

NOTICE OF PROPOSED EXPEDITED RULEMAKING  
TITLE 18. ENVIRONMENTAL QUALITY  
CHAPTER 4. DEPARTMENT OF ENVIRONMENTAL QUALITY  
SAFE DRINKING WATER

PREAMBLE

<u>1. Article, Part, or Section Affected (as applicable)</u>	<u>Rulemaking Action</u>
R18-4-103	Amend
R18-4-105	Amend
R18-4-106	Amend
R18-4-107	Amend
R18-4-111	Amend
R18-4-117	Amend
R18-4-119	Amend
R18-4-121	Amend

2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):

Authorizing statute: A.R.S. § 49-351(A)

Implementing statute: A.R.S. §§ 49-353(A)(2); 49-353.01(A)

3. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed rule:

Notice of Rulemaking Docket Opening: 28 A.A.R. 2438.

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

Name: Laura Carusona  
Address: Arizona Department of Environmental Quality  
1110 West Washington Street  
Phoenix, Arizona 85007  
Telephone: 480-612-5686  
E-mail: carusona.laura@azdeq.gov

5. An agency's justification and reason why a rule should be made, amended, repealed or renumbered under A.R.S. § 41-1027(A), to include an explanation about the rulemaking:

Summary

The purpose of this Arizona Department of Environmental Quality (ADEQ) rulemaking is to protect public health by reducing exposure to lead and copper in drinking water. Additionally, this rulemaking effort is necessary to ensure Arizona retains primary enforcement authority (primacy) for the Public Water System Supervision (PWSS) program. ADEQ proposes updating the safe drinking water rules in A.A.C. Title 18, Chapter 4, Article 1 to conform with the U.S. Environmental Protection Agency's (EPA) final regulations entitled "National Primary Drinking Water Regulations:

Lead and Copper Rule Revisions" (LCRR), 86 FR 4198 (Jan. 15, 2021) and "National Primary Drinking Water Regulations: Lead and Copper Rule Revisions; Delay of Effective and Compliance Dates" (LCRR Extensions), 86 FR 31939 (June 16, 2021) and align with other recent revisions to EPA's regulations and updates to the Code of Federal Regulations (CFR) text. ADEQ also proposes a nonsubstantive amendment to improve rule clarity.

An expedited rulemaking is appropriate pursuant to A.R.S. § 41-1027(A)(3) and (4) because this rulemaking will only incorporate by reference without material change federal regulations pursuant to A.R.S. § 41-1028 and clarify language of a rule without changing its effect. This rulemaking "does not increase the cost of regulatory compliance, increase a fee or reduce procedural rights of persons regulated". Stakeholders must comply with EPA's LCRR and LCRR Extensions, regardless of whether ADEQ incorporates these regulations into our rules. Thus, any increase in the cost of regulatory compliance stems from EPA's final rulemakings; there is not an increased burden that will result from ADEQ's incorporation of the updated federal regulations.

### **Factual Background**

#### **Human Health Effects of Lead and Copper**

EPA's LCRR is expected to result in significant health benefits, since both lead and copper are associated with adverse health effects. Lead is a highly toxic pollutant that can damage neurological, cardiovascular, immunological, developmental, and other major body systems. Ongoing lead exposure experienced by children can affect brain development. Additionally, children may be at higher risk through their physiology and water ingestion requirements. No safe level of lead exposure has been identified. 86 FR 4198, 4259; *see also* the U.S. Department of Health and Human Services' National Toxicology Program Monograph on Health Effects of Low-Level Lead (National Toxicology Program, 2012); Integrated Science Assessment for Lead (EPA, 2013). Excess exposure to copper results in gastrointestinal symptoms such as nausea, vomiting, and diarrhea. In susceptible populations, such as children with genetic disorders or predispositions to accumulate copper, chronic exposure to excess copper can result in liver toxicity. 86 FR 4198, 4260; *see also* the National Research Council' Copper in Drinking Water (National Research Council, 2000).

### **Legal Background**

#### **LCRR**

On January 15, 2021, EPA published its final regulatory revisions to the National Primary Drinking Water Regulation (NPDWR) for lead and copper under the authority of the Safe Drinking Water Act (SDWA). *See* 86 FR 4206-7. The LCRR strengthens public health protection and improves implementation of the regulation in the following areas: lead tap sampling; corrosion control treatment (CCT); lead service line replacement (LSLR); consumer awareness; and public education. The rule requires water systems to take actions at lower lead tap water levels than previously required; this will reduce lead in drinking water and better protect public health. The Agency established a new lead "trigger level" of 10 µg/L in addition to the 15 µg/L lead action level. Public health improvements will be achieved as water systems are required to take a progressive set of actions to reduce lead levels at the tap. These actions are designed to reduce lead and copper exposure by: ensuring effective CCT and re-optimization of CCT when the lead trigger level or action level is exceeded; enhancing water quality parameter monitoring; establishing a "find-and-fix" process to evaluate and remediate elevated lead at a site where the individual tap sample exceeds 15 µg/L; requiring water systems

to create a lead service line (LSL) inventory to identify the full extent of LSLs in the system; ensuring tap sampling pools are targeted to the sites with elevated lead; and making consumers aware of the presence of a LSL, if applicable, to facilitate replacement of LSLs. The LCRR will improve tap sampling by improving the tap sampling protocol, taking samples that are more representative of the highest levels of lead in drinking water taps and better targeting higher risk sites for lead contamination, i.e., sites with LSLs or lead containing plumbing materials. EPA's revisions to the public education and consumer confidence report requirements will improve communication with consumers. In addition, this final rule includes requirements for community water systems to conduct lead in drinking water testing and public education in schools and child care facilities. These revisions to the existing framework and new requirements will result in greater public health protection at all sizes of CWSs and non-transient non-community water systems (NTNCWSs). 86 FR 4201.

Specifically, EPA's final rule amended the following sections in 40 CFR Part 141 National Primary Drinking Water Regulations:

- 141.2 Definitions.
- 141.28 Certified laboratories.
- 141.31 Reporting requirements.
- 141.80 General requirements.
- 141.81 Applicability of corrosion control treatment steps to small, medium, and large water systems.
- 141.82 Description of corrosion control treatment requirements.
- 141.84 Lead service line inventory and replacement requirements.
- 141.85 Public education and supplemental monitoring and mitigation requirements.
- 141.86 Monitoring requirements for lead and copper in tap water.
- 141.87 Monitoring requirements for water quality parameters.
- 141.88 Monitoring requirements for lead and copper in source water.
- 141.89 Analytical methods.
- 141.90 Reporting requirements.
- 141.91 Recordkeeping requirements.
- 141.92 Monitoring for lead in schools and child care facilities.
- 141.93 Small water system compliance flexibility.
- 141.153 Content of the reports.
- 141.154 Required additional health information.
- Appendix A to Subpart O of Part 141 Regulated Contaminants.
- 141.201 General public notification requirements.
- 141.202 Tier 1 Public Notice - Form, manner and frequency of notice.
- Appendix A to Subpart Q of Part 141 NPRDWR Violations and Other Situations Requiring Public Notice.
- Appendix B to Subpart Q of Part 141 Standard Health Effects Language for Public Notification.
- 141.401 Sanitary surveys for ground water systems..

EPA's final rule also amended the following sections in 40 CFR Part 142 National Primary Drinking Water

Regulations Implementation: 142.14 Records kept by States; 142.15 Reports by States; and 142.16 Special primacy requirements. Because the safe drinking water rules in A.A.C. Title 18, Chapter 4, Article 1 do not incorporate by reference these sections, those revisions are not discussed herein.

### **LCRR Extensions**

On June 16, 2021, EPA published its final rule extending the effective date of the LCRR to December 16, 2021. This final rule also extended the compliance date to October 16, 2024. 86 FR 31939, 31945.

Please note that the LCRR's effective date (i.e., when the rule is codified into the CFR) is different from the compliance date (i.e., when water systems must comply with the LCRR). Section 1412(b)(10) of the SDWA specifies that drinking water regulations shall generally take effect (i.e., require compliance) three years after the date the regulation is promulgated. This 3-year period is used by states to adopt laws and regulations in order to obtain primary enforcement responsibility (primacy) for the rule and by water systems to take any necessary actions to meet the compliance deadlines in the rule. 86 FR 31939, 31941.

### **Lead and Copper Rule Improvements**

Subsequently, on December 16, 2021, EPA announced next steps to strengthen the regulatory framework on lead in drinking water. Following the agency's review of the LCRR under Executive Order 13990, EPA concluded that there are significant opportunities to improve the rule to support the overarching goal of proactively removing lead service lines and more equitably protecting public health. EPA explained that the LCRR will go into effect to support near-term development of actions to reduce lead in drinking water. At the same time, EPA will develop a new proposed rulemaking to strengthen key elements of the rule. The agency anticipates finalizing the forthcoming Lead and Copper Rule Improvements (LCRI) prior to October 16, 2024, the initial compliance date in the LCRR. *See* <https://www.epa.gov/ground-water-and-drinking-water/review-national-primary-drinking-water-regulation-lead-and-copper> (last updated Jan. 3, 2023).

### **PWSS Program Primacy**

Section 1413 of the SDWA authorizes states to assume primary oversight and enforcement responsibility (primacy) for public water systems when EPA determines that statutory criteria are met. To assume primacy, a state must adopt regulations at least as stringent as federal requirements, develop adequate procedures for enforcement (including conducting monitoring and inspections), adopt authority for administrative penalties, conduct inventories of water systems, maintain records and compliance data, and make reports as EPA may require. Further, a state must develop a plan for providing safe drinking water under emergency circumstances. *See* Congressional Research Service's (CRS) Safe Drinking Water Act (SDWA): A Summary of the Act and Its Major Requirements, p.9 (CRS, July 1, 2021) available at <https://sgp.fas.org/crs/misc/RL31243.pdf>. The Public Water System Supervision (PWSS) program remains the basic program for overseeing the nation's public water systems, and EPA has delegated primary enforcement authority for this program to Arizona.

To retain primacy for the PWSS program, ADEQ must adopt all new and revised NPDWRs promulgated in 40 CFR Part 141. *See* 40 CFR 142.12(a). Thus, ADEQ proposes updating the safe drinking water rules in A.A.C. Title 18, Chapter 4, Article 1 to incorporate by reference the LCRR by way of this rulemaking. Whenever a state revises its approved primacy program to adopt new or revised federal regulations, the state must submit a request to EPA for

approval of the program revision not later than 2 years after the new or revised EPA regulations, unless the State requests an extension. 40 CFR 142.12(a)(1), (b)(1). In accordance with EPA's recommendation, ADEQ intends to request an extension of Arizona's LCRR primacy application deadline to be able to group the program revisions for the LCRR and LCRI into a single primacy application in accordance with 40 CFR 142.12(b)(2)(i)(C). EPA will oversee implementation of the LCRR requirements until Arizona obtains interim or final primacy for the program revisions.

ADEQ will continue to help public water systems prepare for LCRR's compliance deadline of October 16, 2024 by conducting informal focus groups and developing compliance tools and forms. LCRR focus group information & resources are available at <https://azdeq.gov/node/8705>.

#### **Other Recent Revisions to EPA's Regulations**

Additionally, ADEQ proposes incorporation by reference updates that will align the safe drinking water rules in A.A.C. Title 18, Chapter 4, Article 1 with other recent revisions to EPA's regulations and updates to CFR text.

#### **40 CFR 141, Subpart C, Appendix A Alternative Testing Methods Approved for Analyses Under the Safe Drinking Water Act**

EPA approved of alternative testing methods for use in measuring the levels of contaminants in drinking water to determine compliance with national primary drinking water regulations. The SDWA authorizes EPA to approve the use of alternative testing methods through publication in the Federal Register. EPA used this streamlined authority to make seven additional methods available for analyzing drinking water samples. This expedited approach provides public water systems, laboratories, and primacy agencies with more timely access to new measurement techniques and greater flexibility in the selection of analytical methods, thereby reducing monitoring costs while maintaining public health protection. Expedited Approval of Alternative Test Procedures for the Analysis of Contaminants Under the Safe Drinking Water Act; Analysis and Sampling Procedures, 86 FR 50575 (Aug. 17, 2022). This EPA action did not add regulatory language, but did, for informational purposes, update Appendix A to the regulations at 40 CFR part 141 that lists all methods approved under section 1401(1) of SDWA. While this EPA action was not a rule, it updated CFR text. Accordingly, the updates ADEQ proposes will align the safe drinking water rules in A.A.C. Title 18, Chapter 4, Article 1 with this updated CFR text in Appendix A.

#### **40 CFR 141, Subpart D § 141.35 Reporting for unregulated contaminant monitoring results; and Subpart E § 141.40 Monitoring requirements for unregulated contaminants.**

EPA finalized a SDWA rule that requires certain public water systems (PWSs) to collect national occurrence data for 29 per- and polyfluoroalkyl substances (PFAS) and lithium. PFAS and lithium are not currently subject to national primary drinking water regulations, and EPA is requiring collection of data under this rule to inform EPA regulatory determinations and risk-management decisions. Consistent with EPA's PFAS Strategic Roadmap, this final rule will provide new data critically needed to improve EPA's understanding of the frequency that 29 PFAS (and lithium) are found in the nation's drinking water systems and at what levels. This data will also ensure science-based decision-making and help prioritize protection of disadvantaged communities. Revisions to the Unregulated Contaminant Monitoring Rule (UCMR 5) for Public Water Systems and Announcement of Public Meetings, 86 FR 73131 (Dec. 27, 2021); *see also* Revisions to the Unregulated Contaminant Monitoring Rule (UCMR 5) for Public Water Systems and Announcement of Public Meetings; Technical Corrections, 87 FR 3679 (Jan. 25, 2022). Accordingly, the updates ADEQ

proposes will align the safe drinking water rules in A.A.C. Title 18, Chapter 4, Article 1 with recent revisions to EPA's regulations.

**Section by Section Explanation of Proposed Rules:**

ADEQ proposes to update the safe drinking water rules in A.A.C. Title 18, Chapter 4, Article 1 to conform with EPA's LCRR and LCRR Extensions and align with other recent revisions to EPA's regulations and updates to CFR text, specifically:

- R18-4-103 Amend R18-4-103 to update the incorporation by reference to 40 CFR 141, Subpart A (40 CFR 141.1 through 141.6), revised as of July 1, 2023. Amend R18-4-103(D) to clarify this rule only incorporates by reference the specified sections (142.2 and 142.20) and specified subparts (E, F, G and K) of 40 CFR 142.
- R18-4-105 Amend R18-4-105 to update the incorporation by reference to 40 CFR 141, Subpart C (40 CFR 141.21 through 141.29 and Appendix A), revised as of July 1, 2023
- R18-4-106 Amend R18-4-106 to update the incorporation by reference to 40 CFR 141, Subpart D (40 CFR 141.31 through 141.35), revised as of July 1, 2023
- R18-4-107 Amend R18-4-107 to updated the incorporation by reference to 40 CFR 141, Subpart E (40 CFR 141.40 through 141.42), revised as of July 1, 2023
- R18-4-111 Amend R18-4-111 to update the incorporation by reference to 40 CFR 141, Subpart I (40 CFR 141.80 through 141.93), revised as of July 1, 2023
- R18-4-117 Amend R18-4-117 to update the incorporation by reference to 40 CFR 141, Subpart O (40 CFR 141.151 through 141.155 and Appendix A), revised as of July 1, 2023
- R18-4-119 Amend R18-4-199 to update the incorporation by reference to 40 CFR 141, Subpart Q (40 CFR 141.201 through 141.211 and Appendices A, B, and C), revised as of July 1, 2023
- R18-4-121 Amend R18-4-121 to update the incorporation by reference to 40 CFR 141, Subpart S (40 CFR 141.400 through 141.405), revised as of July 1, 2023

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

Not Applicable

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

Not Applicable

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

Not applicable. The agency is exempt from the requirements to prepare and file an economic, small business, and consumer impact statement under A.R.S. § 41-1055(D)(2).

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

Not applicable.

**10. The time, place, and nature of the proceedings to make, amend, repeal, or renumber the rule:**

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

Date of Hearing: September 11, 2023

Time: 1:00 p.m. MST

Location: ONLINE (via GoToWebinar):

To join virtually, you will first need register using the following link:

<https://attendee.gotowebinar.com/register/5638601724011424345>

After you register, you will receive a confirmation email with information on how to join the oral proceeding at the scheduled time.

*Ability to comment.*

You may also call in and listen to the meeting using your phone, but please note that phone-only access does NOT provide the option for the participant to speak.

PHONE: (415) 655-0060

Access Code: 389-690-594

*Listen only; no ability to comment.*

Nature: Oral proceeding on the proposed rules, with opportunity for formal comments on the record.

Written or emailed comments related to this proposed rulemaking may be submitted at any time during the public comment period to the person referenced in Item 4 above. Close of comment period will occur on Date of Hearing (listed above) at 5:00 p.m.

ADEQ will take reasonable measures to provide access to department services to individuals with limited ability to speak, write or understand English and/or to those with disabilities. Requests for language interpretation, ASL interpretation, CART captioning services or disability accommodations must be made at least 48 hours in advance by contacting the Title VI Nondiscrimination Coordinator, Leonard Drago, at 602-771-2288 or [Drago.Leonard@azdeq.gov](mailto:Drago.Leonard@azdeq.gov). For a TTY or other device, Telecommunications Relay Services are available by calling 711.

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

There are no other matters prescribed by statutes applicable specifically to ADEQ or this specific rulemaking.

**a. Whether the rule requires a permit, license, or agency authorization under A.R.S. § 41-1037(A), and whether a general permit is used and if not, the reasons why a general permit is not used:**

The rules ADEQ proposes amending do not require a permit, license or agency authorization under A.R.S. § 41-1037(A).

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

The Safe Drinking Water Act, as amended, and EPA's LCRR and LCRR Extension are applicable to the subject of this rule. This rulemaking is not more stringent than is required by federal law.

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

Not applicable.

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

40 CFR 141, Subpart A (40 CFR 141.1 through 141.6), revised as of July 1, 2023	R18-4-103
40 CFR 141, Subpart C (40 CFR 141.21 through 141.29 and Appendix A), revised as of July 1, 2023	R18-4-105
40 CFR 141, Subpart D (40 CFR 141.31 through 141.35), revised as of July 1, 2023	R18-4-106
40 CFR 141, Subpart E (40 CFR 141.40 through 141.42), revised as of July 1, 2023	R18-4-107
40 CFR 141, Subpart I (40 CFR 141.80 through 141.93), revised as of July 1, 2023	R18-4-111
40 CFR 141, Subpart O (40 CFR 141.151 through 141.155 and Appendix A), revised as of July 1, 2023	R18-4-117
40 CFR 141, Subpart Q (40 CFR 141.201 through 141.211 and Appendices A, B, and C), revised as of July 1, 2023	R18-4-119
40 CFR 141, Subpart S (40 CFR 141.400 through 141.405), revised as of July 1, 2023	R18-4-121

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

**TITLE 18. ENVIRONMENTAL QUALITY**  
**CHAPTER 4. DEPARTMENT OF ENVIRONMENTAL QUALITY**  
**SAFE DRINKING WATER**

**ARTICLE 1. PRIMARY DRINKING WATER STANDARDS**

Section

- R18-4-103. General – 40 CFR 141, Subpart A
- R18-4-105. Monitoring and Analytical Requirements – 40 CFR 141, Subpart C
- R18-4-106. Reporting and Recordkeeping – 40 CFR 141, Subpart D
- R18-4-107. Special Regulations, Including Monitoring - 40 CFR 141, Subpart E
- R18-4-111. Control of Lead and Copper – 40 CFR 141, Subpart I
- R18-4-117. Consumer Confidence Reports – 40 CFR 141, Subpart O
- R18-4-119. Public Notification of Drinking Water Violations – 40 CFR 141, Subpart Q
- R18-4-121. Ground Water Rule – 40 CFR 141, Subpart S

**ARTICLE 1. PRIMARY DRINKING WATER STANDARDS**

**R18-4-103. General – 40 CFR 141, Subpart A**

- A. ~~40 CFR 141, Subpart A (40 CFR 141.1 through 141.6), is incorporated by reference as of the date specified in R18-4-102, except for the changes listed in this Section; this incorporation does not include any later amendments or editions.~~ revised as of July 1, 2023 and published by the Office of the Federal Register, National Archives and Records Administration, is incorporated by reference, except for the changes listed in this Section. This rule does not include any later amendments or editions of the incorporated material. Copies of the incorporated material are available for inspection at the Arizona Department of Environmental Quality, 1110 W. Washington, Phoenix, AZ 85007 or may be obtained from the U.S. Government Publishing Office, bookstore.gpo.gov, P.O. Box. 979050, St. Louis, MO 63197-9000.
- B. The definition of “State” in 40 CFR 141.2 is not incorporated by reference. In addition to the terms defined in A.R.S. §§ 49-201 and 49-351, and 40 CFR 141.2, in this Chapter, unless otherwise specified, the terms listed below have the following meanings.

“Air-gap separation” means a physical separation between the discharge end of a supply pipe and the top rim of its receiving vessel of at least 1 inch or twice the diameter of the supply pipe, whichever is greater.

“ANSI/NSF Standard 60” means American National Standards Institute/NSF International Standard 60 - 2014a, Drinking Water Treatment Chemicals - Health Effects, November 17, 2014, incorporated by reference and on file with the Department. This material is available from NSF International, 789 N. Dixboro Road, P.O. Box 130140, Ann Arbor, MI 48113-0140, USA; (734) 769-8010; <http://www.nsf.org>. This incorporation by reference includes no future editions or amendments.

“ANSI/NSF Standard 61” means American National Standards Institute/NSF International Standard 61 - 2014a, Drinking Water System Components - Health Effects, October 19, 2014, incorporated by reference and on file with the Department. This material is available from NSF International, 789 N. Dixboro Road, P.O. Box 130140, Ann

Arbor, MI 48113-0140, USA; (734) 769-8010; <http://www.nsf.org>. This incorporation by reference includes no future editions or amendments.

“Backflow” means a reverse flow condition that causes water or mixtures of water and other liquids, gases, or substances to flow back into the distribution system. Backflow can be created by a difference in water pressure (backpressure), a vacuum or partial vacuum (backsiphonage), or a combination of both.

“Backflow-prevention assembly” means a mechanical device used to prevent backflow.

“Capacity” means the overall capability of a water system to consistently produce and deliver water meeting all national and state primary drinking water regulations in effect when new or modified operations begin. Capacity includes the technical, managerial, and financial capacities of the water system to plan for, achieve, and maintain compliance with applicable national and state primary drinking water regulations.

“Capacity development” means improving public water system finances, management, infrastructure, and operations, so that the public water system can provide safe drinking water consistently, reliably, and cost-effectively.

“Capacity development report” means an annual report adopted by the Department that describes progress made in improving technical, managerial, or financial capacity of public water systems in Arizona.

“Cross connection” means a physical connection between a public water system and any source of water or other substance that may lead to contamination of the water provided by the public water system through backflow.

“Distribution system” means a pipeline, appurtenance, device, and facility of a public water system that conducts water from a source or water treatment plant to persons served by the system.

“Department” means the Arizona Department of Environmental Quality.

“Double check valve assembly” means a backflow-prevention assembly that contains two independently acting check valves with tightly closing, resilient-seated shut-off valves on each end of the assembly and properly located, resilient-seated test cocks.

“Elementary business plan” means a document containing all of the items necessary for a complete review of the technical, managerial, and financial capacity of a new public water system under Article 6 of this Chapter.

“Entry point to the distribution system” means a compliance sampling point anywhere on a finished water line that is representative of a water source and located after the well, surface water intake, treatment plant, storage tank, or pressure tank, whichever is last in the process flow, but prior to where the water is discharged into the distribution system and prior to the first service connection.

“EPA” means the United States Environmental Protection Agency.

“Exclusion” means a waiver granted by the Department under R18-4-219 from a requirement of this Chapter that is not a requirement contained in a federal drinking water law.

“Exemption” means a form of temporary relief from a maximum contaminant level or treatment technique granted by the Department to a public water system, pending installation and operation of treatment facilities, acquisition of an

alternate source, or completion of improvements in treatment processes to bring the system into compliance with drinking water regulations.

“Financial capacity” means the ability of a public water system to acquire and manage sufficient financial resources for the system to achieve and maintain compliance with the federal Safe Drinking Water Act.

“Groundwater system” means a public water system that is supplied solely by groundwater that is not under the direct influence of surface water.

“Lead-free” has the same meaning prescribed in A.R.S. § 49-353(B).

“Major stockholder” means a person who has 20% or more ownership interest in a public water system.

“Master priority list” means a list created by the Department that ranks public water systems according to the criteria in R18-4-803.

“Monitoring assistance program” means the program established by A.R.S. § 49-360 to assist public water systems with mandatory monitoring for contaminants and administered by the Department under 18 A.A.C. 4.

“Operational assistance” means professional or financial assistance provided to a public water system to improve the technical, managerial, or financial operations of the public water system.

“Protected water source” means a groundwater source that:

- Meets the requirements of A.A.C. R18-5-502(D);
- Is not located within 100 feet of a drywell as defined by A.R.S. § 49-331(3), and
- Is not located within 100 feet of a condition that can constitute an environmental nuisance as described in A.R.S. § 49-141(A).

“Reduced pressure principle backflow-prevention assembly” means a backflow-prevention assembly that contains two independently acting check valves; a hydraulically operating, mechanically independent pressure differential relief valve located between the two check valves; tightly closing, resilient seated shut-off valves on each end of the check valve assembly; and properly located resilient seated test cocks.

“Service connection” means a location at the meter or, in the absence of a meter, at the curbstop or building inlet.

“Service line” means the water line that runs from the corporation stop at a water main to the building inlet, including any pigtail, gooseneck, or fitting.

“State” means the Arizona Department of Environmental Quality, except during any time period during which the Department does not have primary enforcement responsibility pursuant to Section 1413 of the Act, the term “State” means the Regional Administrator of EPA Region 9.

“System evaluation assistance” means assistance provided to assess the status of the public water system's technical, managerial, and financial components, with emphasis on infrastructure status.

“Technical assistance” means operational assistance, system evaluation assistance, or both.

“Treatment” means a process that changes the quality of water by physical, chemical, or biological means.

“Treatment technique” means a treatment procedure promulgated by EPA in lieu of an MCL.

“Variance” means relief from a maximum contaminant level or treatment technique granted by the Department to a public water system when characteristics of a system's raw water source preclude the system from complying with maximum contaminant levels prescribed by drinking water regulations, despite application of best technology, treatment techniques, or other means available to the system.

“Water main” means a pipe that is exterior to buildings and is used to distribute drinking water to more than one property.

“Water Infrastructure Finance Authority” means the entity created under A.R.S. § 49-1201 et seq. to provide financial assistance to political subdivisions, Indian tribes, and eligible drinking water facilities for constructing, acquiring, or improving wastewater treatment facilities, drinking water facilities, nonpoint source projects, and other related water quality facilities and projects.

“Water treatment plant” means a process, device, or structure used to improve the physical, chemical, or biological quality of the water in a public water system. A booster chlorination facility that is designed to maintain an effective disinfectant residual in water in the distribution system is not a water treatment plant.

- C. 40 CFR 141.4, entitled “variances and exemptions,” is incorporated by reference subject to the following modifications:
1. The phrase “entity with primary enforcement responsibility” is changed to “Department.”
  2. When reviewing and acting on requests for variances and exemptions, the Department shall act in accordance with the procedures at 42 U.S.C. 300g-4 and 300g-5 (2004) of the Act (Public Health Service Act §§ 1415 and 1416), including:
    - a. The Department shall require a public water system granted a variance under subsection (C) to comply with the requirements in a compliance schedule as expeditiously as practicable.
    - b. The Department shall promptly notify EPA of all variances and exemptions granted by the Department in the manner specified in the Act.
    - c. The Department shall enforce a schedule or other requirement on which a variance or exemption is conditioned under 42 U.S.C. 300g-3 and A.R.S. § 49-354, as if the schedule or other requirement is part of a national primary drinking water regulation incorporated by reference in this Chapter.
    - d. “Treatment technique requirement,” for the purpose of subsection (C), means a requirement in a national primary drinking water regulation which specifies for a contaminant, in accordance with 42 U.S.C. 300f(1)(C)(ii), each treatment technique known to lead to a reduction in the level of the contaminant sufficient to satisfy the requirements of 42 U.S.C. 300g-1(b).
    - e. If the Department grants a variance or exemption, the Department shall prescribe:
      - i. A compliance schedule that includes increments of progress or measures to develop an alternative source of water supply; and
      - ii. An implementation schedule that includes such control measures as the Department deems necessary for each contaminant.

- D. 40 CFR ~~142,~~142.2, 142.20, and 40 CFR 142 Subparts E, F, G, and K, are incorporated by reference as of the date specified in R18-4-102, with the following changes; this incorporation does not include any later amendments or editions. The following substitutions are to be applied in the listed order.
1. 40 CFR 142.46, 142.302, 142.313 are not incorporated by reference.
  2. 40 CFR 142.20(a), (b). The phrase “States with primary enforcement responsibility” is changed to “the Department”; the second sentences in 142.20(a) and 142.20(b) are deleted.
  3. 40 CFR 142.60(b), 142.61(b). The phrase “Administrator in a state that does not have primary enforcement responsibility or a state with primary enforcement responsibility (primacy state) that issues variances” is changed to “Department.”
  4. 40 CFR 142.40(a), (b); 142.41; 142.50(a); 142.51. The phrase “a State that does not have primary enforcement responsibility” is changed to “Arizona”.
  5. 40 CFR 142.60(b), (c), (d); 142.61(b), (c). The phrase “Administrator or [‘primacy’ or ‘primary’] state that issues variances” is changed to “Department.”
  6. 40 CFR 142.60(b), (d); 142.61(b), (d); 142.62(e), (g)(1); 142.65(a)(4). The phrase “Administrator or [the] primacy state” is changed to “Department”; the phrase “Administrator’s or primacy state’s” is changed to “Department’s.”
  7. In 40 CFR 142, Subpart K:
    - a. The phrases “[ a’ or ‘the’] State or [the] Administrator,” “Administrator or State,” “the public water system, State and the Administrator,” and “a State exercising primary enforcement responsibility for public water systems (or the Administrator for other systems)” are changed to “the Department.”
    - b. 40 CFR 142.301. The last sentence is deleted.
    - c. 40 CFR 142.303(b). The phrase “a State exercising primary enforcement responsibility for public water systems” is changed to “the Department.”
    - d. 40 CFR 142.306(b)(2). The phrase “(or by the Administrator in States which do not have primary enforcement responsibility)” is deleted.
    - e. 40 CFR 142.308(a), 142.309(c). The phrase “the State, Administrator, or [the] public water system as directed by the State or Administrator” is changed to “the Department or the public water system, as determined by the Department.”
    - f. 40 CFR 142.308(b). The text of this subsection is replaced by the following: “At the time of proposal, the Department must publish a notice in the *Arizona Administrative Register* or a newspaper or newspapers of wide circulation in the affected region of the State. This notice shall include the information listed in paragraph (c) of this section.”
    - g. 40 CFR 142.308(c)(7). The phrase “the primacy agency” is changed to “the Department.”
  8. In all parts of 40 CFR 142 incorporated by reference other than Subpart K, the term “Administrator” is changed to “Department”; the pronoun “he” is changed to “the Department”; and the pronoun “his” is changed to “the Department’s.”
  9. In all parts of 40 CFR 142 incorporated by reference, the term “a state” or “the state” is changed to “the Department”; the term “the State’s” is changed to “the Department’s.”

10. 40 CFR 142.62(h)(3). The term “State-approved” is changed to “Department-approved.”
  11. In 40 CFR 142.44(b). The text of this subsection is replaced by the following: “Public notice of an opportunity for hearing on a variance schedule shall be circulated in a manner designed to inform interested and potentially interested persons of the proposed schedule, and shall meet the notice requirements of A.A.C. R18-1-401.”
  12. In 40 CFR 142.54(b). The text of this subsection is replaced by the following: “Public notice of an opportunity for hearing on an exemption schedule shall be circulated in a manner designed to inform interested and potentially interested persons of the proposed schedule, and shall meet the notice requirements of A.A.C. R18-1-401.”
  13. 40 CFR 142.44(d), 142.54(d). The third, fourth, and fifth sentences of these subsections are deleted.
  14. 40 CFR 142.44(e), 142.54(e). The text of these subsections is replaced by the following: “A hearing convened pursuant to paragraph (d) of this section shall be conducted according to the procedural requirements of A.A.C. R18-1-402.”
- E. 40 CFR 141.5 is not incorporated by reference.

**R18-4-105. Monitoring and Analytical Requirements – 40 CFR 141, Subpart C**

- A. 40 CFR 141, Subpart C (40 CFR 141.21 through 141.29 and Appendix A), ~~is incorporated by reference as of the date specified in R18-4-102, subject to the modifications specified in this Section; this incorporation does not include any later amendments or editions.~~ revised as of July 1, 2023 and published by the Office of the Federal Register, National Archives and Records Administration, is incorporated by reference, subject to the modifications specified in this Section. This rule does not include any later amendments or editions of the incorporated material. Copies of the incorporated material are available for inspection at the Arizona Department of Environmental Quality, 1110 W. Washington, Phoenix, AZ 85007 or may be obtained from the U.S. Government Publishing Office, bookstore.gpo.gov, P.O. Box. 979050, St. Louis, MO 63197-9000.
- B. 40 CFR 141.21(c)(2), 141.21(d) and 141.21(f) are not incorporated by reference.
- C. 40 CFR 141.22: the last sentence of 141.22(a) is replaced by the following: “Turbidity measurements shall be made using analytical methods approved by EPA and the Arizona Department of Health Services.”
- D. 40 CFR 141.23(k) is not incorporated by reference.
- E. 40 CFR 141.24(f)(17), 141.24(f)(20), and 141.24(h)(19) are not incorporated by reference.
- F. 40 CFR 141.25: the following text replaces the text of 40 CFR 141.25(a) and (b): “Analysis for the following contaminants shall be conducted to determine compliance with 40 CFR 141.66 (radioactivity) using analytical methods approved by EPA and the Arizona Department of Health Services:
1. Naturally occurring contaminants: gross alpha and beta, gross alpha, radium 226, radium 228, and uranium.
  2. Man-made contaminants: radioactive cesium, radioactive iodine, radioactive strontium 89, 90, tritium, and gamma emitters.”
- G. 40 CFR 141.27, alternate analytical techniques, is not incorporated by reference; the following text is substituted in its place: “The use of an alternate analytical technique approved by EPA and the Arizona Department of Health Services shall not decrease the frequency of monitoring required by this Chapter.”
- H. 40 CFR 141.28:
1. In 40 CFR 141.28(a), the term “State” is changed to “Arizona Department of Health Services.”

2. In 40 CFR 141.28(b), the term “State” is changed to “Arizona Department of Health Services or Arizona Department of Environmental Quality.”
3. A new subsection (c) is added: “A laboratory that performs drinking water analysis in Arizona shall be certified by EPA or the Arizona Department of Health Services.”

**R18-4-106. Reporting and Recordkeeping – 40 CFR 141, Subpart D**

- A. 40 CFR 141, Subpart D (40 CFR 141.31 through 141.35), ~~is incorporated by reference as of the date specified in R18-4-102; this incorporation does not include any later amendments or editions.~~ revised as of July 1, 2023 and published by the Office of the Federal Register, National Archives and Records Administration, is incorporated by reference. This rule does not include any later amendments or editions of the incorporated material. Copies of the incorporated material are available for inspection at the Arizona Department of Environmental Quality, 1110 W. Washington, Phoenix, AZ 85007 or may be obtained from the U.S. Government Publishing Office, bookstore.gpo.gov, P.O. Box. 979050, St. Louis, MO 63197-9000. The requirements in the following subsections are in addition to the requirements of 40 CFR 141, Subpart D.
- B. Department reporting forms. A public water system shall report to the Department the results of all analyses completed under this Chapter on Department-approved forms.
- C. Direct reporting. A public water system may contract with a laboratory or another agent to report monitoring results to the Department, but the public water system remains legally responsible for compliance with reporting requirements.

**R18-4-107. Special Regulations, Including Monitoring - 40 CFR 141, Subpart E**

40 CFR 141, Subpart E (40 CFR 141.40 through 141.42) revised as of July 1, ~~2021~~ 2023 and published by the Office of the Federal Register, National Archives and Records Administration, is incorporated by reference. This rule does not include any later amendments or editions of the incorporated material. Copies of the incorporated material are available for inspection at the Arizona Department of Environmental Quality, 1110 W. Washington, Phoenix, AZ 85007 or may be obtained from the U.S. Government Publishing Office, bookstore.gpo.gov, P.O. Box. 979050, St. Louis, MO 63197-9000.

**R18-4-111. Control of Lead and Copper – 40 CFR 141, Subpart I**

- A. 40 CFR 141, Subpart I (40 CFR 141.80 through ~~141.91~~ 141.93), ~~is incorporated by reference as of the date specified in R18-4-102, subject to the modifications specified in this Section; this incorporation does not include any later amendments or editions.~~ revised as of July 1, 2023 and published by the Office of the Federal Register, National Archives and Records Administration, is incorporated by reference subject to the modifications specified in this Section. This rule does not include any later amendments or editions of the incorporated material. Copies of the incorporated material are available for inspection at the Arizona Department of Environmental Quality, 1110 W. Washington, Phoenix, AZ 85007 or may be obtained from the U.S. Government Publishing Office, bookstore.gpo.gov, P.O. Box. 979050, St. Louis, MO 63197-9000.
- B. The first sentence of 40 CFR 141.89(a) is replaced by the following: “Analyses for lead, copper, pH, conductivity, calcium, alkalinity, orthophosphate, silica, and temperature shall be conducted using analytical methods approved by EPA and the Arizona Department of Health Services. Analyses under this section for lead and copper shall be conducted by laboratories that have been certified by EPA or the Arizona Department of Health Services.”

C. The text of 40 CFR 141.89(a)(1) is not incorporated by reference.

**R18-4-117. Consumer Confidence Reports – 40 CFR 141, Subpart O**

40 CFR 141, Subpart O (40 CFR 141.151 through 141.155 and Appendix A), ~~is incorporated by reference as of the date specified in R18-4-102; this incorporation does not include any later amendments or editions.~~ revised as of July 1, 2023 and published by the Office of the Federal Register, National Archives and Records Administration, is incorporated by reference. This rule does not include any later amendments or editions of the incorporated material. Copies of the incorporated material are available for inspection at the Arizona Department of Environmental Quality, 1110 W. Washington, Phoenix, AZ 85007 or may be obtained from the U.S. Government Publishing Office, bookstore.gpo.gov, P.O. Box. 979050, St. Louis, MO 63197-9000.

**R18-4-119. Public Notification of Drinking Water Violations – 40 CFR 141, Subpart Q**

40 CFR 141, Subpart Q (40 CFR 141.201 through 141.211 and Appendices A, B, and C), ~~is incorporated by reference as of the date specified in R18-4-102; this incorporation does not include any later amendments or editions.~~ revised as of July 1, 2023 and published by the Office of the Federal Register, National Archives and Records Administration, is incorporated by reference. This rule does not include any later amendments or editions of the incorporated material. Copies of the incorporated material are available for inspection at the Arizona Department of Environmental Quality, 1110 W. Washington, Phoenix, AZ 85007 or may be obtained from the U.S. Government Publishing Office, bookstore.gpo.gov, P.O. Box. 979050, St. Louis, MO 63197-9000.

**R18-4-121. Ground Water Rule – 40 CFR 141, Subpart S**

A. 40 CFR Part 141, Subpart S (40 CFR 141.400 through 141.405), ~~is incorporated by reference as of the date specified in R18-4-102, subject to the modifications specified in this Section; this incorporation does not include any later amendments or editions.~~ revised as of July 1, 2023 and published by the Office of the Federal Register, National Archives and Records Administration, is incorporated by reference, subject to the modifications specified in this Section. This rule does not include any later amendments or editions of the incorporated material. Copies of the incorporated material are available for inspection at the Arizona Department of Environmental Quality, 1110 W. Washington, Phoenix, AZ 85007 or may be obtained from the U.S. Government Publishing Office, bookstore.gpo.gov, P.O. Box. 979050, St. Louis, MO 63197-9000.

B. 40 CFR 141.402(a)(4) is modified as follows:

Consecutive and wholesale systems.

- (i) In addition to the other requirements of this paragraph (a), a consecutive ground water system that has a total coliform-positive sample, collected under § 141.21(a) until March 31, 2016 or under §§ 141.854 through 141.857 beginning April 1, 2016, within 24 hours of being notified of the total coliform-positive sample must:
  - (A) Notify the wholesale system(s) and,
  - (B) Collect a sample from its consecutive connection with the wholesale ground water system and analyze it for a fecal indicator under paragraph (c) of this section.
- (ii) If the sample collected under paragraph (a)(4)(i)(B) of this section is fecal indicator-positive, within 24 hours:

- (A) The consecutive system must notify the wholesale ground water system, and
- (B) Both systems must consult with the Department on additional sampling to meet the requirements of paragraph (a)(3) of this section.