	Water Quality Division Substantive Policy	ADEQ
		Page 1 of 6
	Capacity Assurance Certification for APP Type 4.01 General Permits for Sewage Collection Systems	Policy No. 3000.2024
		Effective: 1/1/2025

This Substantive Policy statement is advisory only. A substantive policy statement does not include internal procedural documents that only affect the internal procedures of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules made in accordance with the Arizona Administrative Procedure Act. If you believe that this substantive policy statement does impose additional requirements or penalties on regulated parties, you may petition the agency under Arizona Revised Statutes section 41-1033 for a review of the statement.

1.0 **Purpose**

Pursuant to A.R.S. § 41-1001(22), "substantive policy statement" means a written expression which informs the general public of an agency's current approach to, or opinion of, the requirements of the federal or state constitution, federal or state statute, administrative rule or regulation, or final judgment of a court of competent jurisdiction, including, where appropriate, the agency's current practice, procedure or method of action based upon that approach or opinion. The clarification provided in this substantive policy statement has been determined by ADEQ to meet applicable state and federal law and, therefore, ADEQ provides this substantive policy to assist persons in interpreting rules pertinent to ADEQ. Notwithstanding this substantive policy statement, ADEQ may consider alternative approaches to comply with applicable law.

This policy will assist both Administering Agencies and Applicants on the approval process for Type 4.01 General Permits (GPs) for Sewage Collection Systems (SCS) under the Aquifer Protection Permit (APP) Program by clarifying the capacity assurance requirements that must be met by Type 4.01 GP Applicants and the downstream sewage treatment facility (Facility) providing service to the Applicant.

Arizona Administrative Code (A.A.C.) R18-9-E301(C)(1) requires Applicants for a Type 4.01 GP to submit "[a] statement on a form approved by the Director, signed by the owner or operator of the sewage treatment facility that treats or processes the sewage from the proposed sewage collection system....[affirming] that the additional volume of wastewater delivered to the facility by the proposed sewage collection system will not cause any flow or effluent quality limits of the individual permit for the facility to be exceeded".

Currently, a Capacity Assurance Form is required as part of the Construction Authorization (CA) application submission for a Type 4.01 GP under the APP program. The form requires information such as: the proposed volume of additional sewage to

be processed by the Facility from a new SCS; the APP approved Permitted Flow Rate of the Facility (authorized in Section 1.1 of the most recently issued APP); the Operational Flow; the Constructed Capacity of the Facility (approved by ADEQ); and a signed Capacity Assurance Certification affirming compliance with R18-9-E301(C)(1).

Previously, inconsistent interpretation of R18-9-E301(C)(1)(a) resulted in over-committed sewage treatment facilities. This policy is intended to clarify the requirements incumbent upon SCS Type 4.01 GP applicants regarding the Capacity Assurance Certifications of sewage treatment Facility owners and operators.

2.0 Definitions

Administering Agency – ADEQ, and/or its delegated authority for issuance of a Type 4.01 GP.

Applicant – A person applying for a Type 4.01 GP: Sewage Collection System.

Aquifer Protection Permit (APP) – A regulatory program in the state of Arizona authorized by the state legislature under Title 49, Chapter 2, Article 3.

APP Approved Capacity – The Agency authorized “Permitted Flow Rate” in Section 1.1 of the most recently issued APP.

CA – Construction Authorization (some delegated authorities use “Approval to Construct” or “ATC”).

Capacity Assurance Certification – The statement in Section 5 of the Capacity Assurance Form, signed by the Responsible Party, affirming no exceedances of flow or effluent quality limits in the Facility’s individual permit will result from the delivery of additional wastewater volume from a proposed Sewage Collection System.

Capacity Assurance Form – Form required as part of CA application submittal.

Constructed Capacity – Actual design flow of the components of the Facility that have been built, are fully functional, and in compliance with the most recently issued APP, including design requirements approved by ADEQ.

DA – Discharge Authorization (some delegated authorities use “Approval of Construction” or “AOC”).

Facility – The downstream sewage treatment facility that treats or processes the sewage from the proposed sewage collection system

Operational Flow – The “maximum month” experienced by the Facility, in million gallons per day, in the preceding 24 months (the Administering Agency may accept abbreviated data if the Applicant demonstrates the need for an alternative showing, including a showing that any excluded days encompass exceptional events that are not adequately representative of general operating conditions). The “maximum month” is the average daily flow of the month with the greatest total flow within the annual cycle of flow variations calculated from the reported volumes pursuant to the issued individual permit, assuming all samples have been collected and reflect this duration of time.

Responsible Party – The owner, operator, or agent of the Facility authorized to make capacity commitments.

SCS – Sewage Collection System.

Total Commitments – The sum of all capacity assurances issued by the receiving Facility for which actual discharge has not occurred, which includes SCSs that have received DAs and are not fully built-out.

Total Committed Capacity – Operational Flow plus Total Commitments.

3.0 **Policy Statement**

3.1 All policy statements made in Section 3 are for the purposes of R18-9-E301(C)(1) and R18-9-E301(C)(1)(a).

3.2 The Capacity Assurance Certification is an affirmative statement by the Facility such that a completed Capacity Assurance Form meets the requirements of R18-9-E301(C)(1)(a).

3.3 Successful completion of the Capacity Assurance Form requires disclosure of the Facility's Total Committed Capacity, as defined in Section 2.0 of this policy as the "Total Committed Capacity".

3.4 The Administering Agency shall not issue the Applicant a CA if the Facility's Total Committed Capacity exceeds the Constructed Capacity unless both:

3.4.1 The Facility has other projects or options to provide additional capacity which must be provided along with the Type 4.01 application as supporting documentation; and

3.4.1.1 Options to provide additional capacity may include but are not limited to:

3.4.1.1.1 Interconnection or diversion to another SCS and Facility with capacity, as previously approved by the Administering Agency ; or

3.4.1.1.2 Planned expansion (i.e. one accompanied by a submitted permit application to the Administering Agency); or

3.4.1.1.3 Agreement with another sewage treatment facility, as previously approved by the Administering Agency; or

3.4.1.1.4 Other options as approved by the Administering Agency.

3.4.2 The Facility has stopgap measure(s) in place to prevent Operational Flow from exceeding Constructed Capacity. These must be

previously approved by the Administering Agency and provided with the Type 4.01 application as supporting documentation.

3.4.2.1 Stopgap measure(s) may include but are not limited to:

3.4.2.1.1 Residential meter management through restrictions on the number of residential water customers that can be added; or

3.4.2.1.2 Industrial or commercial meter management through customer discharge control; or

3.4.2.1.3 Installation of a mechanical plug within the sewer service system to prevent a discharge until capacity is available; or

3.4.2.1.4 Approved agreements in place with the Facility to support stopgap measures; or

3.4.2.1.5 Other measures as approved by the Administering Agency.

3.5 The Total Commitments for a Facility may be revised to recalculate an upstream discharger's design flow upon a demonstration provided to, and approved by, the Administering Agency that includes:

3.5.1 A flow study based on best available data that may include analysis of actual data within the same or similar service area in order to achieve a lower design flow; and

3.5.2 A complete list of all previously approved developments for which the retroactive flow figures will apply; and

3.5.3 The original flow projected for each development on the list of previously approved developments; and

3.5.4 The revised flow projected for each listed development based on the new flow study.

3.6 The Total Commitments for a Facility may be revised to remove SCS projects that have previously obtained CA approvals if:

3.6.1 The timeframe to complete construction under the CA has expired; and

3.6.2 Construction on the SCS project has not started; and

3.6.3 The Applicant, responsible parties, and their agents have been formally notified via certified mail that the Facility has retracted their Capacity Assurance authorization; and

- 3.6.4 Copies of these retraction documents and expired CAs have been submitted as an appendix to the Capacity Assurance form.
- 3.7 Issuance of a CA shall include a disclaimer stating that the approval of a DA for the SCS project is contingent upon Constructed Capacity being available at the time the DA application is submitted to the Administering Agency.
- 3.8 The Administering Agency shall not issue a CA to the Applicant if the Facility's Operational Flow exceeds the Constructed Capacity.
- 3.9 An Applicant must submit a completed Capacity Assurance Form in order for the Administering Agency to issue a Type 4.01 GP.
- 3.10 Any other contractual agreements between the Facility and the proposed SCS regarding a reservation of capacity are solely the responsibility of the Type 4.01 GP Applicant and the Facility.

4.0 Authority

A.R.S. § 49-104 provides authority for ADEQ to formulate policies, plans and programs to implement Title 49 to protect the environment.

A.R.S. § 49-245 provides authority for ADEQ to promulgate rules for general APP.

5.0 Audience

General Public

ADEQ Water Quality Division Permitting and Inspection Staff

ADEQ Management

Sewage Treatment Facility Responsible Parties and their Agents

Sewage Collection System Owners and Operators

Type 4.01 GP applicants, Responsible Parties and their Agents

ADEQ Delegated Authorities or Local Agencies

6.0 Policy Steward

ADEQ Water Quality Division Director

7.0 Communication & Training

This policy will be noticed in accordance with A.R.S. § 41-1091. ADEQ will make this policy available on the Agency's policy website and the Agency's delegation website. ADEQ will distribute the policy to Administering Agencies within 30 days of the policy posting on ADEQ's Internet. ADEQ staff is available for training, clarification, and discussion.

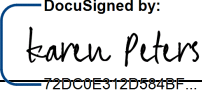
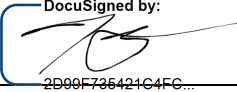
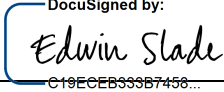
8.0 Annual Policy Review

This policy will be reviewed annually during the ADEQ Annual Policy Review and will be revised or withdrawn as necessary at that time.

9.0 Additional Documents

- 1) Appendix 1 - Construction Authorization Approval Flowchart
- 2) Engineering Review - Capacity Assurance Form

10.0 Approval

Title	Name	Signature	Date
ADEQ Deputy Director, if necessary	Karen Peters	 DocuSigned by: Karen Peters 72DC0E312D584BF...	1/3/2025
Affected Executive Leadership Team Member	Trevor Baggione	 DocuSigned by: Trevor Baggione 2B90F735424C4FC...	12/30/2024
Administrative Counsel, as to form	Edwin Slade	 DocuSigned by: Edwin Slade C19ECEB333B7458...	1/3/2025

11.0 Historical Note

N/A.

Water Quality Division Substantive Policy
Capacity Assurance Certification for APP Type 4.01 General Permits for Sewage Collection Systems
Appendix 1 - Construction Authorization Approval Flowchart

