

## NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by 1st submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Due to time restraints, the Secretary of State's Office will no longer edit the text of proposed rules. We will continue to make numbering and labeling changes as necessary.

Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for adoption, amendment, or repeal of any rule. A.R.S. §§ 41-1013 and 41-1022.

### NOTICE OF PROPOSED RULEMAKING

#### TITLE 7. EDUCATION

#### CHAPTER 3. COMMISSION FOR POSTSECONDARY EDUCATION

#### ARTICLE 5. ARIZONA FAMILY COLLEGE SAVINGS PROGRAM

#### PREAMBLE

- 1. Sections Affected**

R7-3-501	Amend
R7-3-505	Amend
R7-3-506	Amend
- 2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. § 15-1852(C)

Implementing statute: A.R.S. § 15-1873 et. seq.
- 3. A list of all previous notices appearing in the Register addressing the proposed rule:**

5 A.A.R. 1172, April 23, 1999
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name:	Verna Allen, Executive Director
Address:	2020 N. Central Avenue, Suite 275 Phoenix, Arizona 85004
Telephone Number:	602/229-2595
Fax Number:	602/229-2599
- 5. An explanation of the rule, including the agency's reason's for initiating the rule:**

R7-3-501, R7-3-505, and R7-3-506 will amend the procedures for implementing the Arizona Family College Savings Program through financial institutions as a public-private partnership. The amendments will provide further detail regarding qualified withdrawals and nonqualified withdrawals. In addition, certain definitions have been added and certain existing definitions clarified. These rules will establish a uniform and consistent manner in implementing the Arizona Family College Savings Program.
- 6. A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:**

No study is available or was relied upon.

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

Not applicable.

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

a. An identification of the proposed rulemaking: Arizona Family College Savings Plan, R7-3-501, R7-3-505, and R7-3-506, adopted pursuant to A.R.S. § 15-1873 et seq.

b. An identification of the persons who will be directly affected by, bear the costs of, or directly benefit from the proposed rulemaking: Persons directly affected are account holders, beneficiaries, and financial institutions.

c. An analysis of the probable costs and benefits from the implementation and enforcement of the proposed rulemaking on the Commission, and on any political subdivision or business directly affected by the proposed rulemaking: The Commission will bear administrative costs in keeping track of the information received from the financial institutions and enforcing the penalties for nonqualified withdrawals. The financial institution's will bear the burden of ensuring that substantiation is provided for withdrawals.

d. The probable impact of the proposed rulemaking on employment in business, agencies, and political subdivisions of this state affected by the proposed rulemaking: None.

e. A statement of the probable impact of the proposed rulemaking on small business: Some financial institutions are small businesses and will need to bear administrative costs in implementing and maintaining the Program.

f. A statement of the probable effect on state revenues: Additional funding for the Commission will be needed to implement the program.

g. A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed rulemaking: Due to the nature of the various statutory requirements, less intrusive or less costly alternatives were not available.

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

Name: Verna Allen, Executive Director

Address: 2020 N. Central Avenue, Suite 275  
Phoenix, Arizona 85004

Telephone Number: 602/229-2595

Fax Number: 602/229-2599

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

Date: February 7, 2000

Time: 4:30 p.m.

Location: Commission for Postsecondary Education  
2020 N. Central Avenue, Suite #275,  
Phoenix, Arizona 85004

Nature: Oral Proceeding and Adoption of Rules

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

Not applicable.

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

Not applicable.

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

TITLE 7. EDUCATION

CHAPTER 3. COMMISSION FOR POSTSECONDARY EDUCATION

ARTICLE 5. ARIZONA FAMILY COLLEGE SAVINGS PROGRAM

Section

R7-3-501.

Definitions

R7-3-505.

Account Balance Limitations

R7-3-506.

Withdrawals; Reporting of Nonqualified Withdrawals; Penalties

ARTICLE 5. ARIZONA FAMILY COLLEGE SAVINGS PROGRAM

**R7-3-501.**      **Definitions**

- A. "A.R.S." means Arizona Revised Statutes.
- B. "Cash" means currency, bills and coin in circulation, or converting a negotiable instrument to cash by endorsing and presenting to a financial institution for deposit. An automatic transfer, cashier's check, certified check, money order, payroll deposit, traveler's check, personal check, and wire transfer will be treated as cash. Deposits will also be accepted by credit card.
- C. "Code" means the Internal Revenue Code.
- D. "Commission" means the Commission for Postsecondary Education as defined in A.R.S. § 15-1871.
- E. "Committee" means the Family College Savings Program Oversight Committee as defined in A.R.S. § 15-1871.
- F. "Direct the investment" means specifying or attempting to specify the particular financial instruments (such as certificates of deposit) or ownership interests (such as stock certificates or interests in mutual funds) either individually, or within a fund family or other group of financial instruments or ownership interests held as an investment group, into which the account holder's contributions or earnings will be invested. Direct the investment does not mean selecting an initial type of investment program if more than 1 program is offered.
- G.** "Higher education institution" means a higher education institution as defined in A.R.S. § 15-1871(7), provided that, solely for the purposes of determining whether a withdrawal or distribution is subject to a penalty under R7-3-506, the term shall not include any institution that is not also an "eligible educational institution" as defined in Code § 529(e)(5).
- GH.** "Negotiable instrument" means negotiable instrument as defined in A.R.S. § 47-3104.

**R7-3-505.**      **Account Balance Limitations**

- A. For each designated beneficiary, the balance in all qualified state tuition programs, as defined in § 529 of the Code, shall not exceed the lesser of:
  - 1. The product (rounded down to the nearest multiple of (\$1000) of 7 and the average one year's undergraduate tuition, fees, room and board at independent four-year higher education institutions as measured and last published by the College Board's Independent College 500 Index; or
  - 2. The cost in current dollars of qualified higher education expenses the account holder reasonably anticipates the designated beneficiary will incur.
- B. Any excess balances with respect to a designated beneficiary shall be promptly withdrawn as a nonqualified withdrawal or transferred to another account in accordance with A.R.S. § 15-1875(F).
- C. Each year, the Commission shall review the amount set forth in R7-3-505(A), above.
- D. Persons making a contributions to an accounts shall certify, that as to the account's designated beneficiary, and to the best of the contributor's knowledge the contribution shall not cause, the balances in all qualified state tuition programs, as defined in § 529 of the Code, ~~do not~~ exceed the account balance limitations described in R7-3-505(A), above.

**R7-3-506.**      **Withdrawals; Reporting of Nonqualified Withdrawals; Penalties**

- A. An account owner may withdraw funds from an account at any time. The designated beneficiary of an account shall not have any authority to withdraw funds from an account unless the account is structured to give the designated beneficiary such right of withdrawal upon matriculation or upon incurring qualified higher education expenses.
- ~~B. Pursuant to A.R.S. §§ 15-1875 (H), (I), and (J), the Commission has authority to assess penalties for non-qualified withdrawals. In order to make a withdrawal, the account holder or the account holder's designee must complete a certification, on a form approved by the Commission, declaring that the funds will be used for the purposes set forth in A.R.S. § 15-1871. If an account holder fails to certify that a withdrawal is qualified, or if a financial institution has reason to believe that a withdrawal is non-qualified, the financial institution shall withhold from such withdrawal an amount equal to 10% of that portion of that withdrawal which constitutes income under § 72 of the Code. The amount of said withholding shall be remitted to the Commission within 7 calendar days from the date of the withholding. The financial institution shall report any such withholding, in writing, to the Commission within 3 business days, including identification of the account holder, beneficiary, date of withdrawal, amount of withdrawal, and a brief description as to why the financial institution believes the withdrawal to be non-qualified. The financial institution shall notify the account holder and beneficiary, in writing, of any such withholding.~~

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**B. Withdrawals**

**1. Qualified Withdrawals**

In order to make a qualified withdrawal, the account holder or the account holder's designee must complete a certification, on a form approved by the Commission, declaring that the funds will be used for the purposes set forth in A.R.S. § 15-1871(11). In addition to the certification, a withdrawal shall be deemed qualified only if:

- a. the financial institution is provided with a copy of an invoice from the higher education institution, and the distribution is made directly to a higher education institution; or
- b. the financial institution is provided with a copy of an invoice from the higher education institution, and the distribution is made in the form of a check payable to both the designated beneficiary and the higher education institution; or
- c. within 30 days following the withdrawal, substantiation that the withdrawal was actually expended for qualified higher education expenses is submitted to the financial institution.

**2. Withdrawal Based on Death, Disability, or Scholarship**

A penalty-free withdrawal may be made as a result of the designated beneficiary's death, disability, or scholarship, if written substantiation thereof is provided. Such written substantiation must come from a party other than the designated beneficiary or the account owner. In the case of a scholarship, the withdrawal may not exceed the amount of the scholarship.

**3. Nonqualified or Unsubstantiated Withdrawals**

Pursuant to A.R.S. §§ 15-1875 (H), (I), and (J), the Commission has authority to assess penalties for nonqualified withdrawals. If an account holder fails to certify that a withdrawal is qualified or penalty-free, as defined in R7-3-506(B)(1) and (2), above, or if a financial institution has reason to believe that a withdrawal is nonqualified, the financial institution shall withhold from such withdrawal an amount equal to 10% of that portion of that withdrawal which constitutes income under § 72 of the Code. If an account holder seeks to make a withdrawal in accordance with R7-3-506(B)(1)(c) and does not provide the required substantiation at the time of the withdrawal, the withdrawal shall be limited so that the balance remaining in the account is sufficient to pay the 10% of earnings penalty. If the financial institution is not provided with the required substantiation within 30 days, the withdrawal shall be treated as a nonqualified withdrawal, the penalty shall be assessed at that time, and the financial institution shall withdraw the penalty from the account.

- a. If the withdrawal has not been declared, by the party making the withdrawal, to be nonqualified, the amount of any penalty shall be remitted to the Commission with the financial institution's first monthly report following the date that the withdrawal is determined to be nonqualified. If the withdrawal has been declared to be nonqualified, the amount of said withholding may be remitted to the Commission with the financial institution's required monthly report.
- b. If the withdrawal has not been declared, by the party making the withdrawal, to be nonqualified, the financial institution shall report any such withholding, in writing, to the Commission with the financial institutions's first monthly report following the date that the withdrawal is determined to be nonqualified. The report shall include identification of the account holder, beneficiary, date of withdrawal, amount of withdrawal, and a brief description as to why the financial institution believes the withdrawal to be nonqualified. If the withdrawal has been declared to be nonqualified, the report may be submitted to the Commission with the financial institution's required monthly report. The financial institution shall notify the account holder and beneficiary, in writing, of any withholding.
- c. If a qualified withdrawal is made from an account in any calendar year, within 60 days after the end of such year and within 60 days after the end of the following year, any designated beneficiary who received a partial or total refund from the higher education institution attended by the designated beneficiary or the higher education institution that the designated beneficiary had expected to attend shall provide to the financial institution a signed statement identifying the amount of any refunds received. In addition, the designated beneficiary shall provide an explanation as to what portion, if any, of the refund is allocable to a qualified withdrawal. If all or a portion of a refund is allocable to a qualified withdrawal, the designated beneficiary (or the account owner) may provide the financial institution with substantiation of qualified higher education expenses for which the refund was used or substantiation that the refund was made by reason of scholarship, or the death, or disability of the designated beneficiary. To the extent that a refund allocable to a qualified withdrawal was not used to pay qualified higher education expenses or made on account of death, disability, or scholarship of the designated beneficiary, it shall be considered a nonqualified withdrawal subject to the penalty described in R7-3-506(B)(3). The financial institution shall withdraw the penalty from the account from which the original qualified withdrawal was made, if sufficient funds are available in the account, or bill the designated beneficiary for the penalty, if sufficient funds are not available in the account.

**4. Substantiation Procedures**

Before treating any withdrawal as qualified or penalty-free based on substantiation provided, the financial institution shall review the substantiation to confirm that substantiation is provided for the amount of a withdrawal that the account owner or designated beneficiary asserts is qualified or penalty-free, that the substantiation complies with the program rules, and, in the case of a withdrawal to pay qualified higher education expenses, that the substantiated expenditures are of a nature and in amounts that can be treated as qualified higher education expenses. The financial

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institution may seek additional information from the account owner, the designated beneficiary, or the higher education institution before approving or rejecting substantiation, and the financial institution may seek guidance from staff of the Commission. If the financial institution determines that substantiation is inadequate, it shall promptly notify the account owner and defer making any distribution with respect to any inadequately substantiated request until proper substantiation is provided or the account owner instructs the financial institution to make the requested distribution and either withhold the penalty from the distribution or from other funds in the account.

- C. The account holder may dispute any withholding made by a financial institution under R7-3-506(B) by submitting written notice, to the Commission, within 30 days from the date of such withholding. The Commission shall make a written determination regarding the dispute within 30 days of the receipt of its notice from the account holder. If the account holder disagrees with the Commission's determination, the matter shall be adjudicated in accordance with A.R.S. § 41-1092 et. seq.

**NOTICE OF PROPOSED RULEMAKING**

**TITLE 18. ENVIRONMENTAL QUALITY**

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

**PREAMBLE**

**1. Sections Affected**

Article 7  
R18-4-701  
R18-4-702  
R18-4-703  
R18-4-704  
R18-4-705  
R18-4-706  
R18-4-707  
R18-4-708  
R18-4-709  
R18-4-710  
Appendix A  
Appendix B

**Rulemaking Action**

New Article  
New Section  
New Section  
New Section  
New Section  
New Section  
New Section  
New Section  
New Section  
New Section  
New Section  
New Appendix  
New Appendix

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

Authorizing statute: A.R.S. §§ 49-202, 49-203, 49-351, 49-353  
Implementing statutes: A.R.S. §49-202

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

Notice of Docket Opening: 5 A.A.R. 4583, December 10, 1999  
Notice of Docket Opening: 6 A.A.R. 295, January 7, 2000

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

Name: Margaret L. McClelland or Martha L. Seaman  
Address: Arizona Department of Environmental Quality  
3033 North Central Avenue  
Phoenix, AZ 85012  
Telephone Number: (602) 207-2224  
Fax Number: (602) 207-2251

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

A. Background for these proposed rules

As required by the 1996 amendments to the Safe Drinking Water Act, in August of 1998, the United States Environmental Protection Agency (EPA) published final regulations that require a community water system (CWS) to provide its customers with an annual water quality report, or Consumer Confidence Report (CCR). These regulations amend the National Primary Drinking Water Regulations (NPDWR), Part 141 and regulations for implementation of the NPDWR, Part 142. This federal rulemaking took effect on September 18, 1998 and required each CWS to issue its first CCR by October 19, 1999, then annually by each July 1. Wholesalers were required to deliver information to their buyers by April, 1999, unless there is a separate agreement, and annually thereafter. A new CWS must deliver its first CCR by July of the year after its first full calendar year in operation, and annually thereafter.

These rules contain the requirements for CCRs in Arizona. The CCRs will provide valuable information to the customers of CWS and allow them to make personal health-based decisions regarding their drinking water consumption. The information found in these CCRs will also be of benefit to consumers who may want to take a more active role in the quality of their drinking water and to those persons who may have special health needs that could be impacted by the water they drink.

The CCRs must contain information such as the source of the water, levels of contaminants found, the possible source of these contaminants and the corrective actions taken, mandatory language regarding the health effects, the quality of the water delivered, and other information about the CWS.

ADEQ began holding meetings around the state in May and June, 1999 to educate CWSs of the federal requirements and the upcoming Arizona rulemaking. Meetings were held in Wilcox, Yuma, Globe, Phoenix, Tucson, Kingman, Prescott, Flagstaff, Holbrook, Fredonia, and Springerville/Eager. An additional stakeholder meeting was held in Phoenix on September 27, 1999 to receive input from CWS representatives regarding the upcoming CCR rulemaking by ADEQ.

B. Section-by-Section explanation of the rules

R18-4-701 establishes to whom Article 7 is applicable.

R18-4-702 sets forth general requirements for Article 7.

R18-4-703 sets forth what must be contained in the CCR.

R18-4-704 sets forth information that must be contained in the CCR regarding contaminants subject to mandatory monitoring.

R18-4-705 sets forth requirements for information to be contained in the CCR regarding monitoring for *Cryptosporidium*, radon, and other contaminants.

R18-4-706 sets forth requirements for information to be included in the CCR regarding any violations that occurred during the year covered by the CCR.

R18-4-707 sets forth the requirements to be contained in a CCR if the CWS is operating under the terms of a variance or exemption.

R18-4-708 sets forth additional information to be included in the CCR.

R18-4-709 sets forth requirements for health information to be included in the CCR.

R18-4-710 sets for requirements for delivery of the CCR to consumers and retention of copies of the CCR. This Section also provides a waiver of the mailing requirements for CWSs that serve less than 10,000 people.

Appendix A lists regulated contaminants, MCLs, and possible sources of contamination.

Appendix B contains health effects language that must be contained in the CCR for MCL violations

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

N/A

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

N/A

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

This rule applies to all CWSs in Arizona. CWSs are public water systems that serve at least 25 people or 15 service connections year round. The 1996 amendments to the Safe Drinking Water Act (SDWA) mandated that a CWS provide its customers an annual consumer confidence report (CCR) that contains information on the quality of the water delivered by the CWS. These CCRs are intended to provide information to all CWS customers about the safety of their drinking water, and to enable them to make personal health-based decisions regarding their drinking water consumption. CCRs are also intended to promote communication between drinking water utilities and their consumers, especially those who may have special health needs or concerns. By being provided with more detailed information about their drinking water, the consuming public can become better educated about their drinking water supply.

The rule requires every CWS to deliver a CCR once a year to its customers on the level of contaminants in the drinking water supply the CWS purveys. The CCRs must include, but not be limited to, the following:

1. The source of the water distributed by the CWS (whether the source is ground water, surface water, a combination of the two, or water obtained from another CWS), the name or names, if any, and location of the body or bodies of water.
2. A definition of the terms “maximum contaminant level goal” (MCLG), “maximum contaminant level” (MCL), “variances”, and “exemptions”.
3. If a regulated contaminant is detected in the water distributed by the CWS, a statement setting forth: a) the MCLG, b) the MCL, c) the level of such contaminant in the water system, and d) for any regulated contaminant for which there has been a violation of the MCL during the year covered by the CCR, a brief statement regarding the health concerns that resulted from the violation.
4. Information on the CWS’s compliance with the National Primary Drinking Water Regulations (NPDWR); and a notice if the CWS is operating under a variance or exemption, and the basis on which the variance or exemption was granted.
5. Information on the levels of unregulated contaminants for which monitoring is required, including *Cryptosporidium* and radon where they have been found.
6. A statement that the presence of contaminants in drinking water does not necessarily indicate that the drinking water poses a health risk, and that more information about contaminants, other risk-related information and potential health effects can be obtained by calling the EPA Safe Drinking Water Hotline toll free at 1-800 426-4791.
7. A CWS may include any additional information that it deems appropriate for public education.
8. A CWS shall provide a copy of the CCR to the Arizona Department of Environmental Quality. The rule requires all CWSs with a service population of 10,000 or greater to deliver by mail, or other direct delivery, the CCRs to their customers at least once a year. For CWSs serving fewer than 10,000 people, the requirement for direct delivery is optional. The EPA rules provide that state governors may waive the mailing requirements for those CWSs, allowing them to utilize alternate forms of CCR distribution. The Governor of Arizona has granted this waiver to Arizona CWSs.

A CWS that serves more than 500, but fewer than 10,000 people must:

1. Inform customers by notice in local news media, mail or other direct delivery method that the CWS will not be providing copies of the CCR by mail or other direct delivery method (e.g. door-to-door delivery).
2. Publish the entire CCR annually in one or more local newspapers, or other news media serving areas in which the CWS customers are located.
3. Send written notification to ADEQ of its intention to take advantage of the waiver and agree to the requirements associated with the waiver.

A CWS that serves 500 or fewer people must:

1. Inform customers by notice published in the local news media or direct delivery method, that it will not be providing copies of the CCR by mail or other direct delivery method (e.g., door to door delivery).
2. For each year the mailing waiver is used, provide notice to customers that the CCR is available upon request.
3. Send written notification to ADEQ of its intention to take advantage of the waiver and agree to the requirements associated with the waiver.

The mailing waiver does not prohibit a CWS from mailing or publishing their consumer confidence CCRs in the news or other media. However, the waiver provides the smaller CWSs with other options for delivery of the CCRs. The smaller CWSs may explore which options are most efficient and cost-effective for them, and use the specific method that suits their needs. Since CWS vary considerably not only in number of service connections and population served, in points of entry and types and combinations of water sources, but also in the kinds of information they will need to transmit to their customers (for example, whether they have been granted waivers for specific monitoring required), the smaller CWS are given greater flexibility by this rule. Small CWS may choose from several options on

how the CCRs are to be made available to their customers. All new CWSs must deliver the first CCR to their customers after one full calendar year of operation as a CWS.

ARS § 41-1055 Requirements for an EIS

B(2) Persons Directly Affected by the Rule

- a) Arizona Department of Environmental Quality
- b) All CWSs, public and privately-owned, in Arizona
- c) The US Postal Service and other companies in the mail delivery business
- d) Printing businesses
- e) Consultants

B(3) Cost-Benefit Analysis

I. Cost and Benefits to State Agencies -- Arizona Department of Environmental Quality

As the state's primacy agency for the safe drinking water program, ADEQ will receive and maintain records of all CCRs submitted by CWSs. Departmental staff will also inform each new CWSs, of this rule's requirements. Although this rule will increase the recordkeeping needs of ADEQ, no additional staff will be needed and no impacts on the department's budget is anticipated.

II. Cost and Benefits to Political Subdivisions of the State --

Political subdivisions of the state that will be affected by these rules are publicly-owned CWSs like municipalities, county governments, water districts and water and sewer authorities that comprise part of the regulated community. All of them are funded by their ratepayers and the taxpaying public. Large cities like Phoenix and Mesa that serve populations greater than 10,000 will be required to transmit their CCRs once a year by mail delivery or other direct means. Some CWSs are already sending out CCRs to their customers. Smaller cities and towns will have the option to take advantage of the mailing waiver and other options open to them. The costs of the compliance with this rule-making will either be absorbed or passed on to the taxpayers or ratepayers in their respective jurisdictions.

The City of Mesa (Mesa), with an estimated population of 420,000, is a municipality serving a very large urban population that is already implementing this rule. Last year, the Mesa Water Quality Services Department spent \$75,000 in external costs to produce and mail out 210,000 brochures containing its Consumer Confidence Report information. In addition, Mesa spent between \$15,000 and \$20,000 in internal staff costs. The City also mailed out the CCR to industrial and commercial customers within its jurisdiction, as well as owners of master meters. Mesa officials determined that it would make good public relations sense to disseminate the information to as wide a public as possible to assure the consumers about its water quality. Although the expenditures appear to be high, these equate to only about \$0.45 per residential household or other recipient of the brochures.

III. Cost and Benefits to Private Businesses, including Small Businesses --

A) Community Water Systems -- Privately-owned CWSs consist of private water utility companies and other private entities like homeowners associations and developers who deliver water to subdivisions as an ancillary function of their major business. They will also be required to prepare and deliver CCRs to their customers through the various means indicated above. Their costs will either be absorbed by the CWSs themselves, or, if significant, these will be passed on to their ratepayers.

EPA has estimated the costs of complying with the requirements of the proposed rule and made adjustments for additional requirements like having each CWS store copies of their respective CCRs for five years after distributing it. In addition, CWSs serving 100,000 or more people are required to place their CCRs on the Internet. EPA's analysis of costs were evaluated in terms of fixed costs and variable costs. Fixed costs include those that a CWS must incur to comply with the requirements regardless of how many copies of the CCR it must deliver. These include costs associated with reviewing the regulations, collecting data pertinent to the monitoring results and MCL violations, preparing the technical content of the CCR in a format suitable for distribution, identifying the intended recipients of the CCRs and providing instructions for CCR production. Variable costs are those that increase or decrease along with the number of CCRs that need to be delivered. These are generally the costs of paper, printing, photocopying, labels and postage. Based on EPA's estimates, ADEQ believes that the costs to CWSs to comply with this rule are what are indicated in the table below. The table provides the number of CWSs that are currently operating in Arizona (as of September, 1999), and the populations they serve as well as the probable total and average costs they will incur. It may be seen that the average cost to CWSs increases with an increase in the size of population served.



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ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY						
Table 1.						
Community Water Systems and Service Populations						
		Average	Other Costs		Average Cost	Avg Cost
	# of CWSs	Labor Cost	/System		/System	/Person
		/CWS		Total:		
<=500	546	\$49	\$0.35	\$26,945	\$49.35	\$0.10
501 to 3,300	184	\$135	\$248	\$70,472	\$383.00	\$0.76--0.12
3,301 to 10,000	55	\$468	\$816	\$70,620	\$1,284.00	\$0.39--0.13
10,001 to 50,000	35	\$787	\$2,301	\$108,080	\$3,088.00	\$0.31--0.06
50,001 to 100,000*	3	\$803	\$2,664	\$10,401	\$3,467.00	\$0.07--0.03
>100,000	7	\$803	\$2,664	\$24,269	\$3,467.00	\$0.03
	830			\$310,787	\$374.44	

\*EPA numbers had no category for CWS serving 50,001 to 100,000 population. ADEQ staff assumed that the costs for all CWS serving more than 50,000 will be about the same.

Table 1 indicates that almost two-thirds (65.8%) of all CWSs in Arizona have service populations of 500 or fewer. Most of them are in the rural areas of the state, but a few may be found in unincorporated portions of urban counties. A majority of the CWSs will therefore be able to take advantage of the mailing waiver if they choose to do so. Under the waiver they must also provide public notices to notify their customers of the CCRs through the local print media and make available a copy of the CCR if requested by specific customers, in lieu of direct delivery to each customer. Another requirement is that CWS must keep CCR copies for five years. This is a recordkeeping requirement that is unlikely to be burdensome.

B) The US Postal Service and other mail delivery businesses will benefit from the increase in mail delivery required of large CWS, and even small CWS who would choose this method of information delivery. Other small businesses handling local bulk mailings in some communities could also see an increase in their revenues if they are chosen to deliver the CCRs. A typical CCR is between 2 and 12 pages. A 4-page CCR using ordinary 8 1/2 by 11-inch paper will usually cost \$0.33 to mail, while a 6-page (or 12-page double sided) CCR would cost \$0.55 in postage.

C) Newspapers and other print or publication media could also increase their revenues due to an increase in public notification requirements. Revenues for mail delivery and public notification are included in the table indicated above. Newspapers generally charge a fixed rate per column inch, or per line for public notices, and the rates vary considerably, depending on the paper's location and circulation size. The number of lines per column inch or the number of characters per line also varies with the size (points) of the characters printed. Below is a sampling of newspapers published in Arizona and their current public notice rates:

1. Apache Junction News, Maricopa County -- \$11.50 per column inch
2. AZ Business Gazette, Maricopa County -- \$0.33 per line of 20 characters
3. Arizona Republic, Maricopa County -- \$6.60 per line of 25 characters
4. Arizona Daily Sun, Coconino County -- \$5.74 per column inch
5. Arizona Daily Star, Pima County -- \$27.44 per column inch
6. The Tribune, Maricopa County -- between \$7.50 and \$11.75 per column inch
7. Yuma Daily Sun, Yuma County -- \$8.65 per column inch

IV. Costs and Benefits to Residents and Consumers --

The residents and water customers being served by the various CWS will become better informed consumers when they start receiving and reading CCRs on a regular basis. Being better informed about contaminants and other drinking water issues will enable the consuming public to undertake more dialogue with their water providers, take active

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steps to ensure that their water (including bottled water) is safe and meets the standards of the Safe Drinking Water Act, and provide feedback to CWS and other authorities on efforts to educate the general public.

**REDUCTION OF RULE IMPACTS ON SMALL BUSINESSES**

ARS § 41-1035 requires ADEQ to reduce the impact of the rule on the class of small businesses, if possible. The Department shall use one or more of the five methods defined in the section to reduce the impact, if the methods are legal and feasible in meeting the statutory objectives that are the basis of rulemaking. Methods 1, 2 and 3 require the Department to identify compliance, reporting, scheduling and deadline requirements contained in the rule and, when legal and feasible, to reduce, consolidate and simplify them for regulated entities who fall within the class of small businesses.

The vast majority of Arizona CWSs that are currently operating (94.6% of the 830 total) have fewer than 10,000 customers. Only the 45 largest CWSs, of which the City of Mesa is an example, comprise 5.4% of the total. The minority of large CWSs will be required to mail the CCRs to their customers or transmit them by direct delivery method. The larger CWSs tend to be more financially solvent, able to absorb the costs of direct mailing and are also more likely to pass on their costs to their customers. Very often, these costs are hardly noticed by customers because, on a per household basis, they normally translate to only a few cents. The estimated costs (both internal and external) to the City of Mesa for producing and distributing the CCR brochures to more than 200,000 households and other recipients costs the customers only \$0.45 per household per year or about 4 cents per month added to the water bill.

The small CWSs have fewer customers and are more likely to have less financial resources. By granting a mailing waiver to all the small CWSs, the Department is giving them several options for information delivery so as to enable them to choose the method that best works for them. Public notification through the print media is one option, but may be more costly than mailing out the CCRs, depending on the number of households served and on what the newspapers charge for public notices. For example, a CWS serving about 3,500 people (estimated 1,300 households) wants to send out a ten-page CCR to its customers. Mailing ten typewritten pages would cost about \$715 in postage, plus the cost of paper, photocopying and handling. Assuming a newspaper charges \$11.50 per column inch, and the 10-page CCR requires a full newspaper page (126 column inches of between 8 to 12 points), the cost to the CWS would be \$1,449. In this case, postal delivery would be the preferred method.

However, if the newspaper charges only \$5.74 per column inch, the cost to the CWS would be \$723. Public noticing through the newspaper would be the more economical method in this case, if the combined cost of paper, photocopying and handling exceeds \$8. The cost of \$723 spread out over 1,300 households amounts to about \$0.56 per household per year or 5 cents per month. And if the CWS has fewer than 500 customers, its costs would be reduced considerably because there is no requirement to publish its entire CCR but only to give notification that the mailing waiver is used and that the CCR can be made available upon request. Assuming this takes 5 column inches and that there is no minimum charge, the initial cost to the CWS would be \$28.70. There would be additional costs only if customers request copies of the CCR.

ADEQ believes that by granting the mailing waiver to the smaller CWS, the Department has taken steps to vastly reduce the costs of complying with this rule and given them more affordable options for information delivery.

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

Name:	Margaret L. McClelland or Martha L. Seaman
Address:	Arizona Department of Environmental Quality 3033 North Central Avenue Phoenix, AZ 85012
Telephone Number:	(602) 207-2222
Fax Number:	(602) 207-2251

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

ADEQ will hold an oral proceeding to receive public comments in accordance with A.R.S. § 41-1023. The time, place, and location of the hearings are listed below:

SIERRA VISTA  
February 7, 2000  
9:00 a.m.  
Sierra Vista City Complex  
911 North Coronado Drive  
Sierra Vista, AZ

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TUCSON  
February 7, 2000  
2:00 p.m.  
State Office Complex  
Room 158  
400 West Congress  
Tucson, AZ

PHOENIX  
February 8, 2000  
10:00 a.m.  
Arizona Department of Environmental Quality  
3033 North Central Avenue, Room 1710  
Phoenix, Arizona 85012

FLAGSTAFF  
9:30 a.m.  
February 9, 2000  
Flagstaff City Hall  
Flagstaff City Council Chambers  
211 West Aspen  
Flagstaff, AZ

SHOW LOW  
February 10, 2000  
9:00 a.m.  
Show Low City Complex  
200 West Cooley  
Show Low, AZ

The close of comment will occur on February 15, 2000. ADEQ will accept written comments that are received by 5:00 p.m. on February 15, 2000 or postmarked not later than that date.

ADEQ is committed to complying with the Americans With Disabilities Act. If any individual with a disability needs any type of accommodation, please contact ADEQ at least 72 hours before the hearing.

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

Not applicable.

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

Not applicable.

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

**TITLE 18. ENVIRONMENTAL QUALITY**

**CHAPTER 4. DEPARTMENT OF ENVIRONMENTAL QUALITY**

**SAFE DRINKING WATER**

**ARTICLE 7. CONSUMER CONFIDENCE REPORT**

Section

<u>R18-4-701.</u>	<u>Applicability</u>
<u>R18-4-702.</u>	<u>General Requirements</u>
<u>R18-4-703</u>	<u>Content of the Consumer Confidence Report</u>
<u>R18-4-704.</u>	<u>Information on Detected Contaminants</u>
<u>R18-4-705.</u>	<u>Information on Haloacetic Acids, <i>Cryptosporidium</i>, Radon, and Other Contaminants</u>
<u>R18-4-706.</u>	<u>Information on Violations</u>
<u>R18-4-707.</u>	<u>Variations and Exemptions</u>
<u>R18-4-708.</u>	<u>Additional Information</u>
<u>R18-4-709.</u>	<u>Additional Health Information</u>

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R18-4-710. Consumer Confidence Report Delivery and Recordkeeping  
Appendix A Regulated Contaminants  
Appendix B Health Effects Language

**ARTICLE 7. CONSUMER CONFIDENCE REPORT**

**R18-4-701. Applicability**

This Article applies to CWSs and establishes the minimum requirements for the content of the annual consumer confidence report (CCR) that a CWS shall deliver to its customers. The CCR shall contain accurate and understandable information on the quality of the water delivered by the CWS and characterize the risks, if any, from exposure to contaminants detected in the drinking water.

**R18-4-702. General Requirements**

- A. A CWS shall deliver a CCR to each customer by July 1, 2000, and the CWS shall deliver a CCR to each customer by July 1 each year thereafter.
- B. The CCR is due by July 1, 2000 and shall contain data used to determine compliance in calendar year 1999. Each CCR thereafter shall contain data used to determine compliance for the previous calendar year.
- C. A new CWS shall deliver its first CCR by July 1 of the year after its first full calendar year in operation and by July 1 annually thereafter.
- D. A CWS that sells water to another CWS shall deliver the applicable information required in this Article to the purchaser CWS by April 1, 2000, and by April 1 annually thereafter, or on a date mutually agreed upon by the seller and the purchaser, and specifically included in a contract between the parties.

**R18-4-703. Content of the Consumer Confidence Report**

- A. A CWS shall provide to its customers an annual CCR that contains the following information on the source of the water delivered:
  - 1. The type of the water (e.g., surface water, ground water); and
  - 2. The commonly used name, if any, and location of the body of water.
- B. If a source water assessment has been completed, the CCR shall notify consumers of the availability of this information and how to obtain it from the CWS. Where a CWS has received a source water assessment from the Department, the CCR shall contain a brief summary of the assessment findings and the CWS's susceptibility to potential origins of contamination, using language provided by the Department, or written by the operator in consultation with the Department.
- C. Each CCR shall contain the following definitions:
  - 1. "Maximum Contaminant Level" or "MCL" means the highest level of a contaminant that is allowed in drinking water. MCLs are set as close to the MCLGs as feasible using the best available treatment technology; and
  - 2. "Maximum Contaminant Level Goal" or "MCLG" means the level of a contaminant in drinking water below which there is no known or expected risk to health. MCLGs allow for a margin of safety.
- D. A CCR for a CWS operating under a variance or an exemption under R18-4-110 and R18-4-111 shall contain the following definition:  
"Variance" or "exemption" means permission from the Department or the EPA not to meet an MCL or a treatment technique under certain conditions.
- E. A CCR that contains data on a contaminant for which the Department has set a treatment technique or an action level shall contain one or both of the following definitions, as applicable:
  - 1. "Treatment technique" means a required process to reduce the level of a contaminant in drinking water.
  - 2. "Action level" means the concentration of a contaminant that, if exceeded, triggers treatment or other requirements that a CWS shall follow.

**R18-4-704. Information on Detected Contaminants**

- A. The CCR shall contain information on detected contaminants subject to mandatory monitoring for the following:
  - 1. Contaminants subject to an MCL, action level, or treatment technique (regulated contaminants); and
  - 2. Contaminants for which monitoring is required by R18-4-404 and R18-4-405 (unregulated contaminants).
- B. The CWS shall display in one table, or several adjacent tables, data relating to the detected contaminants in subsection A of this Section. If a CWS includes voluntary monitoring data, that data shall be listed in a table separate from the detected contaminants. For detected regulated contaminants, the table shall contain:
  - 1. The MCL for that contaminant.
  - 2. The MCLG for that contaminant expressed in the same units as the MCL.
  - 3. If there is no MCL for a detected contaminant, the table shall indicate that there is a treatment technique, or specify the action level applicable to that contaminant, and the CCR shall include the definitions for "treatment technique" or "action level", as appropriate, specified in R18-4-703(E)(1) and (2).
  - 4. For contaminants subject to an MCL, except turbidity and total coliforms, the highest monitoring result used to determine compliance and the range of monitoring results, as follows:

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- a. When compliance with the MCL is determined annually or less frequently, the highest monitoring result at any sampling point and the range of detected monitoring results expressed in the same units as the MCL.
  - b. When compliance with the MCL is determined by calculating a running annual average of all monitoring results taken at a sampling point, the average of the monitoring results and the range of all the monitoring results expressed in the same units as the MCL.
  - c. When compliance with the MCL is determined on a system-wide basis by calculating a running annual average of all monitoring results at all sampling points, the average and range of detected monitoring results expressed in the same units as the MCL.
5. For turbidity, the highest single measurement and lowest monthly percentage of samples meeting turbidity limits specified in R18-4-302 for the filtration technology being used. The CCR shall include an explanation of the reasons for measuring turbidity.
  6. For lead and copper, the 90th percentile value of the most recent round of sampling and the number of sampling sites that exceed the action level;
  7. For total coliform:
    - a. The highest number of positive samples collected each month for a CWS that collects fewer than 40 samples per month; or
    - b. The highest percentage of positive samples collected each month for a CWS that collects at least 40 samples per month.
  8. For fecal coliform, the total number of positive samples; and
  9. The likely source of detected contaminants. Specific information regarding contaminants may be available in sanitary surveys and source water assessments, and shall be used when available to the CWS. If the CWS lacks specific information on the likely source of contamination, the CCR shall include one or more of the typical origins for that contaminant listed in Appendix B that are most applicable to the CWS.
- C.** The table shall clearly identify any data indicating violations of MCLs or treatment techniques.
- D.** The CWS shall derive information in the CCR on detected contaminants from data collected to comply with monitoring and analytical requirements of this Chapter for the previous year. The table for a CWS that monitors less often than once a year for regulated contaminants under this Chapter shall contain the date and results of the most recent sampling. The CCR shall contain a brief statement indicating that the data presented in the CCR are from the most recent testing done in accordance with this Chapter within the last 5 years.
- E.** For detected unregulated contaminants for which monitoring is required, the table shall contain the average and range at which the contaminant was detected. The CCR may include a brief explanation of the reasons for monitoring for unregulated contaminants.
- F.** A CWS shall include results of monitoring in compliance with R18-4-404 and R18-4-405 shall be included for 5 years from the date of last sample or until any of the detected contaminants becomes regulated and subject to routine monitoring requirements, whichever comes first.
- G.** If a CWS distributes water to its customers from multiple hydraulically independent distribution systems that are fed by different raw water sources, the table shall contain a separate column for each service area and the CCR shall identify each separate distribution system. Alternatively, a CWS may produce separate CCRs tailored to include data for each service area. Multiple points of entry to a distribution system are not necessarily considered hydraulically independent.

**R18-4-705. Information on Haloacetic Acids, *Cryptosporidium*, Radon, and Other Contaminants**

- A.** If a CWS has performed monitoring for Haloacetic Acids or *Cryptosporidium* that indicates that either Haloacetic Acids or *Cryptosporidium* may be present in the source water or the finished water, the CCR shall contain:
1. A summary of the results of the monitoring; and
  2. An explanation of the significance of the results.
- B.** If a CWS has performed any monitoring for radon that indicates that radon may be present in the finished water, the CCR shall contain:
1. The results of the monitoring; and
  2. An explanation of the significance of the results.

**R18-4-706. Information on Violations**

- A.** A CCR shall contain a clear, understandable explanation of any violation that occurred during the year covered by the CCR, the length of the violation, an explanation of any potential adverse health effects, the health effects language from Appendix B of this Article, and the steps the CWS has taken to correct the violation for the following:
1. An MCL, treatment technique, or action level;
  2. Monitoring and reporting of regulated and unregulated compliance data;
  3. Filtration and disinfection for a CWS that has had a failure of filtration equipment or processes, or has had a failure of such equipment or processes that constitutes a violation. The CCR shall contain the following language as part of the explanation of potential adverse health effects:

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“Inadequately treated water may contain disease-causing organisms. These organisms include bacteria, viruses, and parasites that can cause symptoms such as nausea, cramps, diarrhea, and associated headaches.”

4. Lead and copper. For a CWS that failed to take one or more actions prescribed by R18-4-306 through R18-4-308, and R18-4-311 through R18-4-315, the CCR shall contain the applicable language from Appendix B of this Article for lead, copper, or both;
5. Treatment techniques for Acrylamide and Epichlorohydrin. For a CWS that violated the requirements of R18-4-317, the CCR shall include the relevant language from Appendix B;
6. Recordkeeping of compliance data; or
7. Violation of the terms of a variance, an exemption, or an administrative or judicial order.

**R18-4-707. Variances and Exemptions**

If a CWS is operating under the terms of a variance or an exemption issued under R18-4-110 and R18-4-111, the CCR shall contain:

1. An explanation of the reasons for the variance or exemption;
2. The date on which the variance or exemption was issued;
3. A brief status report on the steps the CWS is taking to install treatment, find alternative sources of water, or otherwise comply with the terms and schedules of the variance or exemption; and
4. A notice of any opportunity for public input in the review, or renewal, of the variance or exemption.

**R18-4-708. Additional Information**

- A.** The CCR shall contain a brief explanation regarding contaminants that may reasonably be expected to be found in drinking water. This explanation shall contain, at a minimum, the language of subsections (B) through (E). A CWS may include additional information. The sources of drinking water include rivers, lakes, streams, ponds, reservoirs, springs, and wells. As water travels over the surface of the land or through the ground, it dissolves naturally-occurring minerals and, in some cases, radioactive material, and can pick up substances resulting from the presence of animals or from human activity.
- B.** Contaminants that may be present in source water include the following:
  1. Microbial contaminants, such as viruses and bacteria, that may be from sewage treatment plants, septic systems, agricultural livestock operations, and wildlife;
  2. Inorganic contaminants, such as salts and metals, that can be naturally-occurring or result from urban storm water runoff, industrial or domestic wastewater discharges, oil and gas production, mining, or farming;
  3. Pesticides and herbicides, that may come from a variety of sources such as agriculture, urban storm water runoff, and residential uses;
  4. Organic chemical contaminants, including synthetic and volatile organic chemicals, that are by-products of industrial processes and petroleum production, and can also come from gas stations, urban storm water runoff, and septic systems; and
  5. Radioactive contaminants, that can be naturally-occurring or be the result of oil and gas production and mining activities.
- C.** In order to ensure that tap water is safe to drink, the United States Environmental Protection Agency prescribes regulations that limit the amount of certain contaminants in water provided by public water systems. The United States Food and Drug Administration regulations establish limits for contaminants in bottled water.
- D.** Drinking water, including bottled water, may reasonably be expected to contain at least small amounts of some contaminants. The presence of contaminants does not necessarily indicate that water poses a health risk. More information about contaminants in tap water and potential health effects can be obtained by calling the Environmental Protection Agency’s Safe Drinking Water Hotline (800-426-4791). Information on bottled water can be obtained from the United States Food and Drug Administration.
- E.** The CCR shall contain the telephone number of the owner, operator, or designee of the CWS as a source of additional information concerning the CCR.
- F.** In communities with a large proportion of non-English speaking residents, the CCR shall contain information in the appropriate language regarding the importance of the CCR or contain a telephone number or address where such residents may contact the CWS to obtain a translated copy of the CCR or assistance in the appropriate language.
- G.** The CCR shall contain information about the time and place of regularly scheduled meetings or other opportunities for public participation in decisions that may affect the quality of the water.
- H.** The CWS may include additional information necessary for public education consistent with, and not detracting from, the purpose of the CCR.

**R18-4-709. Additional Health Information.**

- A.** A CCR shall prominently display the following language:

“Some people may be more vulnerable to contaminants in drinking water than the general population. Immuno-compromised persons such as persons with cancer undergoing chemotherapy, persons who have undergone organ transplants, people with HIV/AIDS or other immune system disorders, some elderly, and infants can be particularly at risk from infec-

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tions. These people should seek advice about drinking water from their health care providers. United States Environmental Protection Agency and Centers for Disease Control guidelines on appropriate means to lessen the risk of infection by *Cryptosporidium* and other microbial contaminants are available from the Safe Drinking Water Hotline (800-426-4791).”

- B.** A CWS that detects arsenic at levels more than .025 milligrams per liter, but less than the MCL shall include in its CCR a short informational statement about arsenic. The CWS may create its own informational statement, in consultation with the Department, or the CWS may use the following language:  
“The EPA is reviewing the drinking water standard for arsenic because of special concerns that it may not be stringent enough. Arsenic is a naturally-occurring mineral known to cause cancer in humans at high concentrations.”
- C.** A CWS that detects nitrate at levels more than 5 mg/l, but less than the MCL shall include a short informational statement about the impacts of nitrate on children. The CWS may create its own informational statement, in consultation with the Department, or the CWS may use the following language:  
“Nitrate in drinking water at levels above 10 ppm is a health risk for infants of less than six months of age. High nitrate levels in drinking water can cause blue baby syndrome. Nitrate levels may rise quickly for short periods of time because of rainfall or agricultural activity. If you are caring for an infant you should ask advice from your health care provider.”
- D.** A CWS that detects lead above the action level in more than 5%, but fewer than 10%, of homes sampled shall include a short informational statement about the special impact of lead on children. The CWS may create its own informational statement, in consultation with the Department, or the CWS may use the following language:  
“Infants and young children are typically more vulnerable to lead in drinking water than the general population. It is possible that lead levels at your home may be higher than at other homes in the community as a result of materials used in your home’s plumbing. If you are concerned about elevated lead levels in your home’s water, you may wish to have your water tested and flush your tap for 30 seconds to 2 minutes before using tap water. Additional information is available from the Safe Drinking Water Hotline (800-426-4791).”

**18-4-710. Consumer Confidence Report Delivery and Recordkeeping**

- A.** A CWS shall mail or otherwise directly deliver one copy of the CCR to each customer, except as provided in subsection (G) by July 1 annually.
- B.** A CWS shall make a good faith effort to notify its consumers who do not get water bills. A good faith effort to notify consumers would include a use of methods appropriate to the particular CWS such as:
1. Posting the CCRs on the Internet;
  2. Mailing to postal patrons in metropolitan areas;
  3. Advertising the availability of the CCR in the news media;
  4. Publication in a local newspaper;
  5. Posting in public places such as cafeterias or lunch rooms of public buildings;
  6. Delivery of multiple copies for distribution by single-biller customers such as apartment buildings or large private employers; or
  7. Delivery to community organizations.
- C.** A CWS shall deliver a copy of the CCR to the Department not later than the date the CWS delivers the CCR to its customers. A CWS that complies with the requirements of subsection (G) shall deliver a copy of the CCR to the Department by July 1 annually. Within 3 months of delivery of the CCR to the Department, a CWS shall send a certification to the Department that verifies that the CCR has been distributed to the customers of the CWS, or that the CWS has complied with the requirements of subsection (G). The certification shall also verify that the information in the CCR is correct and consistent with the compliance monitoring data previously submitted to the Department.
- D.** Each CWS shall make its CCRs available to members of the public upon request.
- E.** Each CWS that serves 100,000 or more persons shall post its current year’s CCR to a publicly-accessible site on the Internet.
- F.** Each CWS shall retain a copy of its CCRs for at least 5 years.
- G.** Mailing waiver. A CWS that serves less than 10,000 people may perform the following instead of the requirements of subsection (A):
1. For a CWS that serves, more than 500, but less than 10,000 people:
    - a. Inform customers that the CWS will not provide copies of the CCR by mail or other direct delivery method.
    - b. Publish the entire CCR annually in at least one local newspaper or other news media serving areas in which your customers are located.
    - c. Send written notification to the Department that the CWS intends to comply with the requirements of this subsection.
  2. For a CWS that serves 500 or fewer people:
    - a. Inform customers that the CWS will not provide copies of the CCR by mail or other direct delivery method.
    - b. Provide notice annually that the CCR is available upon request.
    - c. Send written notification to the Department that the CWS intends to comply with the requirements of this subsection.

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Appendix A

Regulated Contaminants

<u>Microbiological Contaminants</u>	<u>MCL</u>	<u>Major Sources in Drinking Water</u>
<u>1. Total Coliform Bacteria</u>	<u>presence of coliform bacteria in ≥5% of monthly samples.</u>	<u>Naturally present in the environment.</u>
<u>2. Fecal coliform and <i>E. coli</i></u>	<u>a routine sample and a repeat sample are total coliform positive, and one is also fecal coliform or <i>E. coli</i> positive</u>	<u>Human and animal fecal waste.</u>
<u>3. Turbidity</u>	<u>Treatment Technique</u>	<u>Soil Run off</u>

<u>Radioactive Contaminants</u>	<u>MCL</u>	<u>Major Sources in Drinking Water</u>
<u>4. Beta/photon emitters</u>	<u>4 Millirems/ Year</u>	<u>Decay of natural and man-made deposits.</u>
<u>5. Alpha emitters</u>	<u>15 Picocuries/Liter</u>	<u>Erosion of natural deposits.</u>
<u>6. Combined radium</u>	<u>5 Picocuries/ Liter</u>	<u>Erosion of natural deposits.</u>

<u>Inorganic Contaminants</u>	<u>MCL in mg/l</u>	<u>Major Sources in Drinking Water</u>
<u>7. Antimony</u>	<u>.006</u>	<u>Discharge from petroleum refineries; fire retardants; ceramics; electronics; solder.</u>
<u>8. Arsenic</u>	<u>.05</u>	<u>Erosion of natural deposits; Runoff from orchards; Runoff from glass and electronics production wastes.</u>
<u>9. Asbestos</u>	<u>7 Million Fibers/Liter</u>	<u>Decay of asbestos cement water mains; Erosion of natural deposits.</u>
<u>10. Barium</u>	<u>2</u>	<u>Discharge of drilling wastes; Discharge from metal refineries; Erosion of natural deposits.</u>
<u>11. Beryllium</u>	<u>.004</u>	<u>Discharge from metal refineries and coal-burning factories; Discharge from electrical, aerospace, and defense industries.</u>
<u>12. Cadmium</u>	<u>.005</u>	<u>Corrosion of galvanized pipes; Erosion of natural deposits; Discharge from metal refineries; runoff from waste batteries and paints.</u>
<u>13. Chromium</u>	<u>.1</u>	<u>Discharge from steel and pulp mills; Erosion of natural deposits.</u>

<u>14. Copper</u>	<u>Action Level =1.3</u>	<u>Corrosion of household plumbing systems; Erosion of natural deposits; Leaching from wood preservatives.</u>
<u>15. Cyanide</u>	<u>.2</u>	<u>Discharge from steel/metal factories; Discharge from plastic and fertilizer factories.</u>



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16. Fluoride	4	Erosion of natural deposits; Water additive that promotes strong teeth; Discharge from fertilizer and aluminum factories.
17. Lead	Action Level =.015	Corrosion of household plumbing systems; Erosion of natural deposits.
18. Mercury	.002	Erosion of natural deposits; Discharge from refineries and factories; Runoff from landfills; Runoff from cropland.
19. Nitrate	10	Runoff from fertilizer use; Leaching from septic tanks, sewage; Erosion of natural deposits.
20. Nitrite	1	Runoff from fertilizer use; Leaching from septic tanks, sewage; Erosion of natural deposits.
21. Selenium	.05	Discharge from petroleum and metal refineries; Erosion of natural deposits; Discharge from mines.
22. Thallium	.002	Leaching from ore-processing sites; Discharge from electronics, glass, and drug factories.

<b><u>Synthetic Organic Contaminants including Pesticides and Herbicides</u></b>	<b><u>MCL in mg/l</u></b>	<b><u>Major Sources in Drinking Water</u></b>
23. 2,4-D	.07	Runoff from herbicide used on row crops.
24. 2,4,5-TP [Silvex]	.05	Residue of banned herbicide.
25. Acrylamide	Treatment Technique	Added to water during sewage/wastewater treatment.
26. Alachlor	.002	Runoff from herbicide used on row crops.
27. Atrazine	.003	Runoff from herbicide used on row crops.
28. Benzo(a)pyrene [PAH]	.0002	Leaching from linings of water storage tanks and distribution lines.
29. Carbofuran	.04	Leaching of soil fumigant used on rice and alfalfa.
30. Chlordane	.002	Residue of banned termiticide.
31. Dalapon	.2	Runoff from herbicide used on rights of way.
32. Di(2-ethylhexyl) adipate	.4	Discharge from chemical factories.
33. Di(2-ethylhexyl) phthalate	.006	Discharge from rubber and chemical factories.
34. Dibromochloropropane (DBCP)	.0002	Runoff/leaching from soil fumigant used on soybeans, cotton, pineapples, and orchards.
35. Dinoseb	.007	Runoff from herbicide used on soybeans and vegetables.
36. Diquat	.02	Runoff from herbicide use.
37. Dioxin [2,3,7,8-TCDD]	.00000003	Emissions from waste incineration and other combustion; Discharge from chemical factories.
38. Endothall	.1	Runoff from herbicide use.
39. Endrin	.002	Residue of banned insecticide.
40. Epichlorohydrin	Treatment Technique	Discharge from industrial chemical factories; An impurity of some water treatment chemicals.
41. Ethylene dibromide	.00005	Discharge from petroleum refineries.
42. Glyphosate	.7	Runoff from herbicide use.

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43. Heptachlor	.0004	Residue of banned pesticide.
44. Heptachlor epoxide	.0002	Breakdown of heptachlor.
45. Hexachlorobenzene	.001	Discharge from metal refineries and agricultural chemical factories.
46. Hexachlorocyclopentadiene	.05	Discharge from chemical factories.
47. Lindane	.0002	Runoff/leaching from insecticide used on cattle, lumber, gardens.
48. Methoxychlor	.04	Runoff/leaching from insecticide used on fruits, vegetables, alfalfa, livestock.
49. Oxamyl [Vydate]	.2	Runoff/leaching from insecticide used on apples, potatoes and tomatoes.
50. PCBs [Polychlorinated biphenyls]	.0005	Runoff from landfills; Discharge of waste chemicals.
51. Pentachlorophenol	.001	Discharge from wood preserving factories.
52. Picloram	.5	Herbicide runoff.
53. Simazine	.004	Herbicide runoff.
54. Toxaphene	.003	Runoff/leaching from insecticide used on cotton and cattle.
<b>Volatile Organic Contaminants</b>	<b>MCL in mg/l</b>	<b>Major Sources in Drinking Water</b>
55. Benzene	.005	Discharge from factories; Leaching from gas storage tanks and landfills.
56. Carbon tetrachloride	.005	Discharge from chemical plants and other industrial activities.
57. Chlorobenzene	.1	Discharge from chemical and agricultural chemical factories.
58. o-Dichlorobenzene	.6	Discharge from industrial chemical factories.
59. p-Dichlorobenzene	.075	Discharge from industrial chemical factories.
60. 1,2-Dichloroethane	.005	Discharge from industrial chemical factories.
61. 1,1-Dichloroethylene	.007	Discharge from industrial chemical factories.
62. cis-1,2-Dichloroethylene	.07	Discharge from industrial chemical factories.
63. trans-1,2-Dichloroethylene	.1	Discharge from industrial chemical factories.
64. Dichloromethane	.005	Discharge from pharmaceutical and chemical factories.
65. 1,2-Dichloropropane	.005	Discharge from industrial chemical factories.
66. Ethylbenzene	.7	Discharge from petroleum refineries.
67. Styrene	.1	Discharge from rubber and plastic factories; Leaching from landfills.
68. Tetrachloroethylene	.005	Leaching from PVC pipes; Discharge from factories and dry cleaners.
69. 1,2,4-Trichlorobenzene	.07	Discharge from textile-finishing factories.
70. 1,1,1-Trichloroethane	.2	Discharge from metal degreasing sites and other factories.
71. 1,1,2-Trichloroethane	.005	Discharge from industrial chemical factories.
72. Trichloroethylene	.005	Discharge from metal degreasing sites and other factories.

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73. TTHMs [Total trihalomethanes]	.1	Byproduct of drinking water chlorination.
74. Toluene	1	Discharge from petroleum factories.
75. Vinyl Chloride	.002	Leaching from PVC piping; Discharge from plastics factories.
76. Xylenes	10	Discharge from petroleum factories; Discharge from chemical factories.

**Appendix B**

**Health Effects Language**

**Microbiological Contaminants**

1. Total Coliform. Coliforms are bacteria that are naturally present in the environment and are used as an indicator that other, potentially-harmful, bacteria may be present. Coliforms were found in more samples than allowed and this was a warning of potential problems.
2. Fecal coliform/E.Coli. Fecal coliforms and E. coli are bacteria whose presence indicates that the water may be contaminated with human or animal wastes. Microbes in these wastes can cause short-term effects, such as diarrhea, cramps, nausea, headaches, or other symptoms. They may pose a special health risk for infants, young children, and people with severely compromised immune systems.
3. Turbidity. Turbidity has no health effects. However, turbidity can interfere with disinfection and provide a medium for microbial growth. Turbidity may indicate the presence of disease-causing organisms. These organisms include bacteria, viruses, and parasites that can cause symptoms such as nausea, cramps, diarrhea, and associated headaches.

**Radioactive Contaminants**

4. Beta/photon emitters. Certain minerals are radioactive and may emit forms of radiation known as photons and beta radiation. Some people who drink water containing beta and photon emitters in excess of the MCL over many years may have an increased risk of getting cancer.
5. Alpha emitters. Certain minerals are radioactive and may emit a form of radiation known as alpha radiation. Some people who drink water containing alpha emitters in excess of the MCL over many years may have an increased risk of getting cancer.
6. Combined Radium 226/228. Some people who drink water containing radium 226 or 228 in excess of the MCL over many years may have an increased risk of getting cancer.

**Inorganic Contaminants**

7. Antimony. Some people who drink water containing antimony well in excess of the MCL over many years could experience increases in blood cholesterol and decreases in blood sugar.
8. Arsenic. Some people who drink water containing arsenic in excess of the MCL over many years could experience skin damage or problems with their circulatory system, and may have an increased risk of getting cancer.
9. Asbestos. Some people who drink water containing asbestos in excess of the MCL over many years may have an increased risk of developing benign intestinal polyps.
10. Barium. Some people who drink water containing barium in excess of the MCL over many years could experience an increase in their blood pressure.
11. Beryllium. Some people who drink water containing beryllium well in excess of the MCL over many years could develop intestinal lesions.
12. Cadmium. Some people who drink water containing cadmium in excess of the MCL over many years could experience kidney damage.
13. Chromium. Some people who use water containing chromium well in excess of the MCL over many years could experience allergic dermatitis.
14. Copper. Copper is an essential nutrient, but some people who drink water containing copper in excess of the action level over a relatively short amount of time could experience gastrointestinal distress. Some people who drink water containing copper in excess of the action level over many years could suffer liver or kidney damage. People with Wilson's Disease should consult their personal doctor.
15. Cyanide. Some people who drink water containing cyanide well in excess of the MCL over many years could experience nerve damage or problems with their thyroid.
16. Fluoride. Some people who drink water containing fluoride in excess of the MCL over many years could get bone disease, including pain and tenderness of the bones. Children may get mottled teeth.
17. Lead. Infants and children who drink water containing lead in excess of the action level could experience delays in their physical or mental development. Children could show slight deficits in attention span and learning abilities. Adults who drink this water over many years could develop kidney problems or high blood pressure.

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18. Mercury (inorganic). Some people who drink water containing inorganic mercury well in excess of the MCL over many years could experience kidney damage.
19. Nitrate. Infants below the age of six months who drink water containing nitrate in excess of the MCL could become seriously ill and, if untreated, may die. Symptoms include shortness of breath and blue-baby syndrome.
20. Nitrite. Infants below the age of six months who drink water containing nitrite in excess of the MCL could become seriously ill and, if untreated, may die. Symptoms include shortness of breath and blue-baby syndrome.
21. Selenium. Selenium is an essential nutrient. However, some people who drink water containing selenium in excess of the MCL over many years could experience hair or fingernail losses, numbness in fingers or toes, or problems with their circulation.
22. Thallium. Some people who drink water containing thallium in excess of the MCL over many years could experience hair loss, changes in their blood, or problems with their kidneys, intestines, or liver.

**Synthetic Organic Contaminants Including Pesticides and Herbicides**

23. 2,4-D. Some people who drink water containing the weed killer 2,4-D well in excess of the MCL over many years could experience problems with their kidneys, liver, or adrenal glands.
24. 2,4,5-TP (Silvex). Some people who drink water containing silvex in excess of the MCL over many years could experience liver problems.
25. Acrylamide. Some people who drink water containing high levels of acrylamide over a long period of time could have problems with their nervous system or blood, and may have an increased risk of getting cancer.
26. Alachlor. Some people who drink water containing alachlor in excess of the MCL over many years could have problems with their eyes, liver, kidneys, or spleen, or experience anemia, and may have an increased risk of getting cancer.
27. Atrazine. Some people who drink water containing atrazine well in excess of the MCL over many years could experience problems with their cardiovascular system or reproductive difficulties.
28. Benzo(a)pyrene (PAH). Some people who drink water containing benzo(a)pyrene in excess of the MCL over many years may experience reproductive difficulties and may have an increased risk of getting cancer.
29. Carbofuran. Some people who drink water containing carbofuran in excess of the MCL over many years could experience problems with their blood, or nervous or reproductive systems.
30. Chlordane. Some people who drink water containing chlordane in excess of the MCL over many years could experience problems with their liver or nervous system, and may have an increased risk of getting cancer.
31. Dalapon. Some people who drink water containing dalapon well in excess of the MCL over many years could experience minor kidney changes.
32. Di (2-ethylhexyl) adipate. Some people who drink water containing di (2-ethylhexyl) adipate well in excess of the MCL over many years could experience general toxic effects or reproductive difficulties.
33. Di (2-ethylhexyl) phthalate. Some people who drink water containing di (2-ethylhexyl) phthalate in excess of the MCL over many years may have problems with their liver, or experience reproductive difficulties, and may have an increased risk of getting cancer.
34. Dibromochloropropane (DBCP). Some people who drink water containing DBCP in excess of the MCL over many years could experience reproductive difficulties and may have an increased risk of getting cancer.
35. Dinoseb. Some people who drink water containing dinoseb well in excess of the MCL over many years could experience reproductive difficulties.
36. Dioxin (2,3,7,8-TCDD). Some people who drink water containing dioxin in excess of the MCL over many years could experience reproductive difficulties and may have an increased risk of getting cancer.
37. Diquat. Some people who drink water containing diquat in excess of the MCL over many years could get cataracts
38. Endothall. Some people who drink water containing endothall in excess of the MCL over many years could experience problems with their stomach or intestines.
39. Endrin. Some people who drink water containing endrin in excess of the MCL over many years could experience liver problems.
40. Epichlorohydrin. Some people who drink water containing high levels of epichlorohydrin over a long period of time could experience stomach problems, and may have an increased risk of getting cancer.
41. Ethylene dibromide. Some people who drink water containing ethylene dibromide in excess of the MCL over many years could experience problems with their liver, stomach, reproductive system, or kidneys, and may have an increased risk of getting cancer.
42. Glyphosate. Some people who drink water containing glyphosate in excess of the MCL over many years could experience problems with their kidneys or reproductive difficulties.
43. Heptachlor. Some people who drink water containing heptachlor in excess of the MCL over many years could experience liver damage and may have an increased risk of getting cancer.
44. Heptachlor epoxide. Some people who drink water containing heptachlor epoxide in excess of the MCL over many years could experience liver damage, and may have an increased risk of getting cancer.

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45. Hexachlorobenzene. Some people who drink water containing hexachlorobenzene in excess of the MCL over many years could experience problems with their liver or kidneys, or adverse reproductive effects, and may have an increased risk of getting cancer.
46. Hexachlorocyclopentadiene. Some people who drink water containing hexachlorocyclopentadiene well in excess of the MCL over many years could experience problems with their kidneys or stomach.
47. Lindane. Some people who drink water containing lindane in excess of the MCL over many years could experience problems with their kidneys or liver.
48. Methoxychlor. Some people who drink water containing methoxychlor in excess of the MCL over many years could experience reproductive difficulties.
49. Oxamyl [Vydate]. Some people who drink water containing oxamyl in excess of the MCL over many years could experience slight nervous system effects.
50. PCBs [Polychlorinated biphenyls]. Some people who drink water containing PCBs in excess of the MCL over many years could experience changes in their skin, problems with their thymus gland, immune deficiencies, or reproductive or nervous system difficulties, and may have an increased risk of getting cancer.
51. Pentachlorophenol. Some people who drink water containing pentachlorophenol in excess of the MCL over many years could experience problems with their liver or kidneys, and may have an increased risk of getting cancer.
52. Picloram. Some people who drink water containing picloram in excess of the MCL over many years could experience problems with their liver.
53. Simazine. Some people who drink water containing simazine in excess of the MCL over many years could experience problems with their blood.
54. Toxaphene. Some people who drink water containing toxaphene in excess of the MCL over many years could have problems with their kidneys, liver, or thyroid, and may have an increased risk of getting cancer.

**Volatile Organic Contaminants**

55. Benzene. Some people who drink water containing benzene in excess of the MCL over many years could experience anemia or a decrease in blood platelets, and may have an increased risk of getting cancer.
56. Carbon Tetrachloride. Some people who drink water containing carbon tetrachloride in excess of the MCL over many years could experience problems with their liver and may have an increased risk of getting cancer.
57. Chlorobenzene. Some people who drink water containing chlorobenzene in excess of the MCL over many years could experience problems with their liver or kidneys.
58. o-Dichlorobenzene. Some people who drink water containing o-dichlorobenzene well in excess of the MCL over many years could experience problems with their liver, kidneys, or circulatory systems.
59. p-Dichlorobenzene. Some people who drink water containing p-dichlorobenzene in excess of the MCL over many years could experience anemia, damage to their liver, kidneys, or spleen, or changes in their blood.
60. 1,2-Dichloroethane. Some people who drink water containing 1,2-dichloroethane in excess of the MCL over many years may have an increased risk of getting cancer.
61. 1,1-Dichloroethylene. Some people who drink water containing 1,1-dichloroethylene in excess of the MCL over many years could experience problems with their liver.
62. cis-1,2-Dichloroethylene. Some people who drink water containing cis-1,2-dichloroethylene in excess of the MCL over many years could experience problems with their liver.
63. trans-1,2-Dichloroethylene. Some people who drink water containing trans-1,2-dichloroethylene well in excess of the MCL over many years could experience problems with their liver.
64. Dichloromethane. Some people who drink water containing dichloromethane in excess of the MCL over many years could have liver problems and may have an increased risk of getting cancer.
65. 1,2-Dichloropropane. Some people who drink water containing 1,2-dichloropropane in excess of the MCL over many years may have an increased risk of getting cancer.
66. Ethylbenzene. Some people who drink water containing ethylbenzene well in excess of the MCL over many years could experience problems with their liver or kidneys.
67. Styrene. Some people who drink water containing styrene well in excess of the MCL over many years could have problems with their liver, kidneys, or circulatory system.
68. Tetrachloroethylene. Some people who drink water containing tetrachloroethylene in excess of the MCL over many years could have problems with their liver, and may have an increased risk of getting cancer.
69. 1,2,4-Trichlorobenzene. Some people who drink water containing 1,2,4-trichlorobenzene well in excess of the MCL over many years could experience changes in their adrenal glands.
70. 1,1,1-Trichloroethane. Some people who drink water containing 1,1,1-trichloroethane in excess of the MCL over many years could experience problems with their liver, nervous system, or circulatory system.
71. 1,1,2-Trichloroethane. Some people who drink water containing 1,1,2-trichloroethane well in excess of the MCL over many years could have problems with their liver, kidneys, or immune systems.

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- 72. Trichloroethylene. Some people who drink water containing trichloroethylene in excess of the MCL over many years could experience problems with their liver and may have an increased risk of getting cancer.
- 73. TTHMs [Total Trihalomethanes]. Some people who drink water containing trihalomethanes in excess of the MCL over many years may experience problems with their liver, kidneys, or central nervous systems, and may have an increased risk of getting cancer.
- 74. Toluene. Some people who drink water containing toluene well in excess of the MCL over many years could have problems with their nervous system, kidneys, or liver.
- 75. Vinyl Chloride. Some people who drink water containing vinyl chloride in excess of the MCL over many years may have an increased risk of getting cancer.
- 76. Xylenes. Some people who drink water containing xylenes in excess of the MCL over many years could experience damage to their nervous system.

**NOTICE OF PROPOSED RULEMAKING**

**TITLE 18. ENVIRONMENTAL QUALITY**

**CHAPTER 15. WATER INFRASTRUCTURE FINANCE AUTHORITY**

**PREAMBLE**

**1. Sections Affected**

R18-15-101  
Article  
R18-15-501  
R18-15-502  
R18-15-503  
R18-15-504  
R18-15-505  
R18-15-506  
R18-15-507  
Article 6  
R18-15-601  
R18-15-602  
R18-15-603  
Article 7  
R18-15-701

**Rulemaking Action**

Amend  
New Article  
New Section  
New Section  
New Section  
New Section  
New Section  
New Section  
New Section  
New Section  
New Article  
New Section  
New Section  
New Section  
New Article  
New Section

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

Authorizing statutes: A.R.S. § 49-1203

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

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

None.

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

Name: Dick Jeffries, Technical Coordinator or Mark Lammler, Operations Manager

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

Telephone: (602) 230-9770

Fax: (602) 230-1480

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

The proposed Article 5 and the proposed amendments to Article 1, clarify WIFA's responsibility to fund technical assistance and to establish criteria for WIFA's Board of Directors to award technical assistance to specific applicants for specific water and wastewater projects. The proposed Article 6 clarifies WIFA's responsibility to award hardship

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grants for wastewater projects in accordance with federal and state law and related regulation. The proposed Article 7 clarifies WIFA's responsibility to set interest rates and forgive loan principal.

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

None.

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

Not applicable.

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

A. Introduction.

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

B. Potential Impacts on Regulated Industry.

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

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

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

The impact to these industries is beneficial. WIFA emphasizes that although a cost is associated with obtaining financial and technical assistance, applicants initiate requests for financial and technical assistance to obtain funding to come into compliance or correct a problem. Without the financial and technical assistance available through WIFA, many communities would otherwise find it difficult, if not impossible, to obtain funding to achieve compliance or correct problems associated with water quality standards. Thus, the net impact upon the regulated industries represents a cost-savings benefit.

C. Social Impacts.

This rulemaking is not expected to have a quantifiable social cost. This is because compliance by the regulated industry is not a requirement for the rule, but a goal as the result of funding "out-of-compliance" facilities. It is not anticipated that the rule amendments will add any deadweight-welfare losses (policy changes that make people worse off), adjustment costs for displaced resources, or other business or market costs. Because WIFA does not anticipate any type of reduction in industry output, deadweight-welfare losses are expected to be zero, that is, because no losses in consumers' and producers' surplus are anticipated. Finally, this rulemaking will not have an impact on state revenues.

D. Anticipated Impacts on Employment, Revenues, and Expenditures.

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

E. General Impact on Small Businesses and Reduction of Impacts.

WIFA directs financial and technical assistance to assist small businesses, in the form of drinking water utilities, and small communities because those entities tend to have the smallest user base and are less likely to be to upgrade or rehabilitate their infrastructure. Therefore the general impact is a greater availability for financial and technical assistance to improve infrastructure.

F. The probable costs and benefits to the political subdivisions directly affected.

The political subdivisions directly affected include drinking water facilities and wastewater facilities. These facilities are impacted in the same manner as small business in that they can now solve infrastructure problems with financial and technical assistance.

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In the case of a political subdivision that may receive a low-interest loan from the drinking water revolving fund, WIFA may forgive the principal. Forgivable principal is done in the form of negative interest. The cost from this decision is a reduction in the revolving fund, but the benefit is expected to be improved compliance and continued operation and maintenance of the system. WIFA does not intend to deplete the revolving fund by loaning it out and then forgiving all the principal. WIFA intends to use this option in the instance that it can benefit the facility long-term and without a negative impact on the fund.

In the case of a political subdivision seeking financial and technical assistance from the clean water revolving fund, WIFA may provide a hardship grant if certain criteria are met. The hardship grant program is currently principally funded by a one-time federal grant which limits eligible recipients to communities from rural areas on the clean water revolving fund priority list.

G. The probable cost-benefit to government agencies.

The Arizona Corporation Commission (ACC) is minimally affected by these rules because the private drinking water facilities must request a rate increase from the ACC to ensure payment of the loan. Additionally, most loans for financial and technical assistance are anticipated to be of a small enough size that rate increases to cover the loans will not be necessary.

H. Data limitations and methods employed to attempt to obtain data if adequate data were not available.

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

I. The probable benefits outweigh the probable costs.

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

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

Name:	Dick Jeffries, Technical Coordinator or Mark Lammler, Operations Manager
Address	202 E. Earll Drive, #480 Phoenix, AZ 85012
Telephone:	(602) 230-9770
Fax:	(602) 230-1480

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

An Oral Proceeding will be held February 14, 2000 from 10:00 a.m. to 12:00 p.m. in the conference room of the Water Infrastructure Finance Authority, 202 E. Earll Drive, Suite 480, Phoenix, Arizona 85012.

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

Not applicable.

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

Not applicable.

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



**TITLE 18. ENVIRONMENTAL QUALITY**

**CHAPTER 15. WATER INFRASTRUCTURE FINANCE AUTHORITY**

**ARTICLE 1. MANAGEMENT**

Section

R18-15-101.      Definitions

**ARTICLE 5. TECHNICAL ASSISTANCE**

Section

R18-15-501.      Technical Assistance Intended Use Plan  
R18-15-502.      Eligibility Requirements for Project Technical Assistance  
R18-15-503.      Types of Project Technical Assistance  
R18-15-504.      Maximum Amount of Project Technical Assistance  
R18-15-505.      Project Technical Assistance  
R18-15-506.      Project Technical Assistance Priority Classes  
R18-15-507.      Project Technical Assistance Priority Scoring Criteria

**ARTICLE 6. HARDSHIP GRANT FUND**

Section

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

**ARTICLE 7. INTEREST RATE SETTING AND FORGIVABLE PRINCIPAL**

Section

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

**ARTICLE 1. MANAGEMENT**

**R18-15-101. Definitions**

In this Chapter the following terms mean:

1. No change
2. No change
3. No change
4. No change
5. No change
6. No change
7. No change
8. No change
9. No change
10. No change
11. No change
12. No change
13. No change
14. No change
15. No change
16. No change
17. No change
18. No change
19. No change
20. No change
21. No change
22. No change
23. No change
24. No change
25. No change
26. No change
27. No change

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- 28. No change
- 29. No change
- 30. No change
- 31. No change
- 32. No change
- 33. No change
- 34. Project technical assistance means assistance to a specific water or wastewater system to assist that system achieve legal, technical, managerial, or financial capacity and to facilitate the design, construction, acquisition, improvement, or consolidation of a drinking water or wastewater system.
- ~~3435.~~ No change
- ~~3536.~~ No change
- ~~3637.~~ No change
- ~~3738.~~ No change
- ~~3839.~~ No change
- ~~3940.~~ No change
- ~~4041.~~ No change

**ARTICLE 5. TECHNICAL ASSISTANCE**

**R18-15-501. Technical Assistance Intended Use Plan**

The Board shall publish a Technical Assistance Intended Use Plan for each year in which it anticipates that it will fund technical assistance. At a minimum, the Intended Use Plan shall include: a description of the types of technical assistance the Board expects to fund; the sources and uses of funds for technical assistance, including Project Technical Assistance; a Drinking Water Project Technical Assistance Priority List; and a Wastewater Project Technical Assistance Priority List. The Board shall adopt the Technical Assistance Intended Use Plan after providing for public comment and review.

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

- A. To be eligible to receive Project Technical Assistance, an applicant shall own or operate a drinking water or wastewater system eligible for financial assistance under Title 49, Chapter 8, Sections 1223(A)1 and 1242(A)1.
- B. A project eligible under subsection (A) of this Section that applies for Project Technical Assistance shall also meet all of the following requirements:
  - 1. The system serves fewer than 10,001 people.
  - 2. Proposed Project Technical Assistance will assist the system achieve technical capacity pursuant to R18-15-105, managerial and institutional capacity pursuant to R18-15-106, or financial capacity pursuant to R18-15-104.
  - 3. Proposed Project Technical Assistance will facilitate the design, construction, acquisition, improvement, or consolidation of a drinking water or wastewater system.
- C. The Board shall provide Project Technical Assistance to eligible applicants in priority order according to the priority list developed pursuant to R18-15-504.

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

The Board may award Project Technical Assistance in any one or a combination of the following forms:

- 1. Project Technical Assistance Grants to local units of government. If consultants are required to complete the Project Technical Assistance, the local unit of government must select and pay consultants in accordance with applicable procurement requirements.
- 2. Consultants selected and paid by the Authority to provide Project Technical Assistance on behalf of the recipient of the Project Technical Assistance award.
- 3. Project Technical Assistance Loans subject to the terms and conditions approved by the Board.

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

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

**R18-15-505. Project Technical Assistance Priority Lists**

- A. Each year the Board shall adopt the Drinking Water Project Technical Assistance Priority List and the Wastewater Project Technical Assistance Priority List for the funding cycle detailed within the Technical Assistance Intended Use Plan. The Board shall not adopt lists for years where funds are not adequate to assist any projects.

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

**R18-15-506. Project Technical Assistance Priority Classes**

- A.** The Board shall evaluate each application submitted and place it into a priority class.
- B.** Class A -- The Board may designate a project as Priority Class A if both the following conditions exist:
  - 1. The goal of the project is to eliminate either of the following:
    - a. An environmental nuisance as defined in A.R.S. § 49-141.
    - b. A public health hazard declared by a regulatory authority.
  - 2. Corrective action or mitigation measures have been initiated as evidenced by 1 or more of the following:
    - a. An administrative order issued by a regulatory authority.
    - b. A court order or decision.
    - c. A voluntary compliance agreement with a regulatory authority.
    - d. The implementation of a corrective action plan by a regulatory authority, which may include restrictions on construction, connections, or development.
    - e. A voluntary corrective action plan implemented by the applicant and evidenced by restrictions or moratoriums.
- C.** Class B -- The Board may designate a project as Priority Class B if one of the following conditions exists:
  - 1. The applicant has been issued an administrative order by a regulatory authority.
  - 2. The applicant is subject to a court order or decision.
  - 3. The applicant has entered into a voluntary compliance agreement with a regulatory authority.
  - 4. The applicant has entered into a corrective action plan by a regulatory authority, which may include restrictions on construction, connections, or development.
- D.** Class C -- The Board may designate a technical assistance project as priority Class C if the goal of the project is to upgrade or rehabilitate existing capacity or existing facility design.

**R18-15-507. Project Technical Assistance Priority Scoring Criteria**

- A.** The Board shall score projects within priority classes using priority values obtained from the following formula:  $PV = PF + LFC + CF$  where:  
PV = Priority Value  
PF = Population Factor  
LFC = Local Fiscal Capacity  
CF = Contribution Factor
- B.** Population Factor (PF) – The Board shall award PF points to a maximum of 60 points as follows:

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1. 60 points if the system serves up to 2,500 people.
  2. 45 points if the system serves between 2,501 and 5,000 people.
  3. 30 points if the system serves between 5,001 and 7,500 people.
  4. 15 points if the system serves between 7,501 and 10,000 people.
- C.** Local Fiscal Capacity (LFC) -- The Board shall award LFC points up to a maximum of 80 points as follows:
1. Median Household Income (MHI) -- The Board shall divide the MHI from the area served by the applicant by the state's MHI (Service Area MHI/State MHI) to award points as follows:
    - a. 40 points if the area's MHI is less than 25% of the State's MHI.
    - b. 30 points if the area's MHI is between 25% and 50% of the State's MHI.
    - c. 20 points if the area's MHI is between 51% and 75% of the State's MHI.
    - d. 10 points if the area's MHI is between 76% and 100% of the State's MHI.
    - e. 0 points if the area's MHI is more than 100% of the State's MHI.
  2. User Fees -- The Board shall divide the applicant's present residential user fees, rates, and charges by the service area's MHI (Present User Fees, Rates and Charges/Area MHI) to award points as follows:
    - a. 20 points if the rates are more than 2% of the area's MHI.
    - b. 10 points if the rates are between 1% and 2% of the area's MHI.
    - c. 0 points if the rates area is less than 1% of the area's MHI.
  3. Investment -- The Board shall divide existing indebtedness, and existing investments by the service area's MHI (Investment/ Area MHI) to award points as follows:
    - a. 20 points if the existing investment is more than 1% of the area's MHI.
    - b. 10 points if the existing investment is between .5% and 1% of the area's MHI.
    - c. 0 points if the existing investment is less than .5% of the area's MHI.
- D.** Contribution Factor (CF) – The Board shall award CF points to a maximum of 60 points. The Board shall award CF points as follows:
1. 60 points if the applicant contributes 50% or more of the project costs.
  2. 45 points if the applicant contributes between 37.5% and 49.9% of the project costs.
  3. 30 points if the applicant contributes between 25% and 37.4% of the project costs.
  4. 15 points if the applicant contributes between 12.5% and 24.9% of the project costs.
  5. 0 points if the applicant contributes between zero percent and 12.4% of the project costs.
- An applicant's contribution can include cash contributions, in-kind contributions, and contributions financed by loans or debt from any source including a loan from the Authority.
- E.** The Board shall use the most recent federal or state data to determine the applicant's service population and median household income and the state's median household income. If the Board or the applicant determines that this data is insufficient, the applicant shall use a reliable and impartial entity to conduct a population or income survey of the applicant's service area.
- F.** After scoring within each class, the Board shall rank tied scores by placing the applicant serving the smallest population above all other tied applications in the class.

**ARTICLE 6. HARDSHIP GRANT FUND**

**R18-15-601. Types of Assistance Available**

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

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

- A.** To be eligible to receive financial assistance an applicant shall propose a project to design, plan, acquire, construct, or improve wastewater collection and treatment facilities owned by political subdivisions or Indian Tribes.
- B.** A project eligible under subsection (A) of this Section shall also meet all of the following applicable requirements prior to receiving financial assistance:
1. An applicant shall apply for Hardship Grant Financial Assistance in accordance with R18-15-102 Subsections A, B, and E.
  2. The project shall appear on the Clean Water Revolving Fund Priority List developed pursuant R18-15-204, R18-15-205, and R18-15-206.
  3. The applicant must be a community in a rural area.

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4. The applicant must be a community of more than a single household but no more than 3,000 inhabitants as measured by the most recent state data.
5. The applicant must be a community that lacks centralized wastewater treatment or collection systems or needs improvement to onsite wastewater treatment systems.
6. On the date the applicant applies for assistance, the per capita annual income of the community's residents must not exceed 80 percent of national per capita income.
7. On the date the applicant applies for assistance, the community's local unemployment rate exceeds by one percentage point or more the most recently reported average yearly national unemployment rate.

**R18-15-603. Hardship Grant Financial Assistance Awards**

- A.** The Board shall award financial assistance to eligible applicants for proposed projects in priority order according to the priority list development pursuant to R18-15-204, R18-15-205, and R18-15-206. If the Board determines that an eligible applicant will not be able to proceed with a project, the Board shall bypass that project. The Board shall provide written notice to the applicant that the project has been bypassed. The Board may replace the bypassed project with the next eligible applicant and eligible project on the Clean Water Revolving Fund Priority List in rank order.
- B.** The Board shall award financial assistance to eligible recipients in amounts in accordance with Board criteria adopted and as periodically modified by the Board at public meetings of the Board after allowing for public review and comment.

**ARTICLE 7. INTEREST RATE SETTING AND PRINCIPAL FORGIVENESS**

**R18-15-701. Interest Rate Setting and Principal Forgiveness**

The Authority shall prescribe the rate of interest, including interest rates as low as a minimum of zero percent, and eligibilities and procedures for the Authority to forgive principal on Authority loans, bond purchase agreements, and linked deposit guarantees in accordance with Board criteria adopted and as periodically modified by the Board at public meetings of the Board after allowing for public review and comment.