited data availability for each well, individual well reporting was aggregated and treated as a single group. The mean, standard deviation and coefficient of variation were determined for each permittee’s data. Using the current performance mean as representative of the long-term average (LTA) for the facility or operation, methods consistent with EPA’s 1991 *Technical Support Document for Water Quality-Based Toxics Control* (TSD) were employed on each data set to establish recommended concentration-based permit limits for the waste load allocation (WLA), the average monthly limit (AML) and the maximum daily limit (MDL). These limits are reflected in Table 2. Recommendations for adjusted permit limits, selenium<sup>2</sup>. Limits are reported to one significant figure consistent with permit calculations, excepting limits of 10 or higher, which are reported to the nearest whole number.

Current-performance selenium waste load allocations based on standard TSD calculations were also applied for the two permittees in the project area currently without numeric selenium effluent limits. This group includes the City of Buckeye Sundance Water Reclamation Facility (AZPDES #24881) and the Central Buckeye WWTP (AZPDES #25313). Recommended selenium permit limits for these two permittees are also reflected in Table 2.

The recommended limits require an equivalent of 40.5 cfs of assimilative capacity for accommodation at the A&Wedw chronic standard of 2.0 µg/L. An additional 30.9 cfs of assimilative capacity remains in the buffer as an added margin of safety after accommodation of the recommended permit limits.



**Recommendations for Adjusted Permit Limits, Selenium**

All concentrations in ug/L

Permit #	Facility/Operation Name	Points of Discharge	WLA	AML	MDL
22357	City of Goodyear 157th Ave WRF	Outfall 2	6	5	11
25747		Outfall 1	22	18	29
	JRC Goodyear, LLC (Lockheed Martin)	Outfall 2	13	11	19
		Outfall 3	8	7	12
24881		Buckeye Sundance WRF	All outfalls	3	3
25313	Central Buckeye WWTP	Outfall 1	2	2	4
24341	Salt River Project	GW wells, Area 26 S of I-10*	6	–	10

\* - Includes wells 1.0E-6.0N and 3.5E-6.0N north of boundary

**Table 2. Recommendations for adjusted permit limits, selenium**

Boron WLAs

Table 5 details existing permit limits for discharges containing boron. The table shows several permittees without boron limits on one or more outfalls or points of discharge. Since a TMDL analysis is essentially a pollutant budget aimed at isolating and quantifying water quality loading for the purpose of water quality improvement, unquantified loading additions from permitted sources cannot be allowed in the context of the analysis. Except for Central Buckeye WWTP, WLAs equivalent to the AgI boron water quality standard are therefore applied to each permittee’s outfall(s) or PODs within Zone 1 of the project area boundary where numeric limits do not currently exist. Outfalls where numeric limits are currently applied retain their existing permit limits.

The City of Buckeye submitted data for the Sundance and Central Buckeye facilities during the public comment period and requested a current-performance analysis for boron for each. Due to existing permit limits for the Sundance WRF (Table 5) and the anti-backsliding provisions of the Clean Water Act [Section 402(o), Section 303(d) (4) (A)], the current Sundance permit limits for boron remain unchanged by the TMDLs. Recommended permit limits for the Central Buckeye WWTP are established at an AML of 1231 µg/L and an MDL of 1682 µg/L. The WLA is likewise 1231 µg/L. The higher current performance limits for boron at this facility result in an additional 3.5 kg/day of boron loading over a concentration-neutral limit load at a concentration of 1000 µg/L. The additional loading reduces the explicit margin of safety by approximately 1%.

The methods used to determine the permit limits, as with the selenium WLAs, were derived from TSD methods. For human-health related criteria, such as the AgI use, the average monthly limit value defaults to the water quality standard of 1000 µg/L.

The newly applied WLAs and recommended permit limits consistent with them are summarized in Table 3 below. DMR data for each facility or operation in Table 3 where data are available indicates WLAs can be met.



**WLAs and Permit Limit Recommendations, Boron**

Permit #	Facility/Operation Name	Points of Discharge	WLA	AML	MDL
22357	City of Goodyear 157th Ave WRF	Outfall 2	1000	1000	1459
25747	JRC Goodyear, LLC (Lockheed Martin)	Outfall 1	1000	1000	1459
		Outfall 2	1000	1000	1459
23281	Wolf WRC	Outfall 1	1000	1000	1459
20524	CoP 91st Ave WWTP	Outfall 1	1000	1000	1459
		Outfall 2	1000	1000	1459
		Outfall 4	1000	1000	1459
		Outfall 5	1000	1000	1459
25500	Palo Verde WWTP	Outfall 1	1000	1000	1459
25313	Central Buckeye WWTP	Outfall 2	1231	1231	1682
24341	Salt River Project	GW wells, Area 26 S of I-10*	1000	—	1000

\* - Includes wells 1.0E-6.0N and 3.5E-6.0N north of boundary

**Table 1. Boron WLAs and permit limit recommendations for dischargers/outfalls without numeric limits or requiring modified limits**

Other AZPDES/NPDES Permitting Considerations

The point of compliance for individual permittees unless otherwise specified is at each permitted outfall detailed in the permit and these TMDLs. For the SRP wells requiring a WLA, the point of compliance is at the outfall for each individual well for both boron and selenium.

For compliance purposes, WLAs are considered as annual means for both boron and selenium. SRP’s wells are considered in the aggregate as a single grouped WLA for both selenium and boron. The annual mean of all grouped SRP wells shall determine adherence to the WLA. For all permittees, MDLs (maximum daily limits) and AMLs (average monthly limits) where they are incorporated are applicable for the time frames indicated by their terminology. Consistent with their existing permit, SRP is not required to meet an AML value for either boron or selenium due to irregular and infrequent sampling of wells. SRP retains their existing permit MDL of 1000 µg/L for boron as applicable to other wells under permit coverage. The MDL will also apply to the wells itemized previously.

Mass-based limits for higher-limit permittees for both boron and selenium are set based upon the concentrations listed and the permitted design capacities of the facilities/outfalls as permitted at the time of the draft TMDL release in 2015. For SRP wells, the mass-based limits are based upon the concentrations presented and average annual flow value for the Buckeye Feeder Canal for calendar years 2012-2014 as measured at the Buckeye Feeder Canal gauge station. The addition of outfalls or the change of locations of outfalls with no changes in discharge capacity for these facilities does not require a reconsideration of loading under this TMDL, but requests for permit modifications for higher-limit permittees involving facility design capacity expansions will be contingent upon remaining capacity available to accommodate the expansion and will be considered on a case-by-case basis after TMDL finalization and approval.

Sampling frequency requirements in permits requiring revision shall be determined by the ADEQ Permits Unit. Permits are not required to be revised until they are due for renewal.

SRP wells not itemized in the table are not deemed to be a part of the TMDL analysis and therefore require no WLA for these TMDLs, nor do these other wells require any alteration of existing permit limits. Likewise, existing individual permittees not assigned an allocation in the extended project area (Zone 2, Zone 4, and Rainbow Valley above the Corgett Wash facility) do not require WLAs in these TMDLs and therefore require no revision of their existing permits.

Existing permit limits referenced in Table 4 and Table 5 are set as concentration-based waste load allocations in these TMDLs and cannot be altered without a re-consideration of TMDL loading for the entire project area. All future applicants for AZPDES/NPDES permits in the project area of the TMDLs where WLAs are required must have boron and selenium permit limits set, even if reasonable potential for exceedances is not present. TMDL loading cannot be



evaluated without numeric permit limits.

#### *General Permit and MS4s*

For selenium, a concentration-based WLA equivalent to the A&Wedw chronic water quality standard for total selenium (2.0 µg/L) is established for existing and future permittees covered under all sectors of the MSGP, CGP, and MS4s.

For boron, a concentration-based WLA equivalent to the AgI water quality standard for total boron (1,000 µg/L) is established for existing and future permittees covered under all sectors of the MSGP, CGP, and MS4s.

ADEQ will require general permittees to meet the terms of the WLA in one of the following ways:

- The pertinent water quality standard shall be met as a concentration-based waste load allocation for each of the individual storm water outfalls or other points of discharge as identified in the permittee's approved SWPPP or
- Permittees can demonstrate through monitoring and reporting that either discharges are not reaching receiving waters with the applicable designated use, or discharges reaching waters with the applicable designated use are not causing or contributing to exceedances of the appropriate water quality standard in the receiving water.

ADEQ may impose additional monitoring requirements to determine compliance in context with the general permit. Specific monitoring requirements and Best Management Practices (BMP) requirements will be addressed in SWPPPs to be reviewed by the ADEQ Stormwater and General Permits Unit, as required in Sections 2.2.2 and 3.1.1 of the 2010 ADEQ Mineral Industry and Industrial MSGPs and pertinent sections of the 2013 ADEQ CGP.

#### LOAD ALLOCATIONS

Load allocations for individual areas have been established for four different zones in the project area. In most flow conditions, including the most critical ones to address, flow that contributes directly to boron and selenium loading originates in the immediate Gila River vicinity west of State Route 85 (SR 85). When flow is continuous from upstream areas (i.e. east of SR 85 or from north of I-10 on the Hassayampa River), it is usually a result of storm flow conditions which generally ameliorate loading and dilute concentrations for both boron and selenium. While there are additional inputs to the Gila River between the eastern edge of the project area boundary and SR 85, they infiltrate before adding to loading in the impaired reach the vast majority of the time. Consequently, all hydrologic inputs to the Gila River upstream of the Hassayampa River confluence (west of SR 85) can be grouped into one contributing subwatershed or Loading Allocation Zone (LA1). All persisting contributions by the Hassayampa River, its tributaries, and its contributing areas (including persisting Buckeye Canal discharge) outside of recognized irrigation district boundaries are grouped into Loading Allocation Zone 2 (LA2). The contributing subwatershed area between the Hassayampa River confluence and the Arlington Canal discharge segment at the base of Gillespie Dam is considered Loading Allocation Zone 3 (LA3). Arlington Canal itself and any persisting flows joining the Arlington Canal from areas in the Centennial Wash subwatershed are considered Loading Allocation Zone 4 (LA4). In summary, two loading zones are subwatershed areas bounded by major canals, and two loading zones are tributary flows or contributing canals flows. Infrequent storm flow contributions from the desert lands to the south or east of the Gila River will be considered as loading attributable to a zone relative to its Hassayampa River confluence orientation. Source loading east of an extension of the Hassayampa River to the Buckeye Hills area will be assigned to Zone 1, while source loading to the west of an extension of the Hassayampa River in the same area will be assigned to Zone 3.

Load allocation zone targets are established on a concentration basis. Concentration targets are established equivalent to water quality standards less a 10 percent MOS based on a proportionality rationale. If each loading zone attains its target concentration and all WLAs are in compliance, the cumulative total maximum daily load at the reach's terminus will attain state water quality standards for both boron and selenium at the cumulative flow value.

#### LOAD REDUCTIONS

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

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



The percent reduction needed is calculated by using:

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

In cases where the LR is negative, no reduction is necessary. In instances where the inclusion of the MOS causes existing loads to exceed the loading capacity, a reduction in the existing load will still be required. For these TMDLs, the pollutant budgets are considered in a concentration-based framework. Background loads and cumulative zone loadings were not quantified as independent, separable elements of the TMDL equation. Load allocations presented are therefore aggregate load allocations including background, point source, and nonpoint source loads. Margins of safety are quantified and presented as separable loads.

TMDLs identify the amount of pollutant that can be assimilated by the waterbody and still meet water quality standards. The pollutants of concern requiring TMDLs for the Gila River Reach 008 are selenium and boron. In order to calculate the load in kilograms per day (kg/day) from discharge in cubic feet per second (cfs) and concentrations in micrograms per liter (µg/L), a conversion factor is required:

$$1 \text{ ft}^3/\text{sec} * 1 \text{ } \mu\text{g}/\text{Liter} * 28.32\text{L}/\text{ft}^3 * 86,400\text{sec}/\text{day} * 1 \text{ kg}/1.0\text{E}9\mu\text{g} = 0.002445 \text{ kg}/\text{day}$$

The conversion factor of 0.002445 was used in the following equation:

$$\text{Existing Load} = Q * [\text{Constituent concentration in } \mu\text{g}/\text{L}] * 0.002445$$

Reductions by loading zone have been determined using project data. Concentration-based zone load allocations and reductions necessary are presented in Table 7. LA Zone 3 (Subwatershed 2, Hassayampa-Arlington Canal area) has been shaded for each constituent as the most critical zone to address to reduce loading based on the greatest percentage reductions necessary to meet the water quality load allocations. However, all zones require reductions of substantial magnitudes. Please refer to the TMDLs document for a map of zone extents and boundaries.

TABLES

The following tables detail the TMDL targets, waste load allocations, and reductions necessary for Reach 15070101-008. Table 4 summarizes selenium waste load allocations for all individual permittees. Table 5 summarizes boron waste load allocations for all individual permittees. Existing permit limits are also displayed in these tables in the left columns.

Table 6 gives a detailed breakdown by flow category of aggregate allocations and TMDL target values, existing loads, and percentage reductions calculations for both boron and selenium. The critical condition tier is shaded. Flows and associated loads and targets are broken out into five categories for each analysis, including high flows (0-10% flows), moist conditions (10-40% flows), mid-range flows (40-60%), dry conditions (60-90%) and low flows (>90% flows).

Table 7 presents concentration-based zone TMDL targets and load allocations. Reductions necessary to meet targets and allocations are also presented. A 10% margin of safety provides the difference between TMDL targets and load allocations as reflected in the second and third columns of both the boron and selenium groupings of Table 7.



See Permit Limits Monthly Avg. Concentration (ug/L)	Daily Max Concentration (ug/L)	AZPDES (MPDES) # Name	Serving	Status	Max Design Flow	Notes	CFS Equivalent	Assigned w/LAs
Gila: 2	3	22357 City of Goodyear 157th Ave WRF	Goodyear	Existing	4.0 MGD	(5)	6.19	Permit limits 6 ug/L
BwCDD: 16.4	32.8	25747 JRC Goodyear, LLC (Lockheed Martin)	Lockheed Martin, Gdjr	Existing	Outfall 3 Outfall 1 Outfall 2	0.065 MGD (5) 0.031 MGD 0.0825 MGD	0.1	8 ug/L 22 ug/L 13 ug/L
None	None	24881 Buckeye Sundance WRF	Buckeye	Existing	Outfall 2	3.5 MGD (5)	5.42	3 ug/L
2	3	23281 Wolf WRC	Avondale	Existing	Outfall 1	9.0 MGD (1)	13.93	Permit limits
2	3.67	20524 CoP 91st Ave W/WTP	Phoenix	Existing	Outfall 1 Outfall 2	89.0 MGD (4) 89.0 MGD	137.7 137.7	Permit limits Permit limits
2	3.67	20338 Tolleson W/WTP	Tolleson	Existing	Outfall 4 Outfall 5	1.2 MGD 80 MGD	1.86 123.78	Permit limits Permit limits
2	3	25500 Palo Verde W/WTP	Buckeye	Proposed	Outfall 5	17.5 MGD (2)	27.08	Permit limits
2	3	23582 City of Goodyear Corgett Wash WRF	Goodyear	Existing	Outfall 5	0.5 MGD (5)	0.77	Permit limits
None: ECT	None: ECT	25313 Central Buckeye W/WTP	Buckeye	Existing	Outfall 5	0.8 MGD	1.24	Permit limits
--	20	24341 Salt River Project	SW Phoenix metro area	Existing	N.A.	4.0 MGD (3), (5) (6)	6.19 12.8	2 ug/L 6 ug/L

Notes: (1) Avg. 4.87 MGD, 2008-2012  
 (2) 16.89 MGD (avg daily)  
 (3) expanding to 6.0 MGD  
 (4) Exclusive alternate to Outfall 1  
 (5) Discharge to Buckeye Canal system; see Figure 15.  
 (6) Flow value used is average daily flow for Buckeye Feeder Canal for 2012-2014  
 PVMGP - Palo Verde Nuclear Generating Plant  
 ECT: Effluent Characterization Testing  
 (9.28 CFS expanded equivalent)

Table 4. Selenium waste load allocations



B Permit Limits	Month Avg. Concentration (ug/L)	Daily Max Concentration (ug/L)	AZPDES (NPDES) #	Name	Serving	Status	Max Design Flow	Notes	CFS Equivalent	Assigned v/LAs
Gila River:	1000	1450	22357	City of Goodyear 157th Ave WRF	Goodyear	Existing	4.0 MGD	(5)	6.19	Permit limits to Gila River 1000 ug/L
Bv/CDD: None	None	None								
<b>1 outfall:</b>	<b>1000</b>	<b>1144</b>	25747	JRC Goodyear, LLC (Lockheed Martin)	Lockheed Martin, Gdjr	Existing	Outfall 3 Outfall 1 Outfall 2	(5) (5) (5)	0.1	Permit limits 1000 ug/L
	None	None								
	1000	1460	24881	Buckeye Sundance WRF	Buckeye	Existing	3.5 MGD	(5)	5.42	Permit limits 1000 ug/L
	None	None	23281	Wolf WRC	Avondale	Existing	9.0 MGD	(1)	13.93	
	None	None	20524	CoP 91st Ave WwTP	Phoenix	Existing	Outfall 1 Outfall 2 Outfall 4 Outfall 5	(4) (4) (4) (4)	137.7 137.7 1.86 123.78	Permit limits 1000 ug/L
	None	None								
	1000	1459	20338	Tolleson WwTP	Tolleson	Existing	17.5 MGD	(2)	27.08	Permit limits 1000 ug/L
	None	None	25500	Palo Verde WwTP	Buckeye	Proposed	0.5 MGD	(5)	0.77	Permit limits 1000 ug/L
	1000	1500	23582	City of Goodyear Corgent Wash WRF	Goodyear	Existing	0.8 MGD		1.24	Permit limits 1231 ug/L
	None	None	25313	Central Buckeye WwTP	Buckeye	Existing	4.0 MGD	(3), (5)	6.19	
	--	--	24341	Salt River Project	Sw/Phoenix Metro Area	Existing	N.A.	(6)	12.8	1000 ug/L

Notes:  
 (1) Avg. 4.87 MGD, 2008-2012  
 (2) 6.89 MGD (avg daily)  
 (3) expanding to 6.0 MGD  
 (4) Exclusive alternate to Outfall 1  
 (5) Discharge to Buckeye Canal system; see Figure 15.  
 (6) Flow value used is average daily flow for Buckeye Feeder Canal for 2012-2014  
 PVWGP- Palo Verde Nuclear Generating Plant  
 \* - SRP wells assigned an allocation have no permit limits in 2011 renewal.

(9.28 CFS expanded equivalent)

Table 5. Boron waste load allocations



**Percent Reductions Required by Flow Category**

<u>Boron, Total</u>	<u>Number of samples</u>	<u>Existing Loads, Kg/day</u>	<u>TMDL target, Kg/day</u>	<u>Aggregate Load Allocations, Kg/day</u>	<u>Percent Reductions, TMDL Target</u>	<u>Percent Reductions, Aggregate Load Allocations</u>
Cumulative	244	1,396.8	417.0	375.3	70.1%	73.1%
Category 1 (0.1-10 FPE)	50	5,721.2	1,868.7	1,681.9	67.3%	70.6%
Category 2 (10.1-40 FPE)	110	979.9	406.0	365.4	58.6%	62.7%
Category 3 (40.1-60 FPE)	50	570.4	210.4	189.3	63.1%	66.8%
Category 4 (60.1-90 FPE)	34	417.1	83.2	74.8	80.1%	82.1%
Category 5 (90.1-99.9 FPE)	0	--	22.7	20.5	N.A.	N.A.

<u>Selenium, Total</u>	<u>Number of samples</u>	<u>Existing Loads, Kg/day</u>	<u>TMDL target, Kg/day</u>	<u>Aggregate Load Allocations, Kg/day</u>	<u>Percent Reductions, TMDL Target</u>	<u>Percent Reductions, Aggregate Load Allocations</u>
Cumulative	260	3.32	0.449	0.404	86.5%	87.8%
Category 1 (0.1-10 FPE)	57	8.53	1.565	1.409	81.6%	83.5%
Category 2 (10.1-40 FPE)	127	2.22	0.553	0.498	75.1%	77.6%
Category 3 (40.1-60 FPE)	50	1.51	0.308	0.277	79.6%	81.7%
Category 4 (60.1-90 FPE)	26	0.97	0.068	0.062	92.9%	93.6%
Category 5 (90.1-99.9 FPE)	0	--	0.020	0.018	N.A.	N.A.

FPE - Flow Percent Exceedance  
 Cumulative weighted TMDL targets adjusted to reflect populated categories only.

**Table 6. Cumulative load reductions and allocations**



Load Allocations						
Boron 90th Percentile Concentration Target						
LA Zone	Total TMDL Concentration (µg/L)	Load Allocation Target Concentration	Existing 90th P-tile Concentration (µg/L)	Number of Data Events	Percent Reduction LA	Percent Reduction LA
LA1	1000	900	4290	7	79.0%	79.0%
LA2	1000	900	2440	15	63.1%	63.1%
LA3	1000	900	4869	9	81.5%	81.5%
LA4	1000	900	1868	4	51.8%	51.8%
				Median Percent Reduction:	71.1%	71.1%

Selenium Average Concentration Target						
LA Zone	Total TMDL Concentration (µg/L)	Load Allocation Target Concentration	Existing Average Concentration (µg/L)	Number of Data Events	Percent Reduction LA	Percent Reduction LA
LA1	2.0	1.8	6.63	7	72.8%	72.8%
LA2	2.0	1.8	6.57	15	72.6%	72.6%
LA3	2.0	1.8	10.66	9	83.1%	83.1%
LA4	2.0	1.8	4.63	4	61.1%	61.1%
				Median Percent Reduction:	72.7%	72.7%

Table 7. Zone load allocations and reductions

SUMMARY OF COMMENTS

Comments were received from the stakeholders listed below. Following that is a summary of the comments and ADEQ’s responses. Comment headings have been paraphrased to be addressed more generally in some cases, as have comment



responses. Similar comments from different sources have been grouped together for the purposes of this public notice.

Roosevelt Irrigation District  
Buckeye Water Conservation and Drainage District  
Brian Imbornoni / Jennings, Strouss, & Salmon P.L.C. on behalf of Arlington Canal Company  
Grand Canyon Chapter, Sierra Club  
Daniel B. Jones / Salmon, Lewis, and Weldon, P.L.C. on behalf of Jason Hardison  
Maricopa County Farm Bureau  
John Utz, Paloma Irrigation District  
Salt River Project  
Brandon Leister, Rocker 7 Farms  
Arizona Department of Transportation  
Peoria-Glendale Farm Bureau  
Jake Sanders/Sanders Farms  
Walt Bouchard / W.L. Bouchard and Associates on behalf of JRC Goodyear, LLC.  
City of Buckeye

### ***I. Aggregated/composited comments***

The following comments or topics of concern were repeated in more than one stakeholder letter. ADEQ responses to similar comments across letters have been compiled and are presented here in aggregated form.

**Comment: BMPs presented in the TMDL document are impractical, economically infeasible, have already been employed and found unsuitable, or are otherwise not appropriate for the area.**

ADEQ response(s):

With regard to specific best management practices (BMPs) discussion, it should be noted that Appendix D of the document specifying possible best management practices is excerpted from an EPA manual that was written to address agriculture as practiced on a nation-wide basis. We do not expect that all measures in the appendix are feasible or necessarily appropriate to apply in Arizona; they are presented intending to stimulate thought and consideration by stakeholders as to what methods would be best applied in the deserts of the Southwest. ADEQ is relying upon input and initiative of stakeholders to identify, define, and apply best management practices that are the most cost-effective, feasible, and beneficial for water quality here on a local basis, as outlined in the TMDL Implementation section of the document:

*The implementation plan is meant to suggest possible improvements and BMPs that can be employed to improve water quality. ...This implementation plan is intended to provide a general framework for addressing the Gila River boron and selenium problems with broad-brush guidance; it will subsequently provide more focused recommendations and guidance for the implementation of more specific improvement measures on a local scale as stakeholders and interested parties come forward with proposals. Actual on-the-ground improvements in water quality will rely upon the initiative and actions of stakeholder groups and interested individuals employing standard BMPs at a local scale throughout the entire project area. (Section 8.0, p. 65)*

It is emphasized that stakeholders are under no obligation to adopt or implement best management practices that they perceive as inappropriate, impractical, economically infeasible, or ultimately detrimental. ADEQ must abide by Arizona state law in writing TMDLs and TMDL implementation plans. According to A.R.S. 49-234 (G.),

*“...any reductions in loadings from nonpoint sources shall be achieved voluntarily.”*

ADEQ has presented four potential solutions to the boron and selenium problems of the Gila River in Section 8 that have been assessed as having the best balance between cost feasibility for the stakeholders of the area and effectiveness in improving water quality. These four solutions have been demonstrated to work, either here locally or in the southwestern and western U.S. regions. Stakeholders are free to consider these measures and decline to pursue them if they are deemed inappropriate. In that case, ADEQ encourages the suggestion, discussion, and implementation of alternative approaches that may be better suited to improving water quality instead. Change in current practices, in whatever form that may take, will be necessary if Gila River water quality is to improve. Both the historical data and the data collected in this project are unequivocal; a significant pollution problem with boron and selenium exists and is in need of remediation. This problem is degrad-



ing aquatic habitat and limiting agricultural uses of Gila River water further downstream.

... while irrigation districts and their systems were originally designed for irrigation, de-watering, and storm run-off, consideration was not given in the design to water quality concerns. ADEQ acknowledges that water quality has become a concern nationally only in the past few decades, after the irrigation districts were formed, but it is a concern that will now require adaptation and incorporation into district planning and operations if improvement is to be realized. The wastewater of one district becomes the irrigation water of the district further downstream or down-gradient, and a community obligation exists to ensure that one district's run-off is not limiting options for other districts in the area. Water high in boron and selenium, as outlined in the TMDLs, can limit crop selection, reduce crop yields, and negatively affect aquatic and wildlife relying upon river habitat. High selenium in irrigation water may also reduce the quality of livestock feed and adversely affect livestock.

**Comment: A panel or working group comprised of local landowners, irrigation districts, irrigation experts, permittees, and/or stakeholders should be the ones determining which BMPs should be selected and applied.**

ADEQ response(s):

ADEQ agrees that irrigation districts and land-owners in the districts are in the best position to know which (nonpoint source) measures have been attempted, are currently employed, and/or have been found to be unsuitable or lacking. For these reasons, while certain BMPs are suggested, the suggestions should not be construed as decrees or directives. Alternative proposals for BMPs shown to be effective are welcomed in implementing the TMDLs. We anticipate that any such solutions will require a high degree of participation, cooperation, and collaboration among all irrigation districts and stakeholders in order to be regionally effective and meet all parties' needs for both water quantity and suitable water quality.

ADEQ agrees with the suggestion that BMPs be developed and proposed by a committee composed of irrigation company experts from the area, farmers who actively farm the land in the area, and other associated experts. The formation of a watershed group comprised of these parties and focused on water quality concerns is an essential first step in this process; with a watershed group comprised of interested and engaged stakeholders, ADEQ has a defined organizational partner with which to explore these issues further. ADEQ is particularly asking irrigation districts to step forward and assume the organizational mantle of leadership, stakeholder organization, and mutual cooperation and collaboration among districts in beginning to address these issues.

ADEQ agrees that the convening of a technical group to provide recommendations for ... individual permittees is a good idea. However, at this time ADEQ can devote neither the resources nor manpower to sustain such an ADEQ-led effort on an ongoing basis. ADEQ has responded to several stakeholders in these comment response letters indicating its willingness to coordinate an effort as the stakeholder community begins to coalesce. We will follow up on these responses by reaching out to those who have commented on the TMDLs to gauge interest in forming such a group and helping those interested in identifying what the next steps would be.

**Comment(s): Inadequate time was allotted in the comment review period for a comprehensive TMDL review. Public notice of the TMDLs was inadequate, and outreach was lacking. The comment period should be extended, or the TMDL process should be halted until stakeholders have a chance to fully consider the issues. Stakeholders reserve the right to add additional comments at a later date.**

ADEQ response(s):

... the impaired segment of the Gila River has been listed as such on Arizona's Impaired Waters List, as mandated by the federal Clean Water Act, since 1992 (for boron) and 2004 (for selenium). This water quality problem is one that has been in the public domain for more than two decades. ADEQ began work on this project in late 2011. ADEQ has held two public meetings for the TMDLs, one in December of 2013 and the other recently in April of this year. After disappointing attendance at the first public meeting, ADEQ redoubled its notice and outreach efforts for the second public meeting. Notice of the TMDLs was published in two local newspapers<sup>1</sup> in the Buckeye area in advance of the last meeting. The TMDLs were posted on our agency website, and public announcement was posted on the agency calendar. Advance notice was also

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1. Additional note: It was subsequently discovered prior to the drafting of the AAR public notice and after comment responses were sent that only one notice was published in advance of the public meeting, though bids were solicited for two and a request to publish two was submitted.



extended to NRCS in Avondale, with the request that NRCS assist in disseminating the word about the TMDLs release, which they assisted us with.

The public meeting held on April 23<sup>rd</sup> of this year in Buckeye was convened for the purpose of releasing the draft TMDLs at the beginning of a thirty day comment period. ADEQ chose to extend the comment period an additional week to allow stakeholders who had not been aware of the TMDLs and found out about them late in the comment period an opportunity to submit comments. However, with the official close of the comment period on May 29<sup>th</sup>, no further written comments will officially be accepted or formally responded to.

Discussions and dialogue are a part of the TMDL implementation process, which is now opening and will be ongoing. These discussions need not delay the finalization of the TMDL analysis and report. ADEQ remains open and committed to continuing ongoing dialogue and discussion oriented towards improving the water quality of the Gila River with all interested stakeholders.

**Comment: It does not appear ADEQ consulted with ADWR, the Arizona Department of Agriculture, or other interested government agencies during the TMDL study regarding BMPs.**

ADEQ response(s):

ADEQ did contact ADWR in the course of the investigation to apprise them of the pending TMDL and solicit their involvement in the process, but did not receive a response indicating they wished to collaborate. We hope to more fully engage ADWR in the TMDL implementation phase of the project, as well as the state Department of Agriculture, recognizing that valuable additional suggestions for BMPs for the stakeholder community could be added to the dialogue.

Future discussions may well involve input from the Arizona Department of Agriculture, the University of Arizona Cooperative Extension, the Department of Water Resources, or other interested government agencies.

**Comment: Cost information on BMPs in Appendix D is outdated.**

ADEQ response(s):

ADEQ has removed the discussion on BMP costs from the TMDL document

**Comment: Integrated on-Farm Drainage Management systems (IFDMs) may actually make Gila River water quality worse, or are not practical or cost-effective for single-farms. ...By requiring that everything be maintained on-site, you will see more concentrated percolations into the aquifer, which will reduce the amount of productive farm ground and possibly spread the problem...to the bottom of farm fields. Restricting or eliminating run-off from fields is unfathomable to us.**

ADEQ response(s):

While technical challenges may arise in implementing Integrated on-Farm Drainage Management systems (IFDMs), ADEQ finds the claim that IFDMs would actually harm water quality to be without merit. These methods are actively used in the San Joaquin Valley of California and are in fact recommended by reputable entities for salinity management challenges impacting water quality, including the U.S. EPA, the California Regional Water Quality Control Board, and the USDA Salinity Management Laboratory in Riverside, California. Dr. Karl Longley of the California Water Institute reports that employment of IFDMs in the Panoche Irrigation District and the Tulare Lake Irrigation District of central California has reduced TDS levels by 85%.

The purpose of IFDMs is to maximally use water within the system and evaporate the remainder at the end of the process. When properly established, the volume of water to be evaporated at the conclusion of irrigation activities is minimal; likewise, the areal footprint of a solar evaporator is only a fraction of the footprint of the entire farm. Evaporation is typically achieved not by letting water sit in ponds, where infiltration can take place, but by spraying/misting excess water into the atmosphere, thus encouraging evaporation and allowing salts to gather on the surface within the designated solar evaporator area. Thus, it is highly unlikely that there would be any negative impact on groundwater quality, let alone the surface water quality of the Gila River.

IFDMs may or may not prove to be cost-effective on an individual farm scale in Arizona, but nothing precludes the application of this BMP on a district or regional scale, where the economic considerations could be more advantageous. In fact, one



local stakeholder suggested this possibility at the conclusion of the public meeting. Such scaling considerations would necessarily require regional collaboration, administration, and cooperation among land-owners. References on IFDMs are included in the TMDL document for further research, and a wide variety of additional information on California's use of IFDMs is available online.

With regard to comments about on-site re-use strategies, ADEQ discusses in Section 8 how attempting to mix water use strategies leads to worse water quality. If re-use is deemed to be the prime objective to maximize utility of water resources, then the possibility of acceptable-quality discharge to a water of the U.S. like the Gila River without remediation efforts becomes slim to non-existent. Strictly from a water quality perspective, allowing no discharge is the only practical way to prevent river water degradation in such a case. As discussed in the TMDL, this may not be a legally viable or defensible strategy to pursue where other legal claims on the water exist downstream or down-gradient, or in other areas where stakeholders may have a legal right to tail water. On the other hand, if maintaining acceptable water quality and quantity for water users downstream is the prime objective, then re-use as a strategy is counterproductive and a single-use philosophy should be considered. Each of these approaches can lead to better water quality, but they are mutually exclusive approaches and cannot be mixed without making water quality worse. Currently, the irrigation districts of the area are both re-using water multiple times as mentioned in the discussion about recycling and discharging the waste water to a water of the United States. Water quality will not likely improve in the Gila River until these mixed approaches change.

**Comment: Boron and selenium are not being added to the water in the project area, therefore the problem is of natural origin. Farmers are not applying either boron or selenium to the soil. Therefore, no overt action is being taken by agricultural producers to contribute to the level of these elements in the Middle Gila River. Irrigation districts are not sources of the problem. There is no apparent anthropogenic activity responsible for water quality conditions.**

ADEQ response(s):

ADEQ respectfully disagrees that existing water quality is naturally impaired. A natural impairment designation is warranted only in cases where there are no anthropogenic activities affecting water quality, and water quality standards are still being exceeded. Background sampling was performed in the course of this investigation (Appendix B of the document), and effluent from the Phoenix 91<sup>st</sup> Avenue waste water treatment plant, and source water from the Roosevelt Canal all show acceptable TDS levels and boron and selenium concentrations below state water quality standards.

While boron and selenium are naturally-occurring substances with boron being more prevalent in arid environments, it is anthropogenic activities that are either liberating these elements from the soils or concentrating their presence in source water and ultimately transporting them to the Gila River. In the case of selenium, a 1999 USGS study found that selenium was most likely to occur in former marine sediments and rock units of Cretaceous origin. With none of those types of geologic units present locally, the selenium is likely carried into the area through source water concentrations, though not at the problematic levels we see in the impaired reach.

A large part of the existing water quality problem consists of the combination of flood irrigation designed to leach salts out of the root zones with the subsequent pumping of groundwater more highly concentrated in salts as a result of this practice to augment water supplies. Discussion was presented at the public meeting about the process of irrigation water recycling and its role in degrading water quality. Recycling can occur in a number of forms, including the locally little-used process of tile drainage, the collection and re-use of agricultural tail water, and the pumping of groundwater previously used to leach the soil of crop lands and having higher salt concentrations as a consequence.

[The source of the problem] is due to the recycling of irrigation water itself by the re-use of tail-water for supply augmentation across district boundaries, by the practices of flood irrigation designed to push salts out of crops' root zones and by groundwater pumping. The excess irrigation water dissolves and absorbs salts in the root zone that then migrate down to the water table and become a part of the groundwater of the area. This groundwater becomes more concentrated in salts over time; it is then pumped up and used to augment water supplies for irrigation in the area. Furthermore, the re-use of irrigation water across district boundaries exacerbates the problem; each pass through a soil profile or across surface soils increases the salt levels of the water. Boron and selenium levels correspond closely with the salt concentrations of the irrigation water, as shown in the TMDLs. ADEQ sampling has determined that water is of only moderate salinity and non-problematic boron and selenium concentrations at the head of the Buckeye Canal, in the Gila River upstream of the Buckeye Canal, and in the Roosevelt Canal system. Water draining to the river in the irrigation districts and from the Hassayampa River, by contrast, is saline and considerably degraded.



All source water sampled in the project area, including at the head of the Buckeye Canal, in historical groundwater samples within the project area, and in Roosevelt Irrigation District supply water had background or higher levels of boron and selenium associated with it. Furthermore, soil conductivity data and historical well boron and selenium concentrations both indicate water extracted by pumping ... is high in TDS, boron, and selenium (Table 5, Figures 7-9, 12, draft TMDLs). Since water quality is considerably degraded in the impaired reach, the discharge activities and practices of all irrigation districts returning water to the Gila or Hassayampa rivers are thereby implicated to some degree. Furthermore, while [the districts may] have appropriative rights to pump groundwater, if pumped groundwater exceeds state surface water quality standards and is ultimately discharged to a water of the U.S., the anthropogenic activity of pumping is responsible in part for the degradation of surface water quality. ... the TMDL study was able to document loading additions due to either ... return water or run-off / interflow from fields ... by establishing that loads are greater for both boron and selenium in the Gila River at Gillespie Dam than they are near the origin of the impaired reach.

**Comment: Individual farmers and members of the irrigation districts feel they are being held responsible with no reasonable or economically feasible solutions.**

ADEQ response(s):

It is not ADEQ's intention in this process, nor is it within our authority, to hold community nonpoint source stakeholders accountable in a legally-binding way. The purpose of the TMDL is not to affix blame or point fingers. It is to establish a cooperative framework in which a problem is identified, quantified, and recognized by the concerned public as a community problem requiring a community solution. While ADEQ is required to do a TMDL for streams identified as impaired, implementation on the stakeholders' part is voluntary. However, identifying a problem and proposing solutions necessarily require an accurate diagnosis of the source of the problem. ADEQ has conducted a thorough investigation of the water quality of the area. Background levels have been studied, analyzed, and characterized. Contributions from other sources have been identified and quantified, and some permittees in the watershed will have to accept reduced permit limits as they do their part to improve Gila River water quality. We ask the agricultural community in the area to come to the table in good faith and be willing to do their part in addressing and correcting this community problem.

**Comment: The problem is created by upstream point sources, Mother Nature, and evaporative concentrates.... The real problem is that the river is dead with no running water and there is nothing to wash nor dilute the selenium and boron to a suitable level. Arizona Department of Environmental Quality is one of the most powerful government agencies there is and until some of that power is exerted in the right direction, the river will remain dry and so will the selenium and boron remain high.... Dilution is the solution, and there is no higher-quality water to blend with.**

ADEQ respectfully disagrees with the position that the boron and selenium problem is created from upstream point sources and natural processes. The Buckeye Main Canal shows generally acceptable water quality near its origin. ... Background sampling was performed in the course of this investigation (Appendix B of the document), and Gila River water above the Buckeye Canal head works, effluent from the Phoenix 91<sup>st</sup> Avenue waste water treatment plant, and source water from the Roosevelt Canal all show acceptable TDS levels and boron and selenium concentrations below state water quality standards. ... The Gila's water quality problems are clearly being exacerbated by land-use activities occurring within the project area.

Questions and concerns relating to the quantity of water available in the Gila River are outside the scope and purview of ADEQ's authority. The Arizona Department of Water Resources addresses quantity concerns in administering water rights in the state of Arizona, and diversions/impoundments of long-standing duration in the Middle Gila watershed are the "givens" that ADEQ must work from in attempting to improve water quality. ADEQ does not have the authority to make the Gila and Salt rivers free-flowing as they were prior to the early 20<sup>th</sup> century.

ADEQ does contend that water quality can be improved if stakeholders in the area work cooperatively to explore options and find mutually beneficial solutions. One of our primary motivations in drafting these TMDLs is to improve water quality for all users of the river's water, including those who... are at the end of the supply line.

ADEQ acknowledges discussion concerning dilution or blending as one possible solution to the problem. The Roosevelt Irrigation District has been able to use this approach with some success to improve the quality of their irrigation water. ADEQ also acknowledges the constraints [the districts are] facing with the current unavailability of higher quality water to blend with. ADEQ has become aware of a Bureau of Reclamation project to investigate the capture and use of storm water in the



Hassayampa River channel. The possibility of using retained storm water for blending where discharges to the river occur might address both quality and quantity concerns for the District. ADEQ encourages the District to investigate and learn more about this possibility.

## ***II Specific and comprehensive comments***

Specific comments from individual stakeholders and ADEQ responses are presented in this section.

### Roosevelt Irrigation District

Roosevelt Irrigation District (“RID”) has reviewed the Draft Middle Gila River TMDL study report (the “Report”) and provides the following comments:

Section 4.2.3.1 of the Report contains numerous incorrect statements regarding RID, many of which appear to be based on a December 4, 2009, letter from Salt River Project (the “2009 SRP Letter”). The 2009 SRP letter also contains multiple misstatements regarding RID, RID’s contracts and the law. There are also a number of statements in this section regarding wells that do not apply in the context of RID and its facilities. Attached hereto is the paragraph addressing RID, marked to correct the facts. Please make these changes to the Report.

The Report also appears to contain multiple other statements that appear to be incorrect, inconsistent and/or misleading. RID has not attempted to address such statements in this letter. However, by not doing so, RID is not accepting nor agreeing with the remainder of the Report.

RID would like to point out that the accumulation of selenium and boron in this region is not strictly from local agricultural practices but rather, as the Report states in several places, is the natural result of importation and use of high- TDS waters in the entire basin. As reported in the Central Arizona Salinity Study, an estimated 1.45 million tons of salt enters the Phoenix-area system annually with approximately three quarters of that remaining in the Phoenix area. Included in these imported salts are both selenium and boron.

Lastly, the Report suggests “*voluntary responsibility for on-the-ground (TMDL) implementation will rest in large part with the three major irrigation districts...*” through implementation of best management practices (“BMPs”). RID currently employs BMPs in its operations including lining of the major canal and blending groundwater with reclaimed wastewater from the City of Phoenix 23rd Avenue wastewater treatment plant. RID will continue efforts to provide the most efficient use of irrigation water through use of these BMPs.

### ADEQ response:

ADEQ has corrected statements in Section 4.2.3.1 regarding the Roosevelt Irrigation District based on RID input. Edits/corrections were made in accordance with RID suggestions, and several of the statements RID asked to be deleted have been deleted. ADEQ has retained the first clause of the sentence discussing the number of RID wells based on information ADEQ has in-house, as this is directly pertinent to the study. In the absence of more accurate figures, the best possible information will be presented. If ADEQ’s numbers on the number of RID wells within the project area are incorrect, please contact us and provide us with updated figures on RID’s infrastructure, as we requested prior to the public release of the TMDLs.

ADEQ has cited the Central Arizona Salinity Study several times in the draft TMDLs document and generally agrees with RID’s assertion that the accumulation of boron and selenium is not strictly from local irrigation practices. Background levels of boron and selenium do exist in the water imported into the area and have been addressed specifically in the report. Other sources of loading, both permitted and nonpoint source loading, are discussed extensively in Section 4. Nonpoint source activities are not the only activities being addressed in the TMDLs; it is worth noting, as well, that permittees with higher boron and selenium permit limits are also having permit limits adjusted to lower levels where needed and appropriate. However, background levels are not problematic prior to irrigation and pumping activities in the project area, which easily comprise the majority of water volume used in the area. RID’s own water quality in the main canal and the water quality of the Gila and Salt rivers above the Buckeye Canal both indicate that source water is not exceeding water quality standards for boron and selenium prior to entry and use within the project area (Appendix B).

ADEQ acknowledges RID’s excellent previously-implemented BMP work in blending groundwater with reclaimed effluent



from the City of Phoenix to improve the quality of its supply water, and in lining its main canal with concrete. Blending was one of the options discussed in the implementation plan (Section 8) for the improvement of water quality. Both of these measures make a marked difference for the better in the water quality of supply water for the district. We hope that RID, in concert with other irrigation districts and stakeholders, will give consideration to the adoption, implementation, and employment of additional BMPs which will address the problem of recycled and re-used irrigation water ultimately discharged to the Gila or Hassayampa rivers with excessive boron and selenium concentrations.

RID assertions that multiple other statements in the report appear to be incorrect, inconsistent, or misleading cannot be addressed without RID's raising specific points for consideration and correction. ADEQ has endeavored through a long process of sampling, investigation, and analysis to produce the most accurate and comprehensive report possible. Public comment periods are an integral part of the editing and revision process to correct any errors that may have been made through the knowledgeable and beneficial input of stakeholders participating fully in the public process in good faith. ADEQ hopes that RID will reconsider its position and choose to work cooperatively with us and other stakeholders to ensure the TMDL study is as accurate and useful for its intended purpose as it can be, and to improve this long-standing water quality problem.

ADEQ is hopeful that RID will be a prime leader in the area's effort to organize and collectively address water quality issues. We encourage the formation of a watershed group with stakeholders, including other irrigation districts, to collectively explore and determine what BMPs may be applied area-wide in the most cost-effective, feasible, and resource-effective manner to improve water quality.

#### Salt River Project

Salt River Project (SRP) has completed its review of the draft Total Maximum Daily Load (TMDL) analyses for the Gila River (Reach 15070101-008: Gillespie Dam – Centennial Wash). SRP submits the following comments regarding the description of the Roosevelt Irrigation District (Section 4.2.3.1, page 29) for your consideration.

1. The sentence that reads, “[t]he district also has a claim on up to...,” should be revised to state, “[t]he district has an agreement with the City of Phoenix under an exchange with SRP for up to...”
2. The sentence that reads, “...and some water supplied to the district's canal system by the Central Arizona Project (USBR, 2000),” may not be factually correct. SRP is not aware of any CAP water being directly delivered to RID.
3. The sentence that contains the statement, “...shared drainage with SRP...” when describing the Buckeye Feeder is not correct. RID's pumped water discharges in Zanjero Area 26 are not commingled with SRP's surface water deliveries. RID's wells discharge directly to RID's canal. We suggest revising this sentence to state, “These additional wells, though outside the project area, are identified because they contribute pollutants to the impaired reach.”

#### ADEQ response:

As all of SRP's comments pertained to the discussion of the Roosevelt Irrigation District (RID), ADEQ has first addressed RID's comments and corrections in the same section before addressing SRP's comments. In some cases, ADEQ has taken SRP's reporting on these specific points as confirmation of RID's stated position and corrections. Some of the corrections/deletions proposed by RID supersede topics that SRP also chose to comment on. These will be noted in the specific responses below.

1. *The sentence that reads, “[t]he district also has a claim on up to...,” should be revised to state, “[t]he district has an agreement with the City of Phoenix under an exchange with SRP for up to...”*

ADEQ has incorporated this revision in the TMDL document.

2. *The sentence that reads, “...and some water supplied to the district's canal system by the Central Arizona Project (USBR, 2000),” may not be factually correct. SRP is not aware of any CAP water being directly delivered to RID.*

RID has requested that the sentence be deleted, and the request has been accommodated based upon their request and



SRP's confirmation of the corrected fact.

*3. The sentence that contains the statement, "...shared drainage with SRP..." when describing the Buckeye Feeder is not correct. RID's pumped water discharges in Zanjero Area 26 are not commingled with SRP's surface water deliveries. RID's wells discharge directly to RID's canal. We suggest revising this sentence to state, "These additional wells, though outside the project area, are identified because they contribute pollutants to the impaired reach."*

ADEQ has deleted the entire discussion of RID wells outside the defined project area from the document, at RID's request, since SRP has confirmed that the reason for the prior inclusion (shared drainage) in actuality does not exist.

Additionally, after reconsideration of higher-limit permittees' operation-specific waste load allocations (WLAs) and consultation with EPA, ADEQ has altered SRP's WLAs in the final TMDL document. SRP's new recommended selenium limits for the wells addressed in the draft TMDL include a concentration of 6 µg/L for the WLA, and an MDL of 10 µg/L. The boron limits remain unchanged as they are presented in the draft TMDLs. Since submitted SRP well data indicates that all values are well below the recommended MDL of 10 µg/L, the option of sampling and averaging multiple wells in one day, included to assist SRP in meeting recommended limits, is no longer necessary and has been removed from the final version of the document. The recommended permit limits will be implemented and take effect for Permit #AZ0024341 at SRP's next permit renewal.

#### JRC Goodyear, LLC.

##### **Summary**

On behalf of JRC Goodyear, LLC we offer the following summary comments in addition to the other remarks provided herein.

- The 30-day comment period allowed for response to the TMDL Study, has been very brief. JRC Goodyear, LLC requests a 60-day extension of the comment period, to more thoroughly review and comment to ADEQ on these important matters. Given the period devoted to the preparation of the TMDL, it is unreasonable to expect the regulated community to provide the necessary analysis and input within a limited 30-day comment period.
- Based on the currently calculated Selenium loading presented above in Table 2.0, Selenium discharges from the JRC Site would be in the general range of the proposed TMDL Study's WLAs, only if compliance were calculated on a site-wide basis. However, that would preclude any additional site wastewater discharge.
- For the reasons expressed herein; JRC Goodyear, LLC requests that the existing WLA of 20.0 µg/L be upheld in the TMDL Study regarding the JRC Site. If the proposed WLAs were applied to the JRC Site; it would represent a virtual cap on growth at the JRC Site; and a "material taking" of the potential development and use of existing and future use of the JRC Site.
- To the knowledge of JRC Goodyear, LLC there are no known commercially viable methods available to reduce the naturally occurring Selenium; which exists in groundwater sources at the JRC Site. Further, ADEQ has not suggested a course of action by which compliance with the proposed WLAs can be achieved at the JRC Site; short of curtailing any future growth.
- JRC Goodyear, LLC requests that ADEQ lead a technology investigation; aimed at determining solutions for reduction of Selenium from Non-Point Source and Point Source dischargers faced with the difficult challenges presented in the TMDL Study.
- Selenium WLA reductions should only be required by ADEQ for regulated sources; where viable control technology is available on a cost effective basis.
- JRC Goodyear, LLC believes that the TMDL Study currently under consideration; should not predetermine reduced Selenium discharge limits for a future JRC Site AZPDES Permit. A permit renewal application will be due in the second quarter of 2018. At the time of permit renewal, the relevant status of Selenium impairment in the middle Gila River can be re-assessed, technology can be reviewed in terms of its viability for Selenium control at the JRC Site, and the economic impact of any suggested reductions in Selenium loading can be taken into account.

ADEQ response:

ADEQ acknowledges the concerns JRC has expressed and has reconsidered the calculations resulting in the site-specific numbers presented in the draft TMDLs. ADEQ has endeavored in the course of this investigation to keep the focus and orientation of the TMDLs where the agency believes it should rightfully be – on the non-point source contributions impairing water quality of the Gila River. In keeping with this orientation, ADEQ has attempted to the utmost of its ability to minimize impacts on existing permittees to the extent possible. The “current performance” customized analysis incorporated for higher-limit permittees is expressly designed so that if future discharges are similar to past discharges, the facility should have little or no difficulty meeting the revised permit terms. We believe the modified limits communicated in this letter and adopted for use in the TMDLs should alleviate most, if not all of your concerns.

However, the subordinate objective of minimizing impacts on permittees does not necessarily guarantee that there will be no impacts on permittees, particularly if growth is foreseen in the future. All permittees discharging to the hydrologic network where flows persist for eventual discharge to the Gila or Hassayampa rivers must be regulated in such a fashion that it can be expected that water quality standards will be attained in the impaired reach. Arizona Revised Statutes require this of TMDLs. Existing permittees with selenium and boron limits equal to the Gila’s water quality standard will be required to maintain those limits. Higher-limit permittees, while surrendering some of the “excess” of their permit limits in the current-performance analysis, are from another perspective being permitted extra latitude over and above the Gila’s water quality standards, especially as compared to permittees discharging directly to the Gila or its tributaries. This extra latitude granted has come at a cost, namely, reducing the ability of the impaired reach to receive excess pollutant loading without exceeding state water quality standards, and encroaching upon the implicit margin of safety built into the selenium analysis. The implicit margin of safety was originally designed and incorporated to ensure minimum impact from this toxic pollutant for the benefit of aquatic life and wildlife. It was not a given that ADEQ would be able to achieve both of these competing objectives at once; the explicit margin of safety allotted early in the study design was exceeded when all higher-limit permittee contributions were identified and quantified. ADEQ found it necessary to dig deeper into the analysis to identify and quantify this additional implicit margin of safety to accommodate current-performance requirements. Furthermore, it is the agency’s position that no permittee in the defined project area can be exempt from accepting revised limits where necessary or making other necessary concessions to water quality improvement when all other permittees in the project area are being required to do so.

While ADEQ believes JRC’s modified limits will largely meet its current operational needs, the agency remains concerned about records in JRC’s DMR reporting where selenium values exceed 20 µg/L. These episodic high values have the potential to exceed assessment-level daily maximums for the facility and contribute to skewing permit averages. We strongly encourage JRC to investigate these anomalies thoroughly and devise a means of predicting them, controlling them and/or limiting their impacts on JRC discharges. JRC will have a number of years to sample and investigate these anomalous readings more fully before the revised permit terms take effect. Several remediation possibilities suggest themselves for consideration; blending of water between JRC’s two on-site groundwater wells might alleviate the problem. JRC may also want to confer with the City of Goodyear regarding their pilot wetlands demonstration project. Goodyear has had remarkable success on a small scale in dramatically reducing selenium concentrations in their discharge water/brine from their water campus/RO plant on Bullard Avenue. Goodyear has achieved this by using plots of wetland and salt-tolerant plants to take up excess selenium in wastewater. Given that JRC’s discharge volumes are relatively small, adopting this solution on-site might well serve your needs. Contact information can be provided if JRC wishes to investigate further. JRC may also wish to explore a cooperative agreement with the City of Goodyear for disposal of its wastewater, or investigate on-site water re-use or recharge by spreading and the employment of groundwater recharge basins in accordance with ADEQ APP requirements. These are a few of the potential solutions available for consideration.

ADEQ respectfully disagrees with JRC’s contention that revising permit limits constitutes a limit on JRC’s future growth potential. However, the situation does suggest that solutions for limiting selenium loading will need to be found and implemented if JRC intends to discharge water at higher volumes in the future. The possibility of higher discharge volumes in the future for JRC will rest in large part on JRC’s initiative and its ability to reduce selenium loading of its discharges over time. As suggested previously, these are not necessarily technology-based solutions, but they will likely require some changes in JRC’s operating procedures. While permittees discharging at the concentrations of the water quality standard can be allowed additional loading at the same concentrations, higher-limit permittees must necessarily accept a cap on their mass loading in order for the assimilative capacity buffer to avoid being overtaxed and exhausted. This is in keeping with the concentration-neutral approach of the TMDLs. Initial calculations in the draft TMDL using maximum design capacities of JRC’s current



outfalls indicate that JRC has been granted excess capacity as compared to the average reported flow volumes in Table 2.0 of your letter. Additionally, the revised WLA and limits communicated in this letter give JRC added leeway in its loading. These TMDL measures should serve immediate and short-term growth needs. If JRC can reduce its selenium concentrations proportionally over time, increased permitted discharge volumes can then be progressively realized.

In reviewing the additional data submitted from JRC for both selenium and boron, ADEQ has calculated outfall-specific waste-load allocations and recommended permit limits based upon the data supplied and previous DMR data available for ADEQ consideration. Selenium limits, given to the nearest whole unit, are outlined in Table 1. Boron limits are outlined in Table 2. These revised permit limits will take effect at the next permit renewal. Please note the maximum daily limit for selenium discharged from Outfall 001 has been capped at 29 µg/L, consistent with the current permit’s assessment-level daily maximum. Additionally, existing boron permit limits for Outfall 003 remain in place, due to anti-back-sliding provisions of the Clean Water Act and federal regulations.

Facility Name	Permit Number	Outfall	WLA*, µg/L	AML, µg/L	MDL, µg/L
JRC Goodyear, LLC.	AZ0025747	Outfall 001	22	18	29 <sup>+</sup>
		Outfall 002	13	11	19
		Outfall 003	8	7	12

Table 2. Selenium Limits, JRC Goodyear, LLC.

\* Chronic - based WLA

+ Capped at current permit’s assessment level daily maximum

Facility Name	Permit Number	Outfall	WLA*, µg/L	AML, µg/L	MDL, µg/L
JRC Goodyear, LLC.	AZ0025747	Outfall 001	1000	1000	1459
		Outfall 002	1000	1000	1459
		Outfall 003 <sup>+</sup>	1000	1000	1144 <sup>+</sup>

Table 3. Boron Limits, JRC Goodyear, LLC.

\* Based on AML as WLA

+ Anti-back-sliding cap; Current permit limits remain as recommended TMDL limits

ADEQ mentioned the use of trace metals chemical analyses (EPA Method 1638) for selenium analyses as a means of getting more accurate and probable lower reporting during the final public meeting. ADEQ is working with the Arizona State Laboratory to have this method authorized for compliance testing in the future; however, please be advised that there are currently no labs licensed by ADHS that ADEQ is aware of capable of conducting these analyses, either in state or out of state. The lab ADEQ has routinely used for non-compliance sampling analysis with this method has declined to apply for Arizona licensure. We sincerely hope that this state of affairs is rectified in the future and will continue to work to encourage labs capable of employing this method to apply for Arizona lab licensure, giving permittees a more advantageous path to permit compliance.

City of Buckeye

The City of Buckeye would like to share laboratory results from two of its wastewater treatment plants, the Central Buckeye WWTP and the Sundance WRF. These two wastewater treatment plants discharge residential and commercial wastewater under AZPDES permits into irrigation district canals in the Middle Gila River watershed.

The attached two tables (not included) list the following laboratory results:

- Central Buckeye WWTP effluent results for boron samples collected in 2015 and selenium samples collected from 2013 to 2015.
- Sundance WRF effluent results for boron samples collected in 2015 and selenium samples collected from 2013-2015.

In addition to the results listed in the attached two tables, the following results for boron and selenium were also detected by laboratory testing:

- An effluent sample collected on June 4, 2014 at the Sundance WRF was reported to have a boron concentration of 1390 micrograms per liter.
- An effluent sample collected on February 11, 2008 from the Sundance WRF was reported to have a selenium concentration of 4.0 micrograms per liter.
- An effluent sample collected on December 16, 2005 from the Central buckeye WWTP was reported to have a selenium concentration of 4.0 micrograms per liter.

The City of Buckeye requests that ADEQ take the above-mentioned analytical results and the results listed in the attached tables into consideration when setting permit limits for total boron and total selenium. The wastewater treated by the City of Buckeye’s WWTPs consists of municipal (residential and commercial) wastewater, with a lack of significant industrial wastewater.

Currently, the City of Buckeye’s only municipal water source consists of groundwater pumped from local wells. Because the wastewater treated by the City of Buckeye consists of residential and commercial wastewater, with a lack of significant industrial wastewater, the City believes the total boron concentrations detected in wastewater discharged from its wastewater treatment facilities is largely influenced by the total boron concentrations present in the local groundwater. In addition, due to a lack of significant industrial wastewater, the City believes that the wastewater discharged by the City is not a significant contributor to the selenium impairment of the Gila River.

ADEQ response:

In reviewing Buckeye’s data submitted from the Sundance and Central Buckeye WWTPs for both selenium and boron, ADEQ has calculated facility/outfall-specific waste-load allocations and recommended permit limits based upon the data supplied. Selenium limits, given to one significant figure, are outlined in Table 1. Boron limits are outlined in Table 2. Please note that Sundance WRF allocations include the newly-proposed Outfall 002 (application for permit modification received June 4, 2015 by the ADEQ AZPDES Permits Unit); the same concentration limits will apply to each outfall as long as plant capacity does not change. These limits will take effect upon the next permit renewal.

Facility Name	Permit Number	Outfall	Wasteload Allocation* (WLA), µg/L	Average Monthly Limit (AML), µg/L	Maximum Daily Limit (MDL), µg/L
<b>Buckeye Sundance WRF</b>	AZ0024881	All outfalls	3	3	5
<b>Central Buckeye WWTP</b>	AZ0025313	Outfall 002	2	2	4

**Table 4. Selenium Limits, City of Buckeye**

\* Chronic - based WLA

Facility Name	Permit Number	Outfall	Wasteload Allocation* (WLA), µg/L	Average Monthly Limit (AML), µg/L	Maximum Daily Limit (MDL), µg/L
<b>Central Buckeye WWTP</b>	AZ0025313	Outfall 002	1231	1231	1682

**Table 5. Boron Limits, City of Buckeye**

\* Based on AML as WLA

Due to Buckeye Sundance’s existing permit limits for boron and the anti-backsliding provisions of the Clean Water Act [Section 402(o), Section 303(d)(4)(A)], the current permit limits for boron will remain unchanged by the TMDLs.

ADEQ and Buckeye have had informal conversations regarding the use of trace metals chemical analyses (EPA Method 1638) for selenium. ADEQ is working with the Arizona State Laboratory to have this method authorized for compliance testing in the future; however, please be advised that there are currently no labs licensed by ADHS that ADEQ is aware of capable of conducting these analyses, either in state or out of state. The lab ADEQ has routinely used for non-compliance sampling analysis with this method has declined to apply for Arizona licensure. We sincerely hope that this state of affairs is



rectified in the future and will continue to work to encourage labs capable of employing this method to apply for Arizona lab licensure.

Arizona Department of Transportation

ADOT provides these comments for consideration in finalizing the TMDLs.

\* ADOT operates two major routes within the subject watershed and specific TMDL Project Area (Figure 5, page 17). Interstate 10 flanks and State Route 85 intersects Zone 1 (Figure 15, page 58).

\* ADOT holds an individual permit for discharges of stormwater (AZS0000018-2008), which incorporates aspects of a municipal separate storm sewer system (MS4) and industrial and construction activities subject to general permits (Section 4.0 pages 23-27)

\* ADOT has a single outfall currently identified that discharges to the Agua Fria, south of Interstate 10 at milepost 130.2 (Section 7.3.1.3 page 56, first sentence regarding point of compliance).

While ADOT supports this TMDL, it would not seem to be applicable for ADOT as an MS4 or construction permittee to partake of any waste load allocation because the transportation MS4 is not a contributor of the pollutants identified. That is, ADOT does not have activities that will add selenium or boron to the existing environment. ADOT would potentially disturb currently occurring elements, not exacerbate through additional input.

ADEQ response

ADEQ appreciates ADOT's support in the promulgation of these TMDLs and acknowledges the transportation corridors identified adjoining or transiting the project area. Thank you for bringing to our attention your outfall on the Agua Fria River. While ADEQ agrees that ADOT activities are not likely contributing to the boron and selenium problems of the Gila River, by virtue of the fact that permit coverage of various types has been extended to ADOT, a waste load allocation for ADOT is necessary. Without the granting of a waste load allocation consistent with the terms of its permits, ADOT would not be authorized to have any selenium or boron in its stormwater, construction, or MS4 discharges. The WLA serves as a type of authorization, in concert with ADOT's permits, allowing for the presence of the constituents of concern in concentrations consistent with permit limits and water quality standards in its discharges.

**III. Additional comments not previously addressed**

**Comment: Suggested measures may adversely affect users' appropriative water rights.**

ADEQ response(s):

As noted in several places in the draft TMDLs, the TMDLs recognize that water rights will play a substantial role in the determination of regional solutions to the boron and selenium pollution problems of the Gila River. ADEQ takes no official position on the resolution of any conflicting claims of water rights; the questions of water rights adjudication and resolution are beyond the scope of the TMDLs and stated as such in the document. ADEQ has made several suggestions for consideration by the stakeholder community for the improvement of water quality; these suggestions are qualified with the disclaimers mentioned above. The stakeholder community, including all irrigation districts, are urged to work in collaboration to consider the suggested measures or alternatively to propose measures of their own.

**Comment: Single-use strategy may limit water availability and is not a holistic solution.**

ADEQ response(s):

With specific regard to the single-use strategy, the objective of such a strategy is to reduce the number of times water is allowed to pass through the soil profile, thereby reducing its exposure to salts in the soil. The reason groundwater in the area is of such poor quality to begin with is because decades of soil leaching and flushing of salts down to the water table have progressively degraded groundwater quality. Each opportunity that irrigation water has to be applied to fields increases its concentrations of total dissolved solids, including boron and selenium. Discharge of this water at the end of the recycling process exacerbates the problem.

ADEQ disagrees with the contention that single-use strategies necessarily adversely affect water quantity. Though this was



not directly asserted as such in the document, ADEQ considers a single-use strategy as the most holistic possibility at this point in addressing both quality and quantity concerns. Water discharged to either the Hassayampa or Gila rivers after a single use, instead of recycling and re-use across district boundaries, will likely meet TDS targets and show substantial reductions in selenium and boron concentrations over current conditions. This water would then be available for further use by other users at the terminus of the hydrologic network without the possibility of further discharges to a water of the U.S.

**Comment: It appears that source of boron and selenium is speculative. Does it occur naturally in the soils of the region? Is the source somewhere upstream, only reaching concentrations of concern in this short reach of the river? To effectively regulate these elements, questions of origin need to be documented.**

The origin is not speculative. Background sampling has determined that source water flowing into the area exhibits boron and selenium concentrations below state water quality standards (Appendix B). [The exacerbation of the problem] is due to the recycling of irrigation water itself by the re-use of tail-water for supply augmentation across district boundaries and by the practices of flood irrigation designed to push salts out of crops' root zones and groundwater pumping. The excess irrigation water dissolves and absorbs salts in the root zone that then migrate down to the water table and become a part of the groundwater of the area. This groundwater becomes more concentrated in salts over time; it is then pumped up and used to augment water supplies for irrigation in the area. These processes are the source of the brackishness mentioned. ADEQ sampling has determined that water is of only moderate salinity and non-problematic boron and selenium concentrations at the head of the Buckeye Canal, in the Gila River upstream of the Buckeye Canal, and in the Roosevelt Canal system. Water draining to the river in the irrigation districts and from the Hassayampa River, by contrast, is saline and considerably degraded.

**Comment: From a practical and economic point of view, water needs to be used and reused because supplies are limited. Often farmers downstream depend on tailwater from farmers irrigating upstream.**

While ADEQ is sympathetic to the constraints of the local agricultural community in regards to water supply limitations, ... re-use of this water with eventual discharge to a waters of the United States is impairing Gila River water quality, and the cause is due to anthropogenic activities. The solutions, then, can only be one of three general options: augment and dilute the water with higher-quality water, alter the practices that are responsible for degrading water quality, or cease discharging water to waters of the United States. While farmers downstream do depend on water supply from users upstream, they also have a need to receive water that meets state water quality standards for agricultural irrigation and does not limit their crop yields due to degradation. Currently, that is not the case. ADEQ has an obligation to present the nature and extent of the water quality problem, so that any eventual solutions adopt a holistic perspective, addressing both quantity and quality concerns. We invite the stakeholder community to propose alternative solutions addressing water quality improvement that will work for all parties if the proposed solutions in the TMDLs are considered by the stakeholder community to be infeasible or impractical.

**Comment: Stakeholder requests a community-wide informational process be conducted to help the farmers, landowners, irrigation districts and agricultural organizations understand the analyses for boron and selenium and the suggested measures to address the water quality issue. Clarity and current data is important to understanding the content and future application of this TMDL analysis.**

The request for a community-wide informational process to help the farmers, landowners, irrigation districts and agricultural organizations understand the analyses for boron and selenium and the suggested measures to address the water quality issue is what the public meetings were designed to present and convey<sup>1</sup>.

ADEQ has presented its case in the clearest way possible in the document, which has been through numerous rounds of review to this point. Necessarily, the supporting technical basis for the analysis had to be presented to support the study. The public meetings presented the outline in a simpler, non-technical manner for the public. Current data was collected and incorporated into the analysis over the two year period of sampling of 2012 and 2013. The current data confirms what historical data showed: a pervasive and significant impairment of Gila River water quality for both boron and selenium.

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1. Additional note: ADEQ will pursue additional stakeholder engagement activities in the project area to support TMDL implementation provided there is local interest to participate.



**Comment: ADEQ's analysis does not fully conform to the regulatory requirements in A.A.C. R18-11-602 (credible data), -603 (data interpretation requirements), and -605 (evaluating a surface water segment).**

Data used and assessed in the TMDL study was either collected according to ADEQ protocols for data credibility during the project time frame, or had previously passed QC checks for data credibility for use in ADEQ's biennial water quality assessments. Historical data already in ADEQ's data repository originated from two different sources – ADEQ's own sampling records, or submitted data from the U.S. Geological Survey. Both of these sources complied with all regulatory requirements for the use of the data. The data used was either assessed in numerous previous water quality assessments according to the Impaired Waters Identification Rule (IWIR) requirements, including the 2002, 2004, 2006/08, 2010, and the current pending 2012/14 assessments, or met requirements in the IWIR for use when its pedigree existed prior to the adoption of the IWIR in 2002. Each of these assessments reaffirmed the impaired nature of the reach for boron and selenium, excepting selenium in 2002 (selenium first being listed in 2004). In addition to the data credibility requirement, each assessment also complied with requirements for data interpretation and evaluation of a surface water segment as a part of each assessment process. Assessments were subject to public review and comment, and excepting the 2012/14 assessment currently awaiting EPA approval, ultimately achieved final approval to the satisfaction of the parties involved. Consequently, neither the data nor ADEQ's methodology is in question.

**Comment: ADEQ has failed to consider the experience with comparable BMPs tried in other western states and whether they would be successful under the particular circumstances existing in the Middle Gila River watershed.**

ADEQ has presented four potential solutions to the boron and selenium problems of the Gila River in Section 8 that have been assessed as having the best balance between cost feasibility for the stakeholders of the area and effectiveness in improving water quality. These four solutions have been demonstrated to work, either here locally or in the southwestern and western U.S. regions.

**Comment: Stakeholder requests that ADEQ contact all the landowners and farmers in the area that [ADEQ is] considering regulating.**

TMDLs have no regulatory power for any stakeholder who is not a currently regulated permittee in the watershed. They are simply water quality improvement analyses and plans that solicit voluntary involvement on the part of landowners and other stakeholders in addressing nonpoint source pollution and point the way to improvements that can be collectively realized through voluntary cooperation.

**Comment: We noted that Salt River Project (SRP) wells that have been determined to require WLAs will be allowed to be averaged to comply with the MDL value. While this approach may help SRP meet newly applied standards, it may also allow problematic wells to continue to operate and discharge without improvement. Analyzing and applying standards to each well individually would be more likely to reduce discharge that is contributing to exceedances. Additionally, we noted that "SRP is not required to meet an average monthly limit (AML) value for either boron or selenium due to irregular and infrequent sampling of wells." Compelling more frequent and regular sampling of wells would be more likely to positively affect water quality in the Gila River.**

With regard to specific recommendations for adjusted permit limits in the draft TMDLs, where limits were called to be established by a customized analysis, as in the case of SRP and other permittees, these limits have been revised in the final version of the TMDLs after review of data and calculations and further consultation with EPA. The allowance for well concentrations to be averaged to meet the proposed MDL has been removed, as the new calculations have determined this provision is no longer necessary. New limits have been calculated according to standard permitting methods as outlined in EPA's 1991 *Technical Standards Document for Water Quality-based Toxics Control* and subsequently reviewed and confirmed by EPA. While the recommended new limits are higher than the draft TMDLs' version, all such limits are consistent with the objectives of the mass-limits balance and the larger objectives of the TMDLs.

Averaging of multiple wells' data was used in the customized analysis and permitted in the TMDLs because individual SRP wells are sampled infrequently, and the data used to determine limits consisted of only one or two data points from each well over the previous three year period. No additional data was available for consideration. Insufficient statistical robustness, with greater uncertainty, would have resulted by attempting to analyze each well individually. Furthermore, ADEQ has endeavored to allow existing permit precedents to stay in place where possible in these cases in order to minimize disruption



to existing operations. As SRP did not have a required AML in its current permit and the reasoning for this condition as outlined in the permit support documents is sound, ADEQ sees no reason to alter that in the customized WLA analysis.

**Comment: The plan suggests that Roosevelt Irrigation District, Buckeye Water and Conservation Drainage District and Arlington Canal Company will need to work with agricultural interests within their jurisdictions to voluntarily improve practices, and describes approaches that may improve water quality in the Gila. ... If local agricultural interests are not compelled to adopt BMPs to improve water quality, we are concerned that they will continue to operate as they always have.**

ADEQ must abide by Arizona state law in writing TMDLs and TMDL implementation plans. According to A.R.S. § 49-234 (G.),

*“...any reductions in loadings from nonpoint sources shall be achieved voluntarily.”*

Consequently, the assertion that local agricultural operators should be compelled to adopt BMPs to improve water quality cannot be assented to or supported by ADEQ. Beyond the legal requirements, ADEQ’s position is that soliciting long-term voluntary cooperation among stakeholders provides a more sustainable and effective model over the long run in realizing lasting water quality improvements.

**Comment: We noted ... that many of the BMPs referenced were developed in the 1970s and 1980s. ...Implementation strategies involving green infrastructure such as use of native vegetation to ameliorate water quality should be explored and viability weighed along with the strategies outlined in the implementation plan.**

Information included in Appendix D is drawn from an EPA manual addressing agricultural BMPs that was published in 1993. These are BMPs addressing the improvement of water quality for the general consideration of stakeholders that can be as effective today as when they were published, if appropriate for employment in the specific circumstances prevalent here in Arizona. Measures mentioned in the body of the document, including single-use strategies, blending, integrated on-farm drainage systems, and recharge basins or evaporation ponds are some of the more promising applicable measures that ADEQ would like for the stakeholder community to seriously consider. ... some of the measures are already employed locally (with RID blending groundwater with City of Phoenix effluent), in the state of Arizona (as in Yuma-area districts adoption and use of single-use strategies), or in California (IFDMs) within a more recent time frame. The use of green infrastructure and technologies, while not addressed in the document, was raised in the public meeting by highlighting the City of Goodyear’s wetland demonstration project for the removal of trace metals from reverse osmosis brine. We are hopeful that Goodyear’s efforts will bear fruit for application on a wider scale, which might then be suitable for general adoption and pursuit by the area’s stakeholder community. ADEQ’s research into green technology beyond this example has not turned up any BMPs specifically oriented to the remediation of boron and selenium problems. We invite you to provide us with direct references if you know of any.

**4. Name and address of agency personnel with whom persons may communicate:**

Name: Doug McCarty, Project Hydrologist, TMDL Unit  
Address: Arizona Department of Environmental Quality  
1110 W. Washington St.  
Phoenix, AZ 85007  
Telephone: (602) 771-4521  
Fax: (602) 771-4528  
E-mail: Mccarty.Doug@azdeq.gov

Copies of the final TMDL may be obtained from the Department by contacting the numbers above. The final TMDL may also be downloaded from the Department’s web site at: [http://www.azdeq.gov/environ/water/assessment/tmdl\\_status-mg.html](http://www.azdeq.gov/environ/water/assessment/tmdl_status-mg.html)



NOTICES OF ORAL PROCEEDING

If an agency schedules an oral proceeding, a public workshop, or another type of meeting on a proposed rulemaking, a rulemaking docket opening, or a proposed delegation agreement, the agency shall prepare a Notice of Oral Proceeding, a Notice of Public Workshop, or Notice of Meeting (specifying the type of meeting) for publication in the Register.

NOTICE OF ORAL PROCEEDING ON PROPOSED RULEMAKING

DEPARTMENT OF CHILD SAFETY

[M15-224]

- 1. Name of the agency: Arizona Department of Child Safety
2. Title and its heading: 21, Child Safety
Chapter and its heading: 7, Department of Child Safety - Child Welfare Agency Licensing
Article and its heading: 1, Definitions and General; 2, Placing Agency Licensing; 3, Residential Group Care Facilities and Outdoor Experience Programs
Title and its heading: 21, Child Safety
Chapter and its heading: 9, Department of Child Safety - Adoption Agency Licensing
Article and its heading: 1, Definitions; 2, Adoption Agency Licensing Requirements
3. Articles, Parts, or Sections (as applicable) being proposed: The Department of Child Safety is providing the public an opportunity to provide comment for the following Articles: Chapter 7, Article 1, Definitions and General; Article 2, Placing Agency Licensing; Article 3, Residential Group Care Facilities and Outdoor Experience Programs; Chapter 9, Article 1, Definitions; Article 2, Adoption Agency Licensing Requirements
4. Citations to all notices published in the Register concerning the proposed rulemaking: Notice of Public Information: 21 A.A.R. 1838, September 11, 2015 (in this issue).
5. The date, time, and location of the oral proceedings: Monday, September 21, 2015; Joel Valdez Main Library; 101 N. Stone Ave.; Tucson, AZ 85701; 5 p.m. - 7 p.m.; Monday, September 22, 2015; Arizona Bridge to Independent Living; Disability Empowerment Center; 5025 E. Washington St.; Phoenix, AZ 85034; 5 p.m. - 7 p.m.
6. The name and address of agency personnel to whom questions and comments on the proposed rules may be addressed: The public may provide online comments to the draft rules at: https://dcs.az.gov/about/dcs-rules-rulemaking; Comments can be sent by mail to: Name: Carrie Senseman, Lead Rules Analyst; Address: Department of Child Safety, P.O. Box 6030, Site Code C010-23, Phoenix, AZ 85005-6030; Telephone: (602) 255-2534; Fax: (602) 255-3264



Comments must be postmarked by September 23, 2015

**Americans with Disabilities Act:** Persons with disabilities may request reasonable accommodations by contacting the Arizona Department of Child Safety, Carrie Senseman, at (602) 255-2534. Please make requests as early as possible to allow time to arrange the accommodation.



GOVERNOR EXECUTIVE ORDERS

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

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

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

EXECUTIVE ORDER 2015-01

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

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

[M15-02]

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

WHEREAS, burdensome regulations inhibit job growth and economic development;

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

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

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

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

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

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



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

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

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

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

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

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

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**REGISTER INDEXES**

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

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Abbreviations for rulemaking activity in this Index include:

**PROPOSED RULEMAKING**

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

**SUPPLEMENTAL PROPOSED RULEMAKING**

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

**FINAL RULEMAKING**

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

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

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

**FINAL SUMMARY**

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

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

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

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

**FINAL EXPEDITED**

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

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

**EXEMPT SUPPLEMENTAL PROPOSED**

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SPX# = Supplemental Proposed Exempt renumbered Section

**FINAL EXEMPT RULMAKING**

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

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EM = Emergency amended Section  
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E# = Emergency renumbered Section  
EEXP = Emergency expired

**RECODIFICATION OF RULES**

RC = Recodified

**REJECTION OF RULES**

RJ = Rejected by the Attorney General

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T# = Terminated proposed renumbered Section

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*See also “emergency expired” under emergency rulemaking*

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RULE EFFECTIVE DATES CALENDAR

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

Table with 12 columns: January (Date Filed, Effective Date), February (Date Filed, Effective Date), March (Date Filed, Effective Date), April (Date Filed, Effective Date), May (Date Filed, Effective Date), June (Date Filed, Effective Date). Rows list dates from 1/1 to 1/31 and corresponding effective dates in subsequent months.



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



REGISTER PUBLISHING DEADLINES

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

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



## GOVERNOR'S REGULATORY REVIEW COUNCIL DEADLINES

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

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

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