

## COUNTY NOTICES PURSUANT TO A.R.S. § 49-112

Because each county writes rules and regulations in its own unique style, County Notices published in the *Register* do not conform to the standards of the *Arizona Rulemaking Manual*. With the exception of minor formatting changes, the rules (including subsection labeling, spelling, grammar, and punctuation) are reproduced as submitted.

### NOTICE OF PROPOSED COUNTY REGULATION CHANGES

#### MARICOPA COUNTY

#### STORMWATER QUALITY MANAGEMENT AND DISCHARGE CONTROL REGULATION

[M12-148]

#### PREAMBLE

- 1. Sections Affected**

	<u>Rulemaking Action</u>
Chapter 13	New
1301	New
1302	New
1303	New
1304	New
1305	New
Chapter 14	Amended
- 2. The statutory authority for the regulation, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. §§ 49-371, 11-251.66, and 11-1605(B)  
Implementing statute: A.R.S. §§ 49-112, 49-371, 11-251.66, and 11-1605(B)
- 3. A list of all previous notices appearing in the Register addressing the proposed regulation:**

Notice of Proposed County Regulation February 27, 2009  
Notice of Proposed County Regulation Changes February 4, 2011
- 4. The name and address of agency personnel with whom persons may communicate regarding the regulation:**

Name: Robert van den Akker  
Address: 1001 N. Central Ave., Suite 300  
Phoenix, AZ 85004  
Telephone: (480) 483-4703, ext. 211  
Fax: (602) 372-0631  
E-mail: rvandenakker@mail.maricopa.gov
- 5. An explanation of the regulation, including the agency's reasons for initiating the regulation changes:**

Maricopa County Environmental Services Department is adding a new chapter to the Stormwater Regulation in order to be in compliance with A.R.S. §11-1605(B) on Licensing Time Frames.
- 6. A showing of good cause why the regulation is necessary to promote a statewide interest if the regulation will diminish a previous grant of authority of a political subdivision of the state:**

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

Given that this proposal responds to statutory mandates, there are no supporting studies nor has the Department prepared an economic, small business or consumer impact discussion
- 8. 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: Robert van den Akker  
Address: 1001 N. Central Ave., Suite 300

Phoenix, AZ 85004

Telephone: (480) 483-4703, ext. 211

Fax: (602) 372-0631

E-mail: rvandenakker@mail.maricopa.gov

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

Public Hearing before Board of Supervisors

Date: June 20, 2012 (Tentative Schedule)

Time: 9:00 a.m.

Location: Board of Supervisors' Auditorium  
205 W. Jefferson St.  
Phoenix, AZ 85003

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

No other matters prescribed by statute are applicable.

**11. Incorporations by reference and their location in the regulation:**

Drainage Regulation for Maricopa County Section 1109.1

Floodplain Regulation for Maricopa County Section 1109.1

Maricopa County Drainage Design Manual, volume III Section 1109.2

Maricopa County Drainage Policies and Standards, Standard 6.4.1 Section 1109.4

**12. The full text of the regulation follow:**

**MARICOPA COUNTY**

**STORMWATER QUALITY MANAGEMENT AND DISCHARGE CONTROL REGULATION**

**CHAPTER 13 – LICENSING TIME FRAME**

**1301 Definitions [Only Applicable To Sections 1301 through 1305]**

**1302 Administrative Completeness Review Time-frame Operation; Administrative Completeness**

**1303 Substantive Review Time-frame Operation; Requests for Additional Information**

**1304 Overall Time-frame Operation**

**1305 Application Component**

**CHAPTER ~~13~~ 14 – EFFECTIVE DATE AND ADOPTION OF REGULATION.**

**CHAPTER 13 – LICENSING TIME FRAME**

**1301 - Definitions [Only Applicable To Sections 1301 through 1305]**

- 1. ADMINISTRATIVE COMPLETENESS OR ADMINISTRATIVELY COMPLETE:** means Department Receipt of all application components required by statute, rule or ordinance and necessary to enable the Department to issue a Department Notice of Administrative Completeness under A.R.S. § 11-1605 and thereby end the Administrative Completeness Review time-frame and start the Substantive Review time-frame.
- 2. ADMINISTRATIVE COMPLETENESS REVIEW:** Means the process of clerical verification by the Department to determine whether the submitted application components meet the requirements of Administrative Completeness.
- 3. APPLICANT:** Means a person who requests the Department to issue a License.
- 4. DAY:** Means business day and excludes Saturdays, Sundays, and Maricopa County holidays.
- 5. DEPARTMENT NOTIFICATION OR DEPARTMENT NOTICE:** Means written communication by the Department to an Applicant in person or at the mailing or Electronic Address identified on the

- application. The Department may notify the Applicant at the Applicant's Electronic Address only if the Applicant provides that address as part of an application component. The notification is effective:
- A. If mailed, on the date of its postmark.
  - B. If delivered in person by a Department employee or agent, on the date of delivery.
  - C. If delivered electronically, on the date of delivery to the Electronic Address.
6. **DEPARTMENT RECEIPT:** of an application component or an Applicant response means one of the following Days, whichever is later:
    - A. If the component or response is hand delivered to the Department by the Applicant, the Day of actual receipt by the Department.
    - B. If the component or response is mailed, five days after the postmark identifying the mailing date.
    - C. If delivered electronically, on the date of delivery to the Electronic Address.
  7. **ELECTRONIC ADDRESS:** Means either a telephone number for facsimile document communication (fax) or an electronic mail (e-mail) address. "Electronic Address" does not mean a telephone number for voice or TDD (telephone device for the deaf) communication.
  8. **LICENSE:** Includes the whole or part of any County Permit, certificate, approval, Registration, Charter or similar for of permission required by law.
  9. **LICENSING:** Includes the County process respecting the grant, denial, renewal, revocation, suspension, annulment, withdrawal or amendment of a License.
  10. **LICENSING TIME-FRAMES:** Means an overall time-frame during which the County will either grant or deny each type of License it issues.
  11. **PRESUMPTIVE ADMINISTRATIVE COMPLETENESS:** Means the expiration of the Administrative Completeness Review time-frame.
  12. **PRESUMPTIVE OVERALL TIME-FRAME:** Means the total of the days shown for the Administrative Completeness Review and Substantive Review time-frames on the Licensing tables for that Licensing category and may be different from the actual Overall time-frame because the Presumptive Overall Time-Frame does not include a lengthening of the time-frame due to a Time-Frame Extension agreement or a shortening of the time-frame due to early starting of the Substantive Review time-frame caused by the issuance of a Department notice of Administrative Completeness.
  13. **PRESUMPTIVE SUBSTANTIVE REVIEW TIME-FRAME:** Means the Days shown for the Substantive Review time-frame on the Licensing tables in Section 1305 for a Licensing category.
  14. **REQUEST FOR ADDITIONAL INFORMATION:** Means a Department Notification or contact made after the Administrative Completeness Review time-frame and that identifies information required by statute, rule or ordinance and necessary before the Department may grant the License.
  15. **SUBSTANTIVE REVIEW:** Means the process of qualitative evaluation by the Department of application components to determine whether the components meet all requirements in statute, rule or ordinance and necessary to grant the permit. "Substantive Review" does not include clerical verification of the components nor does it include Department investigations resulting from reporting or notification requirements.
  16. **TIME-FRAME EXTENSION:** Means the entire period after the Overall time-frame would otherwise expire and during which an application is not subject to sanctions. The Substantive Review and Overall time-frames continue in effect and do not expire during the Time-Frame extension.

**1302 - Administrative Completeness Review Time-frame Operation; Administrative Completeness**

1. The Administrative Completeness Review time-frame for an application begins on the day of Department Receipt of the first component submittal in support of the application:
2. The Administrative Completeness Review time-frame for an application ends on the earlier of the following Days:
  - A. The Day the Department notifies the Applicant that the application is Administratively Complete under A.R.S. §11-1605.
  - B. If the Department does not notify the Applicant that the application is Administratively Complete under A.R. S. §11-1605, the last Day shown for the Administrative Completeness Review time-frame for the relevant Licensing category on the Licensing tables in Section 1305.
3. The Department shall issue a Department notice of Administrative Completeness or deficiencies to an Applicant for License within the Administrative Completeness Review time-frame.
  - A. The Department shall include a comprehensive list of the specific deficiencies in the written or electronic Department notice.
  - B. Administrative Completeness time-frame, Administrative Completeness Review time frame and the

- Overall time-frame are suspended from the date the Department notice is issued until the date that the Department receives the missing information.
- C. The Department may issue an additional written or electronic Department notice of Administrative Completeness or deficiencies based on the Applicant's submission of missing information.
  - D. Failure to issue a written or electronic Department notice of Administrative Completeness or deficiencies within the Administrative Completeness Review time-frame will result in the application being deemed Administratively Complete.
4. If the Department determines that an Applicant has submitted all application components required by statute, rule or ordinance within the Administrative Completeness Review time-frame and necessary to allow the Department to grant the License, the Department shall notify the Applicant that the application is Administratively Complete under A.R.S. §11-1605.
5. If Presumptive Administrative Completeness occurs:
- A. Further notices of administrative deficiencies issued will not suspend the running of Days within the Substantive Review or Overall time-frames; and
  - B. The Department does not waive the requirement for the Applicant to submit all application components necessary to allow the Department to grant the License.

**1303 - Substantive Review Time-frame Operation; Requests for Additional Information**

- 1. The Substantive Review time-frame for an application begins on one of the following Days:
  - A. If the Department notifies the Applicant that the application is Administratively Complete before the expiration of the Administrative Completeness Review time-frame, one Day after notification.
  - B. If the Department does not notify the Applicant that the application is Administratively Complete before the expiration of the Administrative Completeness Review time-frame, one Day after expiration.
- 2. The Substantive Review time-frame for an application ends on the earlier of the following days:
  - A. The Day of Department Notification that it has made a Licensing decision.
  - B. The last Day shown for the Substantive Review time-frame for the Licensing category on the Licensing tables in Section 1305.
- 3. The Department may make one comprehensive written or electronic Request for Additional Information.
- 4. The Department and Applicant may mutually agree in writing or electronically to allow the Department to submit a supplemental Request for Additional Information.
- 5. If the Department issues a comprehensive written or electronic request or a supplemental request by mutual written or electronic agreement for additional information, the Substantive Review time-frame and the [Overall time-frame is suspended from the date the request is issued until the date that the Department receives the additional information from the Applicant.
- 6. By mutual written or electronic agreement, the Department and Applicant for a License may extend the Substantive Review time-frame and the Overall time-frame. The extension of the Substantive Review time-frame and the Overall time-frame may not exceed twenty-five percent of the Overall time-frame.
- 7. If a site inspection is a required application component, the Applicant shall make all necessary areas of a site available for inspection by the Department at a mutually agreed time and in a period of time necessary for the Department to complete the site inspection.
- 8. The Department shall issue a written or electronic Department notice granting or denying a License to an Applicant within the Substantive Review time frame.  
In denying a License, the Department shall include the following:
  - A. Justification for the denial with references to the statute, ordinance, regulation, substantive policy statement or delegation agreement.
  - B. Procedure for the Applicant to appeal the denial, including the number of Days for filing the appeal and the name and telephone number of staff to answer questions about the appeal process.

**1304 - Overall Time-frame Operation**

- 1. The Overall time-frame for an application begins on the same Day as the Administrative Completeness Review time-frame.
- 2. The running of Days within the Overall time-frame suspends and resumes in concert with the Administrative Completeness and Substantive Review time-frames and Time-Frame Extensions.
- 3. The duration of the Overall time-frame equals the sum of all the following Days
  - A. The lesser of:
    - 1) The number of Days shown for the Administrative Completeness Review time-frame on the Licensing tables; in Section 1305 or

- 2) The actual number of Days for the Administrative Completeness Review time-frame if the Department notifies the Applicant that the application is Administratively Complete before the expiration of the Administrative Completeness Review time-frame; and,
- B. The lesser of:
  - 1) The number of Days shown for the Substantive Review time-frame on the Licensing tables in Section 1305.
  - 2) The actual number of Days for the Substantive Review time-frame if the Department notifies the Applicant of a Licensing decision under; or
  - 3) The actual number of Days for the Substantive Review time-frame if the Applicant causes the time-frame to end; and
- C. The number of Days added by one or more Licensing time-frame extension agreements.
- D. An application and its components shall lapse and become void one year from the date that the Department provides notice to the Applicant of Administrative or Substantive deficiencies if the Applicant fails to respond to said notice.

**1305 –Application Component**

Subject to A.R.S. § 11-1605(B) Licensing Time-frame Requirements  
ACRTF means Presumptive Administrative Completeness Review Time-frame  
SRTF means Presumptive Substantive Review Time-frame  
OTF means Presumptive Overall time frame

<u>1. Licensing Category</u>	<u>ACRTF</u>	<u>SRTF</u>	<u>OTF</u>
<u>A. Pre-Construction Plan Review</u>	<u>25 Days</u>	<u>50 Days</u>	<u>75 Days</u>
<u>B. Post-Construction Plan Review</u>	<u>25 Days</u>	<u>50 Days</u>	<u>75 Days</u>

**CHAPTER 13 14– EFFECTIVE DATE AND ADOPTION OF REGULATION.**

NO CHANGE