



NOTICES OF PROPOSED RULEMAKING

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.

NOTICE OF PROPOSED RULEMAKING

TITLE 18. ENVIRONMENTAL QUALITY

CHAPTER 9. DEPARTMENT OF ENVIRONMENTAL QUALITY
WATER POLLUTION CONTROL

[R15-174]

PREAMBLE

- 1. Article, Part of 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):
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:
4. The agency's contact person who can answer question about the rulemaking:
5. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:

The Arizona Department of Environmental Quality (ADEQ) proposes to amend R18-9-704 in order to allow incidental runoff of reclaimed water under certain conditions. The Governor's office approved an exception from E.O. 2015-01 on November 3, 2015.

Reclaimed water is highly treated wastewater from a wastewater treatment plant. A.R.S. § 49-201(32). Reclaimed water has uses such as for irrigation. Using reclaimed water offsets and conserves potable water for human consumption and domestic purposes. The proposed rule amendment would:

- 1. Allow some runoff of reclaimed water from a site where it is being applied.
2. Require that the runoff be authorized under a separate Arizona Pollutant Discharge Elimination System (AZPDES) permit. An AZPDES general permit is readily available for this type of water discharge and ensures that there is no violation of the Clean Water Act.



3. Continue restrictions in the existing reclaimed water rules to ensure that only Class A reclaimed water would be used when there is a relatively high risk of human exposure to potential pathogens.

ADEQ proposes to limit the scope of this rulemaking to amending only R18-9-704(G). ADEQ is aware of at least one municipality that must use more expensive potable water for snowmaking for an event because it is not able to control all the runoff if available reclaimed water were used. Making this minor improvement as soon as possible will allow the permitted use of reclaimed water for snowmaking this winter season by this municipality and by any other parties planning similar events.

ADEQ is aware that the reclaimed water rules are in need of improvement and is beginning to work with stakeholders to consider other changes to the reclaimed water rules. Other rule changes would include:

- Updating the list of allowable direct reuse activities, such as for emergency fire fighting.
- Developing additional general permits and streamlining the individual permit process.
- Allowing for amending a general permit without obtaining a new general permit.
- Making monitoring requirements consistent for wastewater and reclaimed water so that both are protective of human health and neither is unduly burdensome or duplicative.

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:

None

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

Not applicable

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

The proposed changes should benefit some reclaimed water users. Some users will be able to apply reclaimed water lawfully to more sites without setting up unnecessary controls to prevent all runoff. The users will need to weigh whether additional reclaimed water usage outweighs the AZPDES permitting costs.

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

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

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

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

Date: January 5, 2016
Time: 10:00 a.m.
Location: Arizona Department of Environmental Quality
1110 W. Washington, Room 145
Phoenix, AZ 85007
Nature: Oral Proceeding on the proposed rules, with opportunity for formal comments on the record

Written, faxed, or e-mailed comments may be made with the contact person listed in item #4. Written comments on the proposed rules or preliminary economic, small business, and consumer impact statement must be received by 5:00 p.m. January 5, 2016. Upon request, ADEQ will provide appropriate auxiliary aids and services to persons with disabilities, at no charge, to assist in accessible communication to enable people who have speech, hearing, vision, learning, or other impairments to participate equally, including qualified sign language interpreters. To request an auxiliary aid or service, to obtain this document in alternative format, or for further information, please contact Alicia Pollard at (602) 771-4791 or via email at aap@azdeq.gov as early as possible to allow time to arrange the accommodation. TTY/TTD Services: 7-1-1. The ADA does not require ADEQ to take any action that would fundamentally alter the nature of its programs, services or activities, or impose an undue financial or administrative burden on ADEQ. This rulemaking's public record will close at 5:00 p.m. on January 5, 2016.



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

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

This rule does not require permits; it provides the general provisions, including prohibited activities, applicable to the Article. The rules governing permits are in other sections of Title 18, Chapter 9, Article 7.

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:

There is no federal law applicable to reclaimed water.

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 has been 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 18. ENVIRONMENTAL QUALITY

CHAPTER 9. DEPARTMENT OF ENVIRONMENTAL QUALITY
WATER POLLUTION CONTROL

ARTICLE 7. DIRECT REUSE OF RECLAIMED WATER

Section
R18-9-704. General Requirements

ARTICLE 7. DIRECT REUSE OF RECLAIMED WATER

R18-9-704. General Requirements

- A. Sewage treatment facility. Except for permits continued under R18-9-703(A), a sewage treatment facility owner or operator shall provide reclaimed water for direct reuse only under an individual Aquifer Protection Permit amended under R18-9-703(C)(2).
- B. Additional treatment. If an owner or operator of a facility accepts reclaimed water and provides additional treatment for a higher quality direct reuse, the facility is considered a sewage treatment facility and shall operate under the requirements of an individual Aquifer Protection Permit amended under R18-9-703(C)(2).
- C. Reclaimed water blending facility. An owner or operator of a reclaimed water blending facility shall not conduct blending operations without obtaining a Reclaimed Water Individual Permit or Reclaimed Water General Permit.
- D. Reclaimed water agent. A person shall not operate as a reclaimed water agent without obtaining a Reclaimed Water Individual Permit or a Reclaimed Water General Permit.
- E. End user. A person shall not directly reuse reclaimed water unless permitted under this Article.
- F. Irrigating with reclaimed water. A permittee irrigating with reclaimed water shall:
 - 1. Use application methods that reasonably preclude human contact with reclaimed water;
 - 2. Prevent reclaimed water from standing on open access areas during normal periods of use;
 - 3. Prevent reclaimed water from coming into contact with drinking fountains, water coolers, or eating areas; and
 - 4. Secure hose bibbs discharging reclaimed water to prevent use by the public.
- G. Prohibited activities.
 - 1. Irrigating with untreated sewage;
 - 2. Providing or using reclaimed water for any of the following activities:
 - a. Direct reuse for human consumption;
 - b. Direct reuse for swimming, wind surfing, water skiing, or other full-immersion water activity with a potential of ingestion; or
 - c. Direct reuse for evaporative cooling or misting.
 - 3. Misapplying reclaimed water for any of the following reasons:
 - a. Application of a stated class of reclaimed water that is of lesser quality than allowed by this Article for the type of direct reuse application;
 - b. Application of reclaimed water to any area other than a direct reuse site; or
 - c. Allowing runoff of reclaimed water or reclaimed water mixed with stormwater from a direct reuse site, except for:
 - i. agricultural return flow that is directed onto an adjacent field or returned to an open water conveyance; or
 - ii. a discharge authorized by a separate NPDES or AZPDES permit.
- H. A permittee shall place and maintain signage at locations specified in Table 1 so the public is informed that reclaimed

water is in use and that no one should drink from the system.

Table 1. Signage Requirements for Direct Reuse Sites

Reclaimed Water Class	Hose Bibbs	Residential Irrigation	Schoolground Irrigation	Other Open Access Irrigation	Restricted Access Irrigation	Mobile Reclaimed Water Dispersal
A+	Each bibb	Front yard, or all entrances to a subdivision if the signage is supplemented by written yearly notification to individual homeowners by the homeowner’s association.	On premises visible to staff and students	None	None	Back of truck or on tank
A	Each bibb	Front yard, or all entrances to a subdivision if the signage is supplemented by written yearly notification to individual homeowners by the homeowner’s association.	On premises visible to staff and students	None	None	Back of truck or on tank
B+	Each bibb	Direct Reuse Not Allowed	Direct Reuse Not Allowed	Direct Reuse Not Allowed	1. Ingress points 2. On premises or at reasonably spaced intervals not more than 1/4 mile, as applicable to the use 3. Notice on golf score cards, if applicable	Back of truck or on tank
B	Each bibb	Direct Reuse Not Allowed	Direct Reuse Not Allowed	Direct Reuse Not Allowed	1. Ingress points 2. On premises or at reasonably spaced intervals not more than 1/4 mile, as applicable to the use 3. Notice on golf score cards, if applicable	Back of truck or on tank
C	Each bibb	Direct Reuse Not Allowed	Direct Reuse Not Allowed	Direct Reuse Not Allowed	1. Ingress points 2. On premises or at reasonably spaced intervals not more than 1/4 mile, as applicable to the use	Back of truck or on tank

Note: All impoundments with open access including lakes, ponds, ornamental fountains, waterfalls, and other water features shall be posted with signs regardless of the class of reclaimed water.