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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Rules can be: made (all new text); amended (rules on file, changing text); repealed (removing text); or renumbered (moving rules to a different Section number).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 New rules in this publication (whether proposed or made) are denoted with underlining; repealed text is stricken.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., and 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 page.

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free at www.azsos.gov.

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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 us at
(602) 364-3223.

PUBLICATION DEADLINES
Publication dates are published in the
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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.

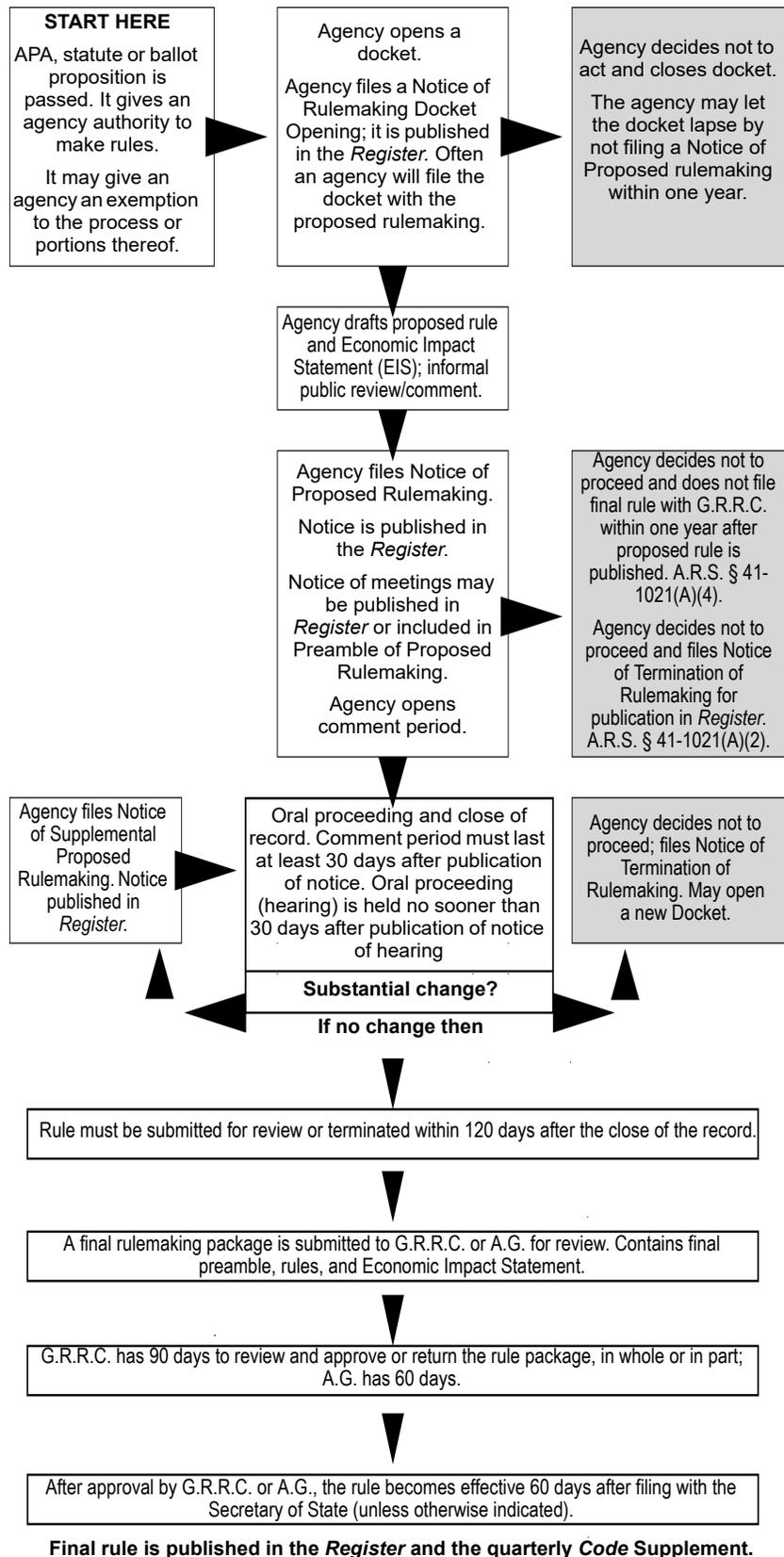
An agency may not have a public meeting scheduled on the Notice of Proposed Rulemaking. If not, you may request that the agency schedule a proceeding. This request must be put in writing within 30 days after the published Notice of Proposed Rulemaking.

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.

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

Administrative Procedure Act (APA): A.R.S. Title 41, Chapter 6, Articles 1 through 10. Available online at 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.

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.

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.



The federal CCR rule was promulgated as a self-implementing rule, which generally means that the regulations were not intended to be implemented through direct government oversight, and enforcement is largely left to be performed through citizen lawsuits. *See generally Final Rule: Hazardous and Solid Water Management System; Disposal of CCR from Electric Utilities*, 80 Fed. Reg. 21,302 (Apr. 17, 2015). The substance of the rule has been in flux over the years as litigation and rulemaking modifications have persisted. As such, the operation of the rule is a combination of the RCRA statutes (as amended by the WIIN Act, *see* 42 U.S.C. § 6945(d)), the currently codified version (40 C.F.R. part 257, subpart D), subsequent rulemaking (*See Direct Final Rule [CCR; Response to Partial Vacatur]*, 81 Fed. Reg. 51,802 (Aug. 5, 2016); *Final Rule [CCR Phase One, Part One]*, 83 Fed. Reg. 36,435 (Jul. 30, 2018)) and case law (*See generally Util. Solid Waste Activities Grp. v. EPA*, 901 F.3d 414 (D.C. Cir. 2018)).

CCR units in Arizona are currently subject to the self-implementing federal CCR regulations. Many federal CCR requirements already overlap with both ADEQ’s air and aquifer protection authorities and with some of Arizona’s Department of Water Resources’ (ADWR) dam safety authorities. In fact, Arizona facilities regulated under the federal CCR regulations already comply with aquifer protection permits featuring conditions similar to requirements imposed by the federal CCR regulations.

Below is a list of facilities currently regulated under, both, the federal CCR regulations, 40 C.F.R. Part 257, Subpart D, and Arizona’s APP program, A.A.C. Title 18, Chapter 9:

- Apache Generating Station (Arizona Electric Power Cooperative, Inc.),
- Cholla Power Plant (Arizona Public Service Company),
- Springerville Generating Station (Tucson Electric Power Company), and
- Coronado Generating Station (Salt River Project).

Conflicts between APP and CCR

There are numerous procedural APP requirements that conflict with the substantive requirements of EPA’s federal CCR regulations. These conflicts generally arise from the overall structure of the two programs. APP is a permit program that provides for ADEQ involvement and approval of several key operational aspects of facilities that may affect Arizona aquifers (e.g., CCR landfills and surface impoundments operated by Arizona electric utilities). By contrast, EPA’s federal CCR rules governing these facilities are entirely self-implementing, by which there is no government agency involvement in the same sorts of aquifer-impacting activities that would otherwise require approval under APP. As such, under the federal regulations, operators of CCR disposal units are expected to simply comply with federal standards, under strict timeframes for which there is zero flexibility, and take significant actions without any government oversight (e.g., as to facility closure and corrective action). Thus, to the extent the APP program otherwise requires ADEQ approval prior to such aquifer-impacting actions being implemented—and where such state government review and approval cannot be completed within the strict timeframes dictated under federal regulations—adherence to the federal CCR regulations by Arizona electric utilities conflicts with state APP regulations and statutes.

One such example is the disposal unit closure process. By statute, the APP program requires that ADEQ to approve all closure actions that must be implemented when a permitted facility (e.g., CCR landfills or surface impoundments) ceases operation. *See* A.R.S. § 49-252. Specifically for closure activities that do not involve clean closure—i.e., where CCR or other waste materials are left in place as disposed and covered by a cap—the APP statute and regulations require the facility operator to submit an application for a new APP permit or request a permit modification. *See* A.C.C. R18-9-A209(B)(4); A.R.S. § 49-252(E). ADEQ is then subject to a duty to require that such applications be submitted for approval. *Id.*

By contrast, the federal CCR regulations simply require the initiation and implementation of CCR disposal unit closure within thirty (30) days after the unit ceases operation. *See* 40 C.F.R. § 257.102(e)(1)(i). In addition, such cessation of operation is often required for reasons beyond the control of CCR unit operators. *E.g.* 40 C.F.R. § 257.101(b)(1) (*requiring CCR unit closure where a facility violates location restrictions, e.g., as to nearby aquifer locations*). While such closure activities must be implemented in accordance with a published plan, the federal CCR regulations contain no requirement that such plans be reviewed and approved by any government entity. Under federal law, CCR unit operators are simply expected to develop a plan and then implement it. *See* 40 C.F.R. § 257.102(b).

“As Protective As” Comparison Tables:

Under A.R.S. § 49-250(A), ADEQ has the statutory authority to exempt, by rule, specifically described classes or categories of facilities (i.e., CCR disposal units) from the aquifer protection permit requirements on a finding that either:

1. There is no reasonable probability of degradation of the aquifer, or
2. Aquifer water quality will be maintained and protected because discharges from the class of facility are regulated under other federal or state programs that provide the same or greater aquifer water quality protection as A.R.S. Title 18, Chapter 2, Article 3 (APP authority).

ADEQ has determined that the CCR federal regulations (40 C.F.R. Part 257, Subpart D) provide the same or greater aquifer water quality protection as provided by the APP statutes (A.R.S. Title 18, Chapter 2, Article 3) and rules (A.A.C. Title 18, Chapter 9). ADEQ’s determination is demonstrated in the tables below, which compare the federal CCR and state APP requirements in terms of the following categorical components, respectively:

- Siting Criteria
- Structural Integrity for Surface Impoundments
- Hydraulic Capacity for Surface Impoundments
- Facility Liner Design
- Groundwater Monitoring
- Discharge Limitations
- Alert Levels for Ground Water Monitoring
- Aquifer Quality Limits and Aquifer Water



- Quality Standards for Groundwater Monitoring
- Corrective Action/Contingency Plan
- Closure/Temporary-Cessation/Post-Closure
- Financial Assurance
- Reporting Requirements
- Public Notice and Public Participation
- Inspections
- Enforcement
- Permit Suspension/ Revocation/ Denial/ Termination

Siting Criteria
Importance to Environment: Ensures that facilities are designed and operated to limit discharge of pollutants to the aquifer and environment taking into account site specific conditions

APP (A.R.S.; A.A.C.)	CCR (40 C.F.R. part 257)	CCR “as protective as” APP?
<p>A.R.S. § 49-243; A.A.C. R18-9-A202</p> <p>Requires the owner to supply a permit application with information that describes the facility including design documents, a technical demonstration that the best available demonstrated control technology (BADCT) is used at the facility, and a demonstration that the owner has the technical capability to operate the facility.</p> <p>If adverse siting conditions are present at the facility, such as shallow groundwater, seismic impact zone, etc., the owner must account for these conditions in the design, operation, maintenance, and closure/post-closure of the facility.</p>	<p>§§ 257.60 through 257.64</p> <p>Requires the base of a CCR surface impoundment or landfill to be constructed at least five feet above the uppermost aquifer or no hydraulic connection between the base of the CCR Unit and the uppermost aquifer.</p> <p>Unless the owner or operator of the CCR Unit meets specific alternate enumerated requirements with respect to each restriction below, the following location restrictions prohibit a facility from:</p> <p>(1) being located in wetlands;</p> <p>(2) being located closer than 200 feet from the outermost damage zone of fault that has had displacement in Holocene time (the last 11,700 years);</p> <p>(3) being located in a seismic impact zone; and</p> <p>(4) being located in an unstable area (unless the facility has been designed to mitigate instability).</p>	<p>Yes, as protective</p> <p>CCR is prescriptive in its location restrictions, where APP analyzes whether adverse siting conditions are present on a case by case basis. CCR location restrictions are as protective because they prohibit a facility from operating in an area with adverse siting conditions.</p>

Structural Integrity for Surface Impoundments
Importance to Environment: Ensures that facilities are designed and operated to limit discharge of pollutants to the aquifer and environment taking into account site specific conditions

APP (A.R.S.; A.A.C.)	CCR (40 C.F.R. part 257)	CCR “as protective as” APP?
<p>A.R.S. § 49-243; A.A.C. R18-9-A202</p> <p>Requires the owner to demonstrate that the best available demonstrated control technology (BADCT) is used at the facility, including a demonstration that dams associated with surface impoundments are designed for static and seismic stability.</p>	<p>§§ 257.73 and 257.74</p> <p>Prescribes specific structural integrity criteria for surface impoundments and requires periodic hazard potential classification assessments, an emergency action plan, periodic structural stability assessments, and periodic safety factor assessments.</p>	<p>Yes, as protective</p> <p>Federal CCR regulations require dam safety related assessments and plans beyond those required by APP authority. The federal CCR criteria also meet APP levels of protection of the aquifer, by protecting against dam failure of a surface impoundment.</p>

Hydraulic Capacity for Surface Impoundments
Importance to Environment: Ensures that facilities are designed and operated to limit discharge of pollutants to the aquifer and environment taking into account site specific conditions

APP (A.R.S.; A.A.C.)	CCR (40 C.F.R. part 257)	CCR “as protective as” APP?
<p>A.R.S. § 49-243; A.A.C. R18-9-A202</p> <p>Requires the owner to demonstrate that the best available demonstrated control technology (BADCT) is used at the facility, including an evaluation of the capacity of a surface impoundment to contain coal combustion residuals and rainfall.</p>	<p>§§ 257.53 and 257.82</p> <p>Specifies hydrologic and hydraulic capacity design criteria for surface impoundments with the degree of protection based on the hazard potential classification of the surface impoundment.</p> <p>Hazard potential classification means the possible adverse incremental consequences that result from the release of water or stored contents due to failure of the diked CCR surface impoundment or mis-operation of the diked CCR surface impoundment or its appurtenances. The hazard potential determination (High, Significant, or Low) relates to whether there is the potential for loss of human life, economic loss, environmental loss, disruption of lifeline facilities, or other concerns.</p>	<p>Yes, as protective</p> <p>CCR requires more prescriptive surface impoundment design than APP. CCR requires the design to accommodate specific design storm events and methods to contain and control storm water. The CCR criteria also meet APP levels of protection.</p>



Facility Liner Design		
<i>Importance to Environment: Ensures that facilities are designed and operated to limit discharge of pollutants to the aquifer and environment taking into account site specific conditions</i>		
APP (A.R.S.; A.A.C.)	CCR (40 C.F.R. part 257)	CCR “as protective as” APP?
A.R.S. § 49-243; A.A.C. R18-9-A202 Requires the owner to demonstrate that the best available demonstrated control technology (BADCT) is used at the facility including liner designs for landfills and surface impoundments and the run-on and run-off storm water management controls. Specific design storm events are not included in the APP rules.	§§ 257.70 through 257.72; 257.81 Design criteria for CCR surface impoundments generally require a composite liner system consisting of a geomembrane liner overlying two feet of compacted soil, while new CCR landfills must be constructed with a leachate collection system. The requirements for the lower liner, ordinarily consisting of two feet of soil, can be replaced by an alternative liner meeting specific permeability requirements. Run-on and run-off management controls for landfills must be designed for specified design storm events.	Yes, as protective CCR requires prescriptive discharge control designs for liners; APP authorizes alternative designs that consider site specific hydrogeologic conditions. The CCR criteria meet APP levels of protection of the aquifer. CCR prescriptive design storm events and methods to manage storm water on landfill surfaces also meet APP levels of protection.
Groundwater Monitoring		
<i>Importance to Environment: Ensures that facilities meet requirements to protect groundwater and the environment. If groundwater exceedances occur, monitoring systems detect the exceedance so that they can be mitigated.</i>		
APP (A.R.S.; A.A.C.)	CCR (40 C.F.R. part 257)	CCR “as protective as” APP?
A.A.C. R18-9-A206 APP has authority to prescribe groundwater monitoring methods, parameters, frequency, equipment, reporting intervals, and recordkeeping in permits as appropriate. APP approves the design of the monitoring well network, and establishes the monitoring requirements in permits including sampling protocols, sampling parameters, alert levels and aquifer quality limits. Exceedances of alert levels or aquifer quality limits trigger contingency and mitigation actions. Periodic self-monitoring reports are consistently required in permits. Monitoring requirements are site specific and consider the hydrogeology conditions at the site.	§§ 257.90 through 257.94 Federal CCR regulations prescribe the groundwater monitoring system design, requires a minimum of: (1) eight rounds of sampling from each background and downgradient well prior to initiating regular phases of detection monitoring, (2) semiannual detection monitoring unless an alternate frequency has been established, statistical analysis to determine if there are statistically significant increases over background, (3) annual groundwater monitoring and corrective action reporting, monitoring system design, well design specifications, sampling protocols, analytical methods, groundwater contour maps, statistical methods, and detection monitoring program that could trigger assessment monitoring program. Federal CCR regulations require monitoring for specific constituents in Appendix III for the detection monitoring program and a comprehensive list of constituents for the assessment monitoring program (Appendix IV). Appendix III Detection Monitoring Constituents Boron Calcium Chloride Fluoride Sulfate Total Dissolved Solids pH Appendix IV Assessment Monitoring Constituents Antimony Arsenic Barium Beryllium Cadmium Chromium Cobalt Fluoride Lead Lithium Mercury Molybdenum Selenium Thallium Radium 226 and 228 combined	Yes, as protective CCR monitoring requirements are prescriptive and leave very little room for consideration of site specific conditions; APP considers site-specific hydrogeologic conditions in determining the number and placement of wells and the parameters to be monitored. CCR monitoring requirements meet or exceed the requirements typically included in APP permits for coal combustion residual facilities.



Discharge Limitations		
<i>Importance to Environment: Discharge limitations can be used to ensure that the treatment technologies being used meet the best available demonstrated control technology criteria. For example, a sewage treatment facility must treat the wastewater for nitrate prior to discharge to the environment.</i>		
APP (A.R.S.; A.A.C.)	CCR (40 C.F.R. part 257)	CCR “as protective as” APP?
<p>A.R.S. § 49-243; A.A.C. R18-9-A205,</p> <p>If the APP includes limits on the type or quantity of pollutants placed within a surface impoundment or landfill, the limits are based on considerations such as the type of liners used in the facility, the operational practices used and the site specific hydrogeologic conditions. Disposal facilities rarely include treatment of the waste prior to disposal, therefore, discharge limits are usually only set for flow to the facility to assure adequate capacity, rather than limits on the concentration of pollutants.</p>	<p>No citation</p> <p>CCR rule does not have a comparable requirement or authorization to limit specific pollutants in coal combustion residuals from discharge to a facility. CCR requirements are specific to types of materials that have similar constituents or pollutants of concern. However, federal CCR regulations focus on protection of the aquifer by regulation of the ability of the CCR Unit to function so that there will not be a reasonable probability of adverse effects on health or the environment. In other words, rather than focus on the materials in the CCR units, the federal program focuses on containment of the CCR material in the CCR units.</p>	<p>Yes, as protective</p> <p>The pollutants in coal combustion residuals are a result of the pollutant concentrations in the coal and the air quality pollutant removal technology utilized. As more pollutants are removed from air emissions, their presence in the residuals increases. The purpose of discharging coal combustion residuals to surface impoundments and landfills is for appropriate disposal of the CCR material, and the CCR Program rule requirements are designed to ensure proper containment of the waste rather than reducing the concentration of pollutants in the CCR. This is why both the CCR and the APP regulations include design criteria that are protective of groundwater.</p> <p>ADEQ does not typically utilize the discretionary authority under APP to limit the type or quantity of pollutants placed within a surface impoundment or landfill by CCR facilities because the goal is containment of waste, not treatment of waste prior to containment. Therefore, APP does not routinely establish pollutant discharge limits for CCR facilities.</p>
Alert Levels for Groundwater Monitoring		
<i>Importance to Environment: Alert levels for pollutants in groundwater are established in permits to trigger contingency actions early, before regulatory limits are exceeded in the aquifer</i>		
APP (A.R.S.; A.A.C.)	CCR (40 C.F.R. part 257)	CCR “as protective as” APP?
<p>A.A.C. R18-9-A205</p> <p>If the APP includes an alert level, the level will be based on a site-specific condition. The alert level may be based on a pollutant that indicates the potential appearance of another pollutant.</p> <p>Exceedance of an alert level triggers contingency actions, including increased monitoring frequency and investigation of the cause of the exceedance.</p>	<p>§ 257.94</p> <p>The CCR detection monitoring program requires semiannual sampling. Detection monitoring requires the facility to sample the seven constituents identified in 40 C.F.R. Part 257, Appendix III.</p>	<p>Yes, as protective</p> <p>The CCR rule’s approach is equally protective because Appendix III constituents move through the subsurface along with groundwater, and thus provide an early detection of whether contaminants are migrating from the facility. This concept is very similar to the APP requirements for setting and using alert levels in permits.</p>
Aquifer Quality Limits and Aquifer Water Quality Standards for Groundwater Monitoring		
<i>Importance to Environment: Aquifer quality limits are regulatory limits established in a permit, that if exceeded, constitute a violation of the permit and triggers mitigation actions.</i>		
APP (A.R.S.; A.A.C.)	CCR (40 C.F.R. part 257)	CCR “as protective as” APP?



<p>A.A.C. R18-9-A205.C, A.R.S. § 49-223</p> <p>APP requires compliance with aquifer quality limits (AQLs), which are set equal to the aquifer water quality standards (AWQS) or, for non-attaining aquifers, the background concentration</p>	<p>§ 257.95 (as amended)</p> <p>If there is a statistically significant increase over background levels for any Appendix III constituent, the facility must then implement an assessment monitoring program, which requires monitoring of all pollutants regulated under the CCR rule (Appendix IV).</p> <p>Under assessment monitoring, the owner or operator must sample all wells for all Appendix IV constituents. The CCR groundwater protection standards are set at Maximum Contaminant Levels or MCLs, while parameters for cobalt, lead, lithium, and molybdenum (i.e., those constituents without an MCL) are set based upon EPA's Risk Assessment Guidance for Superfund. See 83 Fed. Reg. 36,435, 36,444 (Aug. 29, 2018). For those parameters for which background concentrations are higher than the listed federal CCR groundwater protection standards, the groundwater protection standard is then set consistent with background concentrations.</p>	<p>Yes, as protective</p> <p>The table below is a comparison between AQLs imposed on a typical CCR unit under APP and groundwater protection standards imposed under the federal CCR regulation. The .015 mg/l groundwater protection standard for lead under the CCR rule is more stringent than the .05 mg/l AQL for lead under the APP standards. Likewise, the .01 groundwater protection standard for arsenic under the CCR rules is more stringent than the .05 AQL for arsenic under the APP standards.</p> <table border="1" data-bbox="950 436 1476 625"> <thead> <tr> <th>Pollutant</th> <th>Aquifer Quality Limit (APP Program) (mg/l)</th> <th>Groundwater Protection Standard (CCR Rule) (mg/l)</th> </tr> </thead> <tbody> <tr> <td>Lead</td> <td>.05</td> <td>.015</td> </tr> <tr> <td>Arsenic</td> <td>.05</td> <td>.01</td> </tr> </tbody> </table>	Pollutant	Aquifer Quality Limit (APP Program) (mg/l)	Groundwater Protection Standard (CCR Rule) (mg/l)	Lead	.05	.015	Arsenic	.05	.01
Pollutant	Aquifer Quality Limit (APP Program) (mg/l)	Groundwater Protection Standard (CCR Rule) (mg/l)									
Lead	.05	.015									
Arsenic	.05	.01									

<p>Corrective Action/Contingency Plan <i>Importance to Environment: Ensures that if there is an exceedance of a groundwater standard or operational standard, the problem will be assessed and appropriate mitigation requirements implemented</i></p>		
APP (A.R.S.; A.A.C.)	CCR (40 C.F.R. part 257)	CCR "as protective as" APP?
<p>A.A.C. R18-9-A204</p> <p>Requires contingency or correction actions in response to exceedances of groundwater limits (ALs or AQLs) or other permit conditions (DLs), or if there is an imminent and substantial endangerment to the public health or the environment. Exceedances may require verification sampling, ADEQ notification, additional monitoring and inspection, evaluation of facility integrity, investigation of impacts, and evaluation and implementation of corrective measures.</p> <p>The owner must maintain a contingency plan that includes responses to ALs, AQLs, DLs and an emergency response plan for imminent and substantial endangerment to public health or environment.</p>	<p>§§ 257.96 through 257.98</p> <p>Requires assessment of potential corrective measures upon detection of a release from a CCR unit or the identification of CCR constituents in groundwater statistically in excess of groundwater protection standards established under the federal CCR rule. In general, corrective measures must be designed to prevent further releases and to remediate the affected areas to the maximum extent feasible. The documented assessment of corrective measures for a given CCR facility, which are subject to public input requirements, must evaluate remedy implementation issues, including analysis of cross-media impacts and any controls necessary to address residual contamination, the time necessary to implement the remedy, and any institutional requirements among other considerations.</p> <p>Requires an owner to select a remedy that, at a minimum, achieves certain performance criteria, including without limitation a remedy that is protective of human health and the environment, attains groundwater protection standards, controls and/or reduces the source, eliminates to maximum extent feasible further releases, and removes as much contaminated material that was released from the CCR unit from the environment as feasible taking into account certain factors enumerated in the federal rule. In selecting a remedy that meets the mandatory performance criteria, the following factors, among others, must be considered and balanced: the long- and short-term effectiveness and protectiveness of the remedy along with the degree of certainty that the remedy will prove successful and the ease or difficulty of implementing a potential remedy. A schedule for implementing and completing the remedy must be established.</p> <p>Requires an owner, within 90 days after remedy selection, to initiate remedial activities, implement a corrective action groundwater monitoring program, implement corrective action remedy and take interim measures necessary to reduce the contaminants leaching from the CCR unit.</p> <p>A remedy shall be considered complete when the groundwater protection standards have been achieved for a period of three consecutive years and all actions required to complete the remedy have been satisfied.</p>	<p>Yes, as protective</p> <p>CCR corrective action requirements are prescriptive and meet or exceed the contingency and corrective action requirements typically included in APP permits for coal combustion residual facilities. APP authority in the rule and statute allows ADEQ to require the corrective action remedy selection, implementation and completion of activities that are prescriptive under CCR.</p>



Closure/Temporary Cessation/Post-Closure		
<i>Importance to Environment: Ensures that the closure and post-closure activities are appropriate to provide protection of groundwater and the environment and eliminate further discharge from the facility</i>		
APP (A.R.S.; A.A.C.)	CCR (40 C.F.R. part 257)	CCR "as protective as" APP?
<p>R18-9-A209</p> <p>Requires a closure plan to control the discharge of pollutants from the facility to the aquifer. The plan must include the method used, if any, to treat any material remaining at the facility, and the methods used to control discharge, such as a cover system, for materials to remain at the facility.</p>	<p>§§ 257.101 through 257.104 (as interpreted pursuant <i>Util. Solid Waste Activities Grp. v. EPA</i>)</p> <p>Requires a closure plan that includes the design of a final cover system to control, minimize, or eliminate (to the maximum extent feasible), both post-closure infiltration of liquids into disposed waste materials and releases of CCR, leachate, or contaminated runoff to the ground or surface waters or to the atmosphere. Prescriptive performance criteria for the final cover system. Closure through removal of CCR material is also an alternative.</p> <p>Establishes a list of mandatory triggering conditions (such as not satisfying liner criteria, violation of a location standard, or unsafe containment conditions) that require the retrofit or closure of an existing unlined surface impoundment or landfill.</p> <p>Establishes requirements that must be met to close, including without limitation final cover design, schedule, engineer certification of closure, deed restrictions, and public notifications.</p> <p>Allows for continued operation of a CCR facility that would normally close due to one of the triggering conditions if the owner certifies the unit must continue operation due to absence of alternative disposal capacity. The extension of closure deadlines is only available for so long as the alternative disposal capacity is not available, and only for a maximum of five years from the initial certification.</p> <p>Requires post-closure care to maintain integrity and effectiveness of final cover, leachate collection system, and groundwater monitoring, for a 30-year period.</p> <p>A remedy shall be considered complete when the groundwater protection standards have been achieved and all actions required to complete the remedy have been satisfied.</p>	<p>Yes, as protective</p> <p>CCR closure requirements are prescriptive and meet or exceed the closure requirements typically included in APP permits for coal combustion residual facilities. APP authority in the rule and statute allows ADEQ to require the closure plan, and implementation and completion activities for closure that are prescriptive under CCR.</p>

Financial Assurance		
<i>Importance to Environment: Ensures that electric utilities are capable of meeting the financial obligations to close and assure proper post-closure care for their facilities in a manner that meets environmental requirements.</i>		
APP (A.R.S.; A.A.C.)	CCR (40 C.F.R. part 257)	CCR "as protective as" APP?
<p>R18-9-A203</p> <p>APP requires a demonstration of financial capability to construct, operate, close and ensure proper post-closure care and requires that the owner establish one of 8 financial mechanisms to cover costs of closure and post-closure care.</p>	<p>The CCR regulations do not include a financial assurance demonstration.</p>	<p>While there is not a parallel requirement under federal CCR regulations as there is under APP to prove financial assurance for unit or facility closure, in practice, it is extremely unlikely that the class of regulated facilities at issue here will be unable to financially execute their environmental requirements under the federal CCR regulations, including as to facility closure.</p> <p>Owners that qualify as public service corporations under Arizona Corporation Commission (ACC) rules are subject to standards equivalent to or more stringent than the APP's financial assurance requirements. The public service corporation rules require regulated entities to estimate costs, including both environmental compliance and CCR unit decommissioning costs (as part of the associated generating unit), develop a plan to manage those activities and associated uncertainties, update that plan once every two years, and provide a mechanism to ensure that those costs are met by the rates ordered by the ACC.</p> <p>Salt River Project (SRP) is not a public service corporation subject to ACC but is a self-governed Agricultural Improvement and Power District with public-customer elected Board pursuant to A.R.S. Title 48, Chapter 17 (A.R.S. § 48-2301 <i>et seq.</i>). The Board has approved a Master Bond Resolution, which obligates SRP to charge rates sufficient to meet its obligations, including decommissioning obligations (e.g. definition of "operating expenses" and Sec. 7.11 of Master Bond Resolution). There are other options to raise funds. For example, if SRP's revenue is insufficient to discharge its reported obligations, the County Board of Supervisors shall levy a land-proportional tax "sufficient to raise the amount reported" in the District Board's annual estimate. A.R.S. § 48-2414(A)</p> <p>The processes described above provide the same or greater degree of cost estimation, cost updating, and financial provision as does the APP requirements, and therefore, also provides the same or better protection of aquifer water quality. Accordingly, financial assurance for this class of facility is provided by other applicable state programs and related assurances.</p>



Reporting Requirements		
<i>Importance to Environment: Ensures that monitoring and facility inspection results are available for review to allow for compliance determinations</i>		
APP (A.R.S.; A.A.C.)	CCR (40 C.F.R. part 257)	CCR “as protective as” APP?
<p>R18-9-A207</p> <p>Requires reporting of routine groundwater monitoring data to ADEQ on a periodic basis.</p> <p>Requires owner to provide ADEQ notification of a permit violation (AQL or DL exceedance) within 5-days of becoming aware of violation and a written report of violation within 30-days. Owner must notify ADEQ with 5 days of a bankruptcy or entry of order or judgement.</p>	<p>§§ 257.105 through 257.107</p> <p>Requires owners to self-report a wide range of demonstrations and reports to the facility’s operating record and comply with the internet posting requirements.</p> <p>Requires owner to notify ADEQ upon placement of documentation in the facility operating record for several different requirements including design criteria, inspection results, and groundwater corrective action.</p> <p>Requires notifications and public disclosure in response to exceedances as described in Notification and Internet Site Requirements, which reference operative sections of the CCR regulation.</p>	<p>Yes, as protective in practice.</p> <p>Internet posting requirements allow ADEQ and the public the opportunity to review significant facility records concerning CCR facility construction, inspections, closure planning, and groundwater quality, among others outlined in the Notification and Internet Requirements of the federal regulation. Notification requirements provide ADEQ updates on the status of compliance with CCR design and operation requirements which are closely related to APP requirements as described in the sections above.</p>

Public Notice and Public Participation		
<i>Importance to Environment: Public notice and participation ensures that the public is aware of actions of industrial facilities and that there is appropriate oversight, ensures the public to have a voice as to whether actions taken by facilities and agencies are appropriate to protect the aquifer</i>		
APP (A.R.S.; A.A.C.)	CCR (40 C.F.R. part 257)	CCR “as protective as” APP?
<p>R18-9-108: ADEQ (not owner) provides outside Entities (Counties, Fed/State/Local agencies, citizens) notification of key steps in the permitting process (applications, preliminary & final decisions, closure plans, significant amendments, revocations, clean closure approvals). Also provision for website posting.</p> <p>R18-9-109: ADEQ publishes Notices of Preliminary Decisions regarding issuance or denial of significant amendment to a permit or final determination. Provides for a written public comment period, and written response from ADEQ. Provides for public hearing if determined necessary.</p>	<p>§§ 257.105 through 257.107</p> <p>Requires owners maintain extensive operating record, retain most items 5 years from document date, retain website 5 years from posting date, retain certain items until unit closure completed, and provides short timeframes for notifications and web posting depending on event.</p> <p>A public meeting is required prior to selection of a corrective action remedy.</p>	<p>Yes, as protective</p> <p>Information on facility design, operation and monitoring is readily available on the facilities’ websites. Similar information would be provided by ADEQ under the APP process as part of the public notice requirements, therefore CCR provides equivalent public information.</p>



Inspections		
<i>Importance to Environment: Ensures that facilities are accountable for their actions and will put measures in place to correct deficiencies</i>		
APP (A.R.S.; A.A.C.)	CCR (40 C.F.R. Part 257)	CCR “as protective as” APP?
<p>R18-9-110 Provides for ADEQ personnel to conduct an inspection of a permitted facility per ARS 41-1009 (Inspections & audits, applicability; exceptions).</p>	<p>§§ 257.83, 257.84</p> <p>Operators of CCR surface impoundments must complete weekly inspections for potential structural weakness and at all outlets of hydraulic structures that pass underneath the base of the surface impoundment or through the dike of the CCR unit for abnormal discoloration, flow or discharge of debris and monthly inspections of all CCR unit instrumentation.</p> <p>Requires annual and quinquennial (occurring every five years) inspections by a qualified professional engineer (QPE) to ensure that the design, construction, operation, and maintenance of the CCR unit is consistent with recognized and generally accepted good engineering standards.</p> <p>For surface impoundments, the QPE must also provide a structural stability assessment.</p> <p>For landfills, the QPE must also identify any structural weakness or conditions that disrupt the operation or safety of the CCR unit.</p> <p>Requires website posting of the results of the inspections, conclusions, and appropriate next steps (e.g. additional monitoring and/or corrective action)</p> <p>The U.S. EPA is also authorized to access facilities used to manage CCR and conduct inspections to ensure compliance with federal CCR regulations. See 42 U.S.C. §§ 6945(d)(4)(A), 6927(a). Any records secured or generated by U.S. EPA in the course of such inspections must be made available to the public. See <i>id.</i></p>	<p>Yes, as protective</p> <p>The weekly inspections by CCR operators assures proper maintenance and operation of the facilities.</p> <p>The qualified professional engineer inspections provide oversight of facility design and operational integrity on a regular basis to assure adherence to CCR requirements which are similar to APP requirements (e.g. liner system design, impoundment operation and stability). In addition, similar to APP authority for ADEQ to conduct inspections, the U.S. EPA is empowered under RCRA to inspect facilities that manage CCR and to publicly disclose the results of such inspections. Moreover, ADEQ would continue to maintain the Department’s general inspection authority for situations where the Director determines, upon a reasonable basis belief, that a given facility may be in “violation of any environmental law or regulation.” See A.R.S. § 49-104(B)(8).</p>



Enforcement		
<i>Importance to Environment: Ensures that facilities are accountable for their actions and will put measures in place to correct deficiencies</i>		
APP (A.R.S.; A.A.C.)	CCR (40 C.F.R. Part 257)	CCR “as protective as” APP?
Provides for state enforcement only under A.R.S. Title 49, Chapter 2, Article 4: Enforcement, for a person who owns or operates a facility contrary to Articles 1, 2, or 3 of AAC Title 18, Chapter 9.	CCR facilities are regulated under RCRA Subtitle D (42 U.S.C. §§ 6941-6949a). Excepting recent modifications under the WIIN Act, enforcement under subtitle D for self-implementing rules is left to citizens to initiate lawsuits to enforce a violation of a requirement under RCRA or any past or present generator, past or present transporter, or past or present owner or operator of a treatment, storage, or disposal facility, who has contributed or who is contributing to the past or present handling, storage, treatment, transportation, or disposal of any solid or hazardous waste which may present an imminent and substantial endangerment to health or the environment. <i>See</i> 42 U.S.C. §§ 6972–73) (providing authorization to commence an action with respect to the above-referenced circumstances, which would apply to a CCR unit regulated under RCRA Subpart D). In addition, the U.S. EPA is authorized to bring administrative and judicial enforcement actions under RCRA to enforce the federal CCR regulations. <i>See id.</i> §§ 6945(d)(4)(A), 6928 (providing U.S. EPA with federal enforcement authority specifically with respect to CCR, pursuant to legislation passed in 2016).	Yes, as protective APP program does not provide for a direct citizen enforcement mechanism, while CCR does. In the absence of state oversight, there is still an oversight mechanism built into the federal CCR regulations, including via U.S. EPA enforcement authorities under RCRA, specifically directed at CCR. Further, EPA’s self-implementing rules are promulgated to enable public inspection of data and decisions. <i>See, e.g.,</i> 40 C.F.R. § 257.107 (internet posting requirements). Such public disclosure enables citizen enforcement under 42 U.S.C. §§ 6972–73.
Permit Suspension/Revocation/Denial/Termination		
<i>Importance to Environment: Allows the Director to prohibit discharge to a facility that doesn’t meet the requirements of the APP program for protection of groundwater and the environment</i>		
APP (A.R.S.; A.A.C.)	CCR (40 C.F.R. Part 257)	CCR “as protective as” APP?
R18-9-A213 The Director may take actions upon determination that an owner failed to comply with APP requirements or misrepresented information in an APP application, a facility is causing a violation of groundwater limits or is causing/will cause an imminent and substantial endangerment to public health or the environment, or an owner failed to maintain financial capability.	257.101(b) The CCR requirements are self-implementing; therefore, there isn’t a permitting program. If a facility does not meet certain requirements, the rule requires closure of the facility. For example, existing CCR surface impoundments failing to meet location standards must close. In addition, CCR surface impoundments that are not lined in accordance with the federal CCR rule requirements must similarly close. Moreover, if CCR facilities are not in compliance with federal CCR regulations, the facility is considered an “open dump” and is subject to enforcement actions and citizen lawsuits. <i>See</i> 42 U.S.C. § 6945(d).	Yes, as protective The CCR rule is written to be self-implementing and there are no exemptions from 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:

Not applicable

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. The proposed amendments do not diminish a previous grant of authority of a political subdivision of this state. However, as previously explained, it will limit the authority of the state itself.

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

The agency is exempt from the requirements under A.R.S. § 41-1055(G) to prepare and file an economic, small business, and consumer impact statement under A.R.S. § 41-1055(D)(2).

9. The agency’s contact person who can answer questions about the above statement regarding the preliminary summary of the economic, small business and consumer impact of the proposed expedited rule:

Name: Heidi M. Haggerty Welborn
 Address: Arizona Department of Environmental Quality
 1110 W. Washington St.
 Phoenix, AZ 85007
 Telephone: (602) 771-4815
 E-mail: Welborn.Heidi@azdeq.gov
 Website: <http://www.azdeq.gov/draft-and-proposed-rule-water-quality-division>



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 of Hearing: June 14, 2019
 Time: 9:30 a.m.
 Location: Department of Environmental Quality
 1110 W. Washington St., Room 3175
 Phoenix, AZ 85007

Nature: In-person oral proceeding on the proposed rules, with opportunity to submit formal comments on the record. ADEQ will take reasonable measures to provide access to department services to individuals with limited ability to speak, write or understand English and/or to those with disabilities. Requests for language interpretation, ASL interpretation, CART captioning services or disability accommodations must be made at least 48 hours in advance by contacting Ian Bingham, Title VI Nondiscrimination Coordinator at 602-771-4322 or Bingham.Ian@azdeq.gov. Teleprinter services are available by calling 7-1-1 at least 48 hours in advance to make necessary arrangements.

Emailed or hard-copy written comments related to this rulemaking may be submitted at any time during the public comment period to:

Name: Heidi M. Haggerty Welborn
 Address: Department of Environmental Quality
 1110 W. Washington St.
 Phoenix, AZ 85007
 E-mail: Welborn.Heidi@azdeq.gov

Close of Comment Period: 5:00 p.m. on Date of Hearing as listed above

11. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules.

There are no additional matters prescribed by statute applicable specifically to ADEQ or this specific rulemaking.

a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used (A.R.S. §§ 41-1052(D)(10) & -1037(A); A.A.C. R1-1-801(C)(5)(j)):

Not applicable. This rulemaking exempts certain facilities from permitting.

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 (A.R.S. § 41-1052(D)(9)):

As discussed above, for the very reason that federal law applies (RCRA and 40 C.F.R. part 257, subpart D), certain classes of facilities are being exempted from state law. Therefore, this rulemaking is not more stringent than federal law.

c. Whether a person submitted an analysis to the agency that compares the rule's impact on the competitiveness of business in this state to the impact on business in other states (A.A.C. R1-1-801(C)(5)(j)):

No such 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 18. ENVIRONMENTAL QUALITY
 CHAPTER 9. DEPARTMENT OF ENVIRONMENTAL QUALITY
 WATER POLLUTION CONTROL**

ARTICLE 1. AQUIFER PROTECTION PERMITS – GENERAL PROVISIONS

Section	
R18-9-101.	Definitions
R18-9-103.	Class Exemptions

ARTICLE 1. AQUIFER PROTECTION PERMITS – GENERAL PROVISIONS

R18-9-101. Definitions

In addition to the definitions established in A.R.S. § 49-201, the following terms apply to Articles 1, 2, 3, and 4 of this Chapter:

1. "Aggregate" means a clean graded hard rock, volcanic rock, or gravel of uniform size, between 3/4 inch and 2 1/2 inches in diameter, offering 30 percent or more void space, washed or prepared to be free of fine materials that will impair absorption surface performance, and has a hardness value of three or greater on the Moh's Scale of Hardness (can scratch a copper penny).
2. "Alert level" means a value or criterion established in an individual permit that serves as an early warning indicating a potential violation of a permit condition related to BADCT or the discharge of a pollutant to groundwater.



3. "AQL" means an aquifer quality limit and is a permit limitation set for aquifer water quality measured at the point of compliance that either represents an Aquifer Water Quality Standard or, if an Aquifer Water Quality Standard for a pollutant is exceeded in an aquifer at the time of permit issuance, represents the ambient water quality for that pollutant.
4. "Aquifer Protection Permit" means an individual permit or a general permit issued under A.R.S. §§ 49-203, 49-241 through 49-252, and Articles 1, 2, and 3 of this Chapter.
5. "Aquifer Water Quality Standard" means a standard established under A.R.S. §§ 49-221 and 49-223.
6. "AZPDES" means the Arizona Pollutant Discharge Elimination System, which is the state program for issuing, modifying, revoking, reissuing, terminating, monitoring, and enforcing permits, and imposing and enforcing pretreatment and biosolids requirements under A.R.S. Title 49, Chapter 2, Article 3.1 and 18 A.A.C. 9, Articles 9 and 10.
7. "BADCT" means the best available demonstrated control technology, process, operating method, or other alternative to achieve the greatest degree of discharge reduction determined for a facility by the Director under A.R.S. § 49-243.
8. "Bedroom" means, for the purpose of determining design flow for an on-site wastewater treatment facility for a dwelling, any room that has:
 - a. A floor space of at least 70 square feet in area, excluding closets;
 - b. A ceiling height of at least 7 feet;
 - c. Electrical service and ventilation;
 - d. A closet or an area where a closet could be constructed;
 - e. At least one window capable of being opened and used for emergency egress; and
 - f. A method of entry and exit to the room that allows the room to be considered distinct from other rooms in the dwelling and to afford a level of privacy customarily expected for such a room.
9. "Book net worth" means the net difference between total assets and total liabilities.
10. "Chamber technology" means a method for dispersing treated wastewater into soil from an on-site wastewater treatment facility by one or more manufactured leaching chambers with an open bottom and louvered, load-bearing sidewalls that substitute for an aggregate-filled trench described in R18-9-E302.
10. "CCR" means coal combustion residuals which include fly ash, bottom ash, boiler slag, and flue gas desulfurization materials generated from burning coal for the purpose of generating electricity by electric utilities and independent power producers.
11. "CCR landfill" means an area of land or an excavation that receives CCR and which is not a municipal solid waste landfill, a surface impoundment, an underground injection well, a salt dome formation, a salt bed formation, an underground or surface coal mine, or a cave. A CCR landfill also includes sand and gravel pits and quarries that receive CCR, CCR piles, and any practice that does not meet the definition of beneficial use of CCR.
12. "CCR surface impoundment" means a natural topographic depression, man-made excavation, or diked area, which is designed to hold an accumulation of CCR and liquids, and the unit treats, stores, or disposes of CCR.
13. "CCR unit" means any CCR landfill which receives CCR, any CCR surface impoundment designed to hold an accumulation of CCR and liquids, and the unit treats, stores or disposes of CCR. CCR unit includes a lateral expansion of a CCR unit, or a combination of more than one of these units that receives CCR.
- ~~14.~~14. "CMOM Plan" means a Capacity, Management, Operations, and Maintenance Plan, which is a written plan that describes the activities a permittee will engage in and actions a permittee will take to ensure that the capacity of the sewage collection system, when unobstructed, is sufficient to convey the peak wet weather flow through each reach of sewer, and provides for the management, operation, and maintenance of the permittee's sewage collection system.
- ~~15.~~15. "Design capacity" means the volume of a containment feature at a discharging facility that accommodates all permitted flows and meets all Aquifer Protection Permit conditions, including allowances for appropriate peaking and safety factors to ensure sustained, reliable operation.
- ~~16.~~16. "Design flow" means the daily flow rate a facility is designed to accommodate on a sustained basis while satisfying all Aquifer Protection Permit discharge limitations and treatment and operational requirements. The design flow either incorporates or is used with appropriate peaking and safety factors to ensure sustained, reliable operation.
- ~~17.~~17. "Direct reuse site" means an area where reclaimed water is applied or impounded.
- ~~18.~~18. "Disposal works" means the system for disposing treated wastewater generated by the treatment works of a sewage treatment facility or on-site wastewater treatment facility, by surface or subsurface methods. Disposal works do not include systems for activities regulated under 18 A.A.C. 9, Article 7.
- ~~19.~~19. *"Drywell" means a well which is a bored, drilled or driven shaft or hole whose depth is greater than its width and is designed and constructed specifically for the disposal of storm water. Drywells do not include class 1, class 2, class 3 or class 4 injection wells as defined by the Federal Underground Injection Control Program (P.L. 93-523, part C), as amended. A.R.S. § 49-331(3)*
- ~~20.~~20. "Dwelling" means any building, structure, or improvement intended for residential use or related activity, including a house, an apartment unit, a condominium unit, a townhouse, or a mobile or manufactured home that has been constructed or will be constructed on real property.
- ~~21.~~21. "Final permit determination" means a written notification to the applicant of the Director's final decision whether to issue or deny an Individual Aquifer Protection Permit.
- ~~22.~~22. "Groundwater Quality Protection Permit" means a permit issued by the Arizona Department of Health Services or the Department before September 27, 1989 that regulates the discharge of pollutants that may affect groundwater.
- ~~23.~~23. "Homeowner's association" means a nonprofit corporation or unincorporated association of owners created pursuant to a declaration to own and operate portions of a planned community and which has the power under the declaration to assess association members to pay the costs and expenses incurred in the performance of the association's obligations under the declaration.
- ~~24.~~24. "Injection well" means a well that receives a discharge through pressure injection or gravity flow.
- ~~25.~~25. "Intermediate stockpile" means in-process material not intended for long-term storage that is in transit from one process to another at a mining site. Intermediate stockpile does not include metallic ore concentrate stockpiles or feedstocks not originating at the mining site.



- 23-26. “Land treatment facility” means an operation designed to treat and improve the quality of waste, wastewater, or both, by placement wholly or in part on the land surface to perform part or all of the treatment. A land treatment facility includes a facility that performs biosolids drying, processing, or composting, but not land application performed in compliance with 18 A.A.C. 9, Article 10.
- 24-27. “Mining site” means a site assigned one or more of the following primary Standard Industrial Classification Codes: 10, 12, 14, 32, and 33, and includes noncontiguous properties owned or operated by the same person and connected by a right-of-way controlled by that person to which the public is not allowed access.
- 25-28. “Nitrogen Management Area” means an area designated by the Director for which the Director prescribes measures on an area-wide basis to control sources of nitrogen, including cumulative discharges from on-site wastewater treatment facilities, that threaten to cause or have caused an exceedance of the Aquifer Water Quality Standard for nitrate.
- 26-29. “Notice of Disposal” means a document submitted to the Arizona Department of Health Services or the Department before September 27, 1989, giving notification of a pollutant discharge that may affect groundwater.
- 27-30. “On-site wastewater treatment facility” means a conventional septic tank system or alternative system installed at a site to treat and dispose of wastewater, predominantly of human origin, generated at that site. An on-site wastewater treatment facility does not include a pre-fabricated, manufactured treatment works that typically uses an activated sludge unit process and has a design flow of 3000 gallons per day or more.
- 28-31. “Operational life” means the designed or planned period during which a facility remains operational while being subject to permit conditions, including closure requirements. Operational life does not include post-closure activities.
- 29-32. “Person” means an individual, employee, officer, managing body, trust, firm, joint stock company, consortium, public or private corporation, including a government corporation, partnership, association or state, a political subdivision of this state, a commission, the United States government or any federal facility, interstate body or other entity. A.R.S. § 49-201(26). For the purposes of permitting a sewage treatment facility under Article 2 of this Chapter, person does not include a homeowner’s association.
- 30-33. “Pilot project” means a short-term, limited-scale test designed to gain information regarding site conditions, project feasibility, or application of a new technology.
- 31-34. “Process solution” means a pregnant leach solution, barren solution, raffinate, or other solution uniquely associated with the mining or metals recovery process.
- 32-35. “Residential soil remediation level” means the applicable predetermined standard established in 18 A.A.C. 7, Article 2, Appendix A.
- 33-36. “Seasonal high water table” means the free surface representing the highest point of groundwater rise within an aquifer due to seasonal water table changes over the course of a year.
- 34-37. “Setback” means a minimum horizontal distance maintained between a feature of a discharging facility and a potential point of impact.
- 35-38. “Sewage” means untreated wastes from toilets, baths, sinks, lavatories, laundries, other plumbing fixtures, and waste pumped from septic tanks in places of human habitation, employment, or recreation. Sewage does not include gray water as defined in R18-9-701(4), if the gray water is reused according to 18 A.A.C. 9, Article 7.
- 36-39. “Sewage collection system” means a system of pipelines, conduits, manholes, pumping stations, force mains, and all other structures, devices, and appurtenances that collect, contain, and convey sewage from its sources to the entry of a sewage treatment facility or on-site wastewater treatment facility serving sources other than a single-family dwelling.
- 37-40. “Sewage treatment facility” means a plant or system for sewage treatment and disposal, except for an on-site wastewater treatment facility, that consists of treatment works, disposal works and appurtenant pipelines, conduits, pumping stations, and related subsystems and devices. A sewage treatment facility does not include components of the sewage collection system or the reclaimed water distribution system.
- 38-41. “Surface impoundment” means a pit, pond, or lagoon with a surface dimension equal to or greater than its depth, and used for the storage, holding, settling, treatment, or discharge of liquid pollutants or pollutants containing free liquids.
- 39-42. “Tracer” means a substance, such as a dye or other chemical, used to change the characteristic of water or some other fluid to detect movement.
- 40-43. “Tracer study” means a test conducted using a tracer to measure the flow velocity, hydraulic conductivity, flow direction, hydrodynamic dispersion, partitioning coefficient, or other property of a hydrologic system.
- 41-44. “Treatment works” means a plant, device, unit process, or other works, regardless of ownership, used for treating, stabilizing, or holding municipal or domestic sewage in a sewage treatment facility or on-site wastewater treatment facility.
- 42-45. “Typical sewage” means sewage conveyed to an on-site wastewater treatment facility in which the total suspended solids (TSS) content does not exceed 430 mg/l, the five-day biochemical oxygen demand (BOD₅) does not exceed 380 mg/l, the total nitrogen does not exceed 53 mg/l, and the content of oil and grease does not exceed 75 mg/l.
- 43-46. “Underground storage facility” means a constructed underground storage facility or a managed underground storage facility. A.R.S. § 45-802.01(21).
- 44-47. “Waters of the United States” means:
- All waters that are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters that are subject to the ebb and flow of the tide;
 - All interstate waters, including interstate wetlands;
 - All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any waters:
 - That are or could be used by interstate or foreign travelers for recreational or other purposes;
 - From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or
 - That are used or could be used for industrial purposes by industries in interstate commerce;



- d. All impoundments of waters defined as waters of the United States under this definition;
- e. Tributaries of waters identified in subsections (a) through (d);
- f. The territorial sea; and
- g. Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in subsections (a) through (f).

R18-9-103. Class Exemptions

Class exemptions. In addition to the classes or categories of facilities listed in A.R.S. § 49-250(B), the following classes or categories of facilities are exempt from the Aquifer Protection Permit requirements in Articles 1, 2, and 3 of this Chapter:

- 1. Facilities that treat, store, or dispose of hazardous waste and have been issued a permit or have interim status, under the Resource Conservation and Recovery Act (P.L. 94-580; 90 Stat. 2796; 42 U.S.C. 6901 et seq., as amended), or have been issued a permit according to the hazardous waste management rules adopted under 18 A.A.C. 8, Article 2;
- 2. Underground storage tanks that contain a regulated substance as defined in A.R.S. § 49-1001;
- 3. Facilities for the disposal of solid waste, as defined in A.R.S. § 49-701.01, that are located in unincorporated areas and receive solid waste from four or fewer households;
- 4. Land application of biosolids in compliance with 18 A.A.C. 9, Articles 9 and 10; and
- 5. CCR Units that were in existence as of January 1, 2019, and which are governed by 40 C.F.R. Part 257, Subpart D. This exemption for CCR Units shall only extend until such time as both of the following are met, as applicable to a given CCR Unit:
 - a. Regulations are approved by the U.S. Environmental Protection Agency, in accordance with 42 U.S.C. § 6945(d)(1), for the issuance of permits governing CCR Units, and
 - b. The Director issues a permit to a given CCR Unit, which incorporates terms at least as protective as 40 C.F.R. Part 257, Subpart D.



**NOTICES OF EXPIRATION OF RULES
UNDER A.R.S. § 41-1056(J)**

This section of the *Arizona Administrative Register* contains Notices of Expiration of Rules. Under A.R.S. § 41-1056(J), if an agency does not file a five-year rule review report with the Governor’s Regulatory Review Council (including a revised report); or if an agency does not file an extension before the due date of the report; or if an agency files an extension but does not submit a report

within the extension period; the rules scheduled for review expire.

The Council is required to notify the Secretary of State that the rules have expired and are no longer enforceable. The notice is published in the *Register*, and the rules are removed from the *Code*.

**GOVERNOR’S REGULATORY REVIEW COUNCIL
NOTICE OF EXPIRATION OF RULES UNDER A.R.S. § 41-1056(J)**

DEPARTMENT OF HEALTH SERVICES

[R19-92]

- 1. **Agency name:** Department of Health Services
- 2. **Title and its heading:** 12, Natural Resources
- 3. **Chapter and its heading:** 2, Radiation Regulatory Agency - Medical Radiologic Technology Board of Examiners
- 4. **Article and its heading:** 1, General Provisions
2, Schools and Training Approvals and Requirements of Radiologic Technology
4, Scope of Practice

As required by A.R.S. § 41-1056(J), the Council provides notice that the following rules expired as of April 30, 2019:

- R12-2-103. Communications
- R12-2-205. Bone Densitometry Technology
- R12-2-404. Bone Densitometry Technology

Signature is of Nicole Sornsin
/s/

Nicole Sornsin
Council Chair

Date of Signing
May 1, 2019



NOTICES OF RULEMAKING DOCKET OPENING

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.

NOTICE OF RULEMAKING DOCKET OPENING
DEPARTMENT OF ENVIRONMENTAL QUALITY
WATER POLLUTION CONTROL

[R19-93]

- 1. Title and its heading: 18, Environmental Quality
Chapter and its heading: 9, Department of Environmental Quality – Water Pollution Control
Article and its heading: 1, Aquifer Protection Permits – General Provisions
Section numbers: R18-9-101, R18-9-103 (As part of the rulemaking, any other sections may be added, deleted, or modified as necessary)
2. The subject matter of the proposed rule: Pursuant to A.R.S. § 49-250(A), ADEQ seeks to exempt coal combustion residual (CCR) disposal units from the requirement(s) to comply with the Aquifer Protection Permit (APP) statutes and regulations until such time that ADEQ obtains primacy for the implementation of the federal CCR regulations. See 42 U.S.C. § 6945(d)(1).
3. A citation to all published notices relating to the proceeding: Notice of Proposed Expedited Rulemaking: 25 A.A.R. 1293, May 24, 2019 (in this issue)
4. The name and address of agency personnel with whom persons may communicate regarding the rule: Name: Heidi M. Haggerty Welborn
Address: Department of Environmental Quality
1110 W. Washington St.
Phoenix, AZ 85007
Telephone: (602) 771-4815
E-mail: Welborn.Heidi@azdeq.gov
Website: http://www.azdeq.gov/draft-and-proposed-rule-water-quality-division
5. The time during which the agency will accept written comments and the time and place where oral comments may be made: Announced in the Notice of Proposed Expedited Rulemaking (see page 1293) in this issue.
6. A timetable for agency decisions or other action on the proceeding, if known: ADEQ is filing proposed rule changes with this Notice of Rulemaking Docket Opening.



NOTICES OF SUBSTANTIVE POLICY STATEMENT

The *Administrative Procedure Act* (APA) requires the publication of Notices of Substantive Policy Statement issued by agencies (A.R.S. § 41-1013(B)(9)).

Substantive policy statements are written expressions which inform the general public of an agency's current approach to rule or regulation practice.

Substantive policy statements are advisory only. A substantive policy statement does not include internal procedural documents that only affect an agency's

internal procedures and does not impose additional requirements or penalties on regulated parties or include confidential information or rules made in accordance with the APA.

If you believe that a substantive policy statement does impose additional requirements or penalties on regulated parties, you may petition the agency under A.R.S. § 41-1033 for a review of the statement.

NOTICE OF SUBSTANTIVE POLICY STATEMENT DEPARTMENT OF HEALTH SERVICES

[M19-52]

1. Title of the substantive policy statement and the substantive policy statement number by which the substantive policy statement is referenced:

SP-042-PHL-MED: Review of the Controlled Substances Prescription Monitoring Program Database

2. Date the substantive policy statement was issued and the effective date of the policy statement if different from the issuance date:

Effective date: May 2, 2019

3. Summary of the contents of the substantive policy statement:

The substantive policy statement notifies the public of the Arizona Department of Health Service's interpretation regarding how a health care institution may comply with A.A.C. R9-10-120(D)(1)(b) and (E)(1)(b) for ensuring that a medical practitioner reviews a patient's profile on the Controlled Substances Prescription Monitoring Program database before prescribing or ordering an opioid for the patient.

4. Federal or state constitutional provision; federal or state statute, administrative rule, or regulation; or final court judgment that underlies the substantive policy statement:

A.R.S. § 36-405(A) and A.A.C. R9-10-120

5. A statement as to whether the substantive policy statement is a new statement or a revision:

This is a new substantive policy statement.

6. The agency contact person who can answer questions about the substantive policy statement:

Name: Kathryn McCanna, Branch Chief

Address: Arizona Department of Health Services
Public Health Licensing Services
Health Care Institutions Licensing
150 N. 18th Ave., Suite 400
Phoenix, AZ 85007

Telephone: (602) 364-2841

Fax: (602) 364-4808

E-mail: Kathryn.McCanna@azdhs.gov

or

Name: Robert Lane, Office Chief

Address: Arizona Department of Health Services
Office of Administrative Counsel and Rules
150 N. 18th Ave, Suite 200
Phoenix, AZ 85007

Telephone: (602) 542-1020

Fax: (602) 364-1150

E-mail: Robert.Lane@azdhs.gov

7. Information about where a person may obtain a copy of the substantive policy statement and the costs for obtaining the policy statement:

A copy of the substantive policy statement is available, free of charge, from the Arizona Department of Health Services, Office of Administrative Counsel and Rules at the following web address: <https://azdhs.gov/director/administrative-counsel-rules/rules/index.php#sps-licensing>. A copy of the substantive policy statement may also be obtained from the Arizona Department of Health Services, Public Health Licensing Services, 150 N. 18th Ave., Suite 400, Phoenix, AZ 85007 for 25 cents per page. Payment is accepted in cash or money order made payable to the Arizona Department of Health Services.



GOVERNOR EXECUTIVE ORDER

Executive Order 2019-01 is being reproduced in each issue of the Administrative Register as a notice to the public regarding state agencies' rulemaking activities.

This order has been reproduced in its entirety as submitted.

EXECUTIVE ORDER 2019-01

Moratorium on Rulemaking to Promote Job Creation and Customer-Service-Oriented Agencies; Protecting Consumers Against Fraudulent Activities

[M19-04]

WHEREAS, government regulations should be as limited as possible; and

WHEREAS, burdensome regulations inhibit job growth and economic development; and

WHEREAS, protecting the public health, peace and safety of the residents of Arizona is a top priority of state government; and

WHEREAS, in 2015 the State of Arizona implemented a moratorium on all new regulatory rulemaking by State agencies through executive order and renewed the moratorium in 2016, 2017 and 2018; and

WHEREAS, the State of Arizona eliminated or repealed 422 needless regulations in 2018 and 676 in 2017 for a total of 1,098 needless regulations eliminated or repealed over two years; and

WHEREAS, estimates show these eliminations saved job creators more than \$31 million in operating costs in 2018 and \$48 million in 2017 for a total of over \$79 million in savings over two years; and

WHEREAS, approximately 283,300 private sector jobs have been added to Arizona since January 2015; and

WHEREAS, all government agencies of the State of Arizona should continue to promote customer-service-oriented principles for the people that it serves; and

WHEREAS, each State agency shall continue to conduct 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 while protecting the health, peace and safety of residents; and

WHEREAS, each State agency should continue to evaluate its administrative rules using any available and reliable data and performance metrics; and

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, 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 justifications 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 federal court 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 comply with a state statutory requirement.
g. 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.
h. 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.
i. 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.
j. To eliminate rules which are antiquated, redundant or otherwise no longer necessary for the operation of state government.
2. A State agency subject to this Order shall not publicize any directives, policy statements, documents or forms on its website unless such are explicitly authorized by Arizona Revised Statutes or Arizona Administrative Code.
3. A State agency subject to this Order and which issues occupational or professional licenses shall review the agency's rules and practices related to receiving and acting on substantive complaints about unlicensed individuals who are allegedly holding them-



selves out as licensed professionals for financial gain and are knowingly or recklessly providing or attempting to provide regulated services which the State agency director believes could cause immediate and/or significant harm to either the financial or physical health of unknowing consumers within the state. Agencies shall identify and execute on opportunities to improve its complaint intake process, documentation, tracking, enforcement actions and coordination with proper law enforcement channels to ensure those allegedly trying to defraud unsuspecting consumers and putting them at risk for immediate and/or significant harm to their financial or physical health are stopped and effectively diverted by the State agency to the proper law-enforcement agency for review. A written plan on the agency's process shall be submitted to the Governor's Office no later than May 31, 2019.

4. For the purposes of this Order, the term "State agencies" includes, without limitation, all executive departments, agencies, offices, and all state boards and commissions, except for: (a) any State agency that is headed by a single elected State official; (b) the Corporation Commission; and (c) any board or commission established by ballot measure during or after the November 1998 general election. Those state agencies, boards and commissions excluded from this Order are strongly encouraged to voluntarily comply with this Order in the context of their own rulemaking processes.
5. 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 section 41-1001, Arizona Revised Statutes.

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

Douglas A. Ducey
GOVERNOR

DONE at the Capitol in Phoenix on this ninth day of January in the Year Two Thousand and Nineteen and of the Independence of the United States of America the Two Hundred and Forty-Third.

ATTEST:

Katie Hobbs
SECRETARY OF STATE

REGISTER INDEXES

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

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**

PSMN = Proposed Summary new Section
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**

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

SUPPLEMENTAL EXPEDITED

SPEN = Supplemental Proposed Expedited new Section
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

EXEMPT RULEMAKING**EXEMPT**

XN = Exempt new Section
XM = Exempt amended Section
XR = Exempt repealed Section
X# = Exempt renumbered Section

EXEMPT PROPOSED

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

EXEMPT SUPPLEMENTAL PROPOSED

SPXN = Supplemental Proposed Exempt new Section
SPXR = Supplemental Proposed Exempt repealed Section
SPXM = Supplemental Proposed Exempt amended Section
SPX# = Supplemental Proposed Exempt renumbered Section

FINAL EXEMPT RULEMAKING

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

EMERGENCY RULEMAKING

EN = Emergency new Section
EM = Emergency amended Section
ER = Emergency repealed Section
E# = Emergency renumbered Section
EEXP = Emergency expired

RECODIFICATION OF RULES

RC = Recodified

REJECTION OF RULES

RJ = Rejected by the Attorney General

TERMINATION OF RULES

TN = Terminated proposed new Sections
TM = Terminated proposed amended Section
TR = Terminated proposed repealed Section
T# = Terminated proposed renumbered Section

RULE EXPIRATIONS

EXP = Rules have expired
See also “emergency expired” under emergency rulemaking

CORRECTIONS

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Health Services, Department of - Communicable Diseases and Infections

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 R9-10-513. X#-1222;
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 R9-10-514. X#-1222;
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Peace Officer Standards and Training Board, Arizona

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Real Estate Department, State

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Retirement System Board, State

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RULES 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.

January		February		March		April		May		June	
Date Filed	Effective Date										
1/1	3/2	2/1	4/2	3/1	4/30	4/1	5/31	5/1	6/30	6/1	7/31
1/2	3/3	2/2	4/3	3/2	5/1	4/2	6/1	5/2	7/1	6/2	8/1
1/3	3/4	2/3	4/4	3/3	5/2	4/3	6/2	5/3	7/2	6/3	8/2
1/4	3/5	2/4	4/5	3/4	5/3	4/4	6/3	5/4	7/3	6/4	8/3
1/5	3/6	2/5	4/6	3/5	5/4	4/5	6/4	5/5	7/4	6/5	8/4
1/6	3/7	2/6	4/7	3/6	5/5	4/6	6/5	5/6	7/5	6/6	8/5
1/7	3/8	2/7	4/8	3/7	5/6	4/7	6/6	5/7	7/6	6/7	8/6
1/8	3/9	2/8	4/9	3/8	5/7	4/8	6/7	5/8	7/7	6/8	8/7
1/9	3/10	2/9	4/10	3/9	5/8	4/9	6/8	5/9	7/8	6/9	8/8
1/10	3/11	2/10	4/11	3/10	5/9	4/10	6/9	5/10	7/9	6/10	8/9
1/11	3/12	2/11	4/12	3/11	5/10	4/11	6/10	5/11	7/10	6/11	8/10
1/12	3/13	2/12	4/13	3/12	5/11	4/12	6/11	5/12	7/11	6/12	8/11
1/13	3/14	2/13	4/14	3/13	5/12	4/13	6/12	5/13	7/12	6/13	8/12
1/14	3/15	2/14	4/15	3/14	5/13	4/14	6/13	5/14	7/13	6/14	8/13
1/15	3/16	2/15	4/16	3/15	5/14	4/15	6/14	5/15	7/14	6/15	8/14
1/16	3/17	2/16	4/17	3/16	5/15	4/16	6/15	5/16	7/15	6/16	8/15
1/17	3/18	2/17	4/18	3/17	5/16	4/17	6/16	5/17	7/16	6/17	8/16
1/18	3/19	2/18	4/19	3/18	5/17	4/18	6/17	5/18	7/17	6/18	8/17
1/19	3/20	2/19	4/20	3/19	5/18	4/19	6/18	5/19	7/18	6/19	8/18
1/20	3/21	2/20	4/21	3/20	5/19	4/20	6/19	5/20	7/19	6/20	8/19
1/21	3/22	2/21	4/22	3/21	5/20	4/21	6/20	5/21	7/20	6/21	8/20
1/22	3/23	2/22	4/23	3/22	5/21	4/22	6/21	5/22	7/21	6/22	8/21
1/23	3/24	2/23	4/24	3/23	5/22	4/23	6/22	5/23	7/22	6/23	8/22
1/24	3/25	2/24	4/25	3/24	5/23	4/24	6/23	5/24	7/23	6/24	8/23
1/25	3/26	2/25	4/26	3/25	5/24	4/25	6/24	5/25	7/24	6/25	8/24
1/26	3/27	2/26	4/27	3/26	5/25	4/26	6/25	5/26	7/25	6/26	8/25
1/27	3/28	2/27	4/28	3/27	5/26	4/27	6/26	5/27	7/26	6/27	8/26
1/28	3/29	2/28	4/29	3/28	5/27	4/28	6/27	5/28	7/27	6/28	8/27
1/29	3/30			3/29	5/28	4/29	6/28	5/29	7/28	6/29	8/28
1/30	3/31			3/30	5/29	4/30	6/29	5/30	7/29	6/30	8/29
1/31	4/1			3/31	5/30			5/31	7/30		



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.

Deadline Date (paper only) Friday, 5:00 p.m.	Register Publication Date	Oral Proceeding may be scheduled on or after
November 9, 2018	November 30, 2018	December 31, 2018
November 16, 2018	December 7, 2018	January 7, 2019
November 23, 2018	December 14, 2018	January 14, 2019
November 30, 2018	December 21, 2018	January 22, 2019
December 7, 2018	December 28, 2018	January 28, 2019
December 14, 2018	January 4, 2019	February 4, 2019
December 21, 2018	January 11, 2019	February 11, 2019
December 28, 2018	January 18, 2019	February 19, 2019
January 4, 2019	January 25, 2019	February 25, 2019
January 11, 2019	February 1, 2019	March 4, 2019
January 18, 2019	February 8, 2019	March 11, 2019
January 25, 2019	February 15, 2019	March 18, 2019
February 1, 2019	February 22, 2019	March 25, 2019
February 8, 2019	March 1, 2019	April 1, 2019
February 15, 2019	March 8, 2019	April 8, 2019
February 22, 2019	March 15, 2019	April 15, 2019
March 1, 2019	March 22, 2019	April 22, 2019
March 8, 2019	March 29, 2019	April 29, 2019
March 15, 2019	April 5, 2019	May 6, 2019
March 22, 2019	April 12, 2019	May 13, 2019
March 29, 2019	April 19, 2019	May 20, 2019
April 5, 2019	April 26, 2019	May 28, 2019
April 12, 2019	May 3, 2019	June 3, 2019
April 19, 2019	May 10, 2019	June 10, 2019
April 26, 2019	May 17, 2019	June 17, 2019
May 3, 2019	May 24, 2019	June 24, 2019
May 10, 2019	May 31, 2019	July 1, 2019
May 17, 2019	June 7, 2019	July 8, 2019
May 24, 2019	June 14, 2019	July 15, 2019
May 31, 2019	June 21, 2019	July 22, 2019



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 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 <http://grrc.az.gov>.

GOVERNOR’S REGULATORY REVIEW COUNCIL DEADLINES FOR 2019

[M19-05]

DEADLINE FOR PLACEMENT ON AGENDA*	FINAL MATERIALS SUBMITTED TO COUNCIL	DATE OF COUNCIL STUDY SESSION	DATE OF COUNCIL MEETING
<i>Tuesday</i> January 22, 2019	<i>Tuesday</i> February 19, 2019	<i>Tuesday</i> February 26, 2019	<i>Tuesday</i> March 5, 2019
<i>Tuesday</i> February 19, 2019	<i>Tuesday</i> March 19, 2019	<i>Tuesday</i> March 26, 2019	<i>Tuesday</i> April 2, 2019
<i>Tuesday</i> March 19, 2019	<i>Tuesday</i> April 23, 2019	<i>Tuesday</i> April 30, 2019	<i>Tuesday</i> May 7, 2019
<i>Tuesday</i> April 23, 2019	<i>Tuesday</i> May 21, 2019	Wednesday May 29, 2019	<i>Tuesday</i> June 4, 2019
<i>Tuesday</i> May 21, 2019	<i>Tuesday</i> June 18, 2019	<i>Tuesday</i> June 25, 2019	<i>Tuesday</i> July 2, 2019
<i>Tuesday</i> June 18, 2019	<i>Tuesday</i> July 23, 2019	<i>Tuesday</i> July 30, 2019	<i>Tuesday</i> August 6, 2019
<i>Tuesday</i> July 23, 2019	<i>Tuesday</i> August 20, 2019	<i>Tuesday</i> August 27, 2019	Wednesday September 4, 2019
<i>Tuesday</i> August 20, 2019	<i>Tuesday</i> September 17, 2019	<i>Tuesday</i> September 24, 2019	<i>Tuesday</i> October 1, 2019
<i>Tuesday</i> September 17, 2019	<i>Tuesday</i> October 22, 2019	<i>Tuesday</i> October 29, 2019	<i>Tuesday</i> November 5, 2019
<i>Tuesday</i> October 22, 2019	<i>Tuesday</i> November 19, 2019	<i>Tuesday</i> November 26, 2019	<i>Tuesday</i> December 3, 2019
<i>Tuesday</i> November 19, 2019	<i>Tuesday</i> December 24, 2019	<i>Tuesday</i> January 7, 2020	<i>Tuesday</i> January 14, 2020
<i>Tuesday</i> December 24, 2019	<i>Tuesday</i> January 21, 2020	<i>Tuesday</i> January 28, 2020	<i>Tuesday</i> February 4, 2020

* Materials must be submitted by 5 PM on dates listed as a deadline for placement on a particular agenda. Placement on a particular agenda is not guaranteed.