

NOTICE OF FINAL RULEMAKING
TITLE 18. ENVIRONMENTAL QUALITY
CHAPTER 14. DEPARTMENT OF ENVIRONMENTAL QUALITY
PERMIT AND COMPLIANCE FEES

PREAMBLE

- | <u>1. Articles, Parts, or Sections Affected (as applicable)</u> | <u>Rulemaking Action</u> |
|--|---------------------------------|
| R18-14-101 | Amend |
| R18-14-102 | Amend |
| Table 1 | Amend |
| R-18-14-103 | Amend |
| R-18-14-104 | Amend |
| Table 2 | Amend |
| Table 3 | Amend |
| R18-14-105 | Amend |
| R18-14-108 | Amend |
| Table 4 | Amend |
| Table 5 | Amend |
| R18-14-109 | Amend |
| Table 6 | Amend |
| R18-14-110 | Amend |
| Table 7 | Amend |
| R18-14-111 | Amend |
| R18-14-112 | Amend |
| R18-14-202 | Amend |
| Table 1 | Amend |
| R18-14-301 | Amend |
- 2. Citations to the agency’s statutory rulemaking authority to include both the authorizing statute (general) and the implementing statute (specific):**
- Authorizing statutes: A.R.S. §§ 49-104(C)(1), 49-210, 49-241, 49-242
- Implementing statutes: A.R.S. §§ 49-211, 49-241.02, 49-242(E), 49-255.01(J), 49-352(A), 49-353(A)(2), 49-361
- 3. The effective date of the rule:**
- August 4, 2023.
- 4. Citations to all related notices published in the *Register* as specified in R1-1-409(A) that pertain**

to the record of the final rulemaking package:

Notice of Rulemaking Docket Opening: 29 A.A.R. 938, April 21, 2023

Notice of Proposed Rulemaking: 29 A.A.R. 955, April 28, 2023

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

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6. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:

Summary

This proposed rule would increase water quality protection fees as authorized by House Bill (HB) 2406 during the 2022 legislative session. The Arizona Department of Environmental Quality (ADEQ) last increased water quality permit fees in 2011 (17 A.A.R. 568) and the fees for Operator Certification in 2016 (21 A.A.R. 2597). This proposed rule would increase the water quality protection fees for the aquifer protection permits (APP), reclaimed water permits, drinking water engineering review, the Arizona Pollutant Discharge Elimination System permits (AZPDES) programs, and the Underground Injection Control (UIC) permit program, as well as the operator certification program. This rule would increase the fees to address the direct and indirect costs of ADEQ's relevant water quality protection duties, including employee salaries and benefits, professional and outside services, equipment, travel, and other necessary operational expenses directly related or associated with these permits and the enforcement of the programs. In addition, ADEQ proposes to amend some fee requirements for water quality protection services. Without increasing fees, it will become increasingly difficult for ADEQ to administer and enforce the federal Clean Water Act (CWA) and Safe Drinking Water Act (SDWA), which protect human health and the environment. Improper implementation or enforcement of these statutes could result in the federal government revoking Arizona's primary implementation and enforcement authority within its jurisdiction (primacy) and the U.S. Environmental Protection Agency (EPA) becoming the primary

regulator in Arizona. These proposed fees will have an annual adjustment by Consumer Price Index (CPI).

Background

Water Quality fees have not been adjusted since 2011 and Operator Certification fees have not been adjusted since 2016. Inflation has increased approximately 43% since the last adoption of water fees, and 34% since the inception of Operator Certification fees. The Water Quality Division (WQD) faces an 11.9 million-dollar structural deficit relative to WQD's costs. Without remedy, this deficit will impact ADEQ's long term ability to effectively implement state and federal water quality programs.

ADEQ is currently experiencing an annual budgetary shortfall of revenue for its WQD. The current fee approach assumes that WQD's permitting and permit support programs would be self-sustaining through permit fees. However, WQD annually requires an influx of revenue from non-fee income to cover its costs. In addition, the WQD has many other required program responsibilities that don't fit into the fee-for-service model. Even with the influx of non-fee income, the WQD does not have sufficient income to meet all federal and state obligations. The Division estimated an \$11.9 million gap for fiscal year (FY) 24. The amended fees included in this rulemaking would raise about \$2.8 million to help close that gap. In order to close the remaining gap, state leadership made a one time general fund appropriation of \$9.5 million. This appropriation will either need to be renewed or obtained from a difference source for the WQD to have sufficient funding in FY25 and beyond.

ADEQ was granted authority through HB 2406 in the 2022 legislative session to update fees for multiple water programs. Programs fees that will be included in this rulemaking are the CWA, the SDWA, UIC, and the APP in Arizona Administrative Code (A.A.C.) Title 18, Chapter 14, Articles 1, 2, and 3. Adjustments in fees will correspond to only what is necessary for implementing existing federal and state programs and be restricted to the increase in costs due to inflation since the inception of the relevant fees.

Adjusting these fees will allow ADEQ to better protect human health and safety, including supporting the resolution of the following pressing water quality issues: 27 drinking water systems in the State that are serving drinking water exceeding the federal health standards; and over 50 wastewater systems that are operating out of compliance with State law. This approach will also allow ADEQ to increase our inspection frequency, maintain our ability to issue environmentally protective permits and maintain the improvements we have made in our permitting time frames all while protecting vital surface and groundwater sources of drinking water.

ADEQ approached stakeholders in September and October 2022 with the prospect of an adjustment to water permitting and Operator Certification fees that would fully fund all Water Quality Programs,

but would entail an increase to those fees that exceeded the costs due to inflation alone. The feedback ADEQ received was that while the need to fund those programs is vital the negative consequences of a dramatic increase in cost to our stakeholders would have deleterious impacts to their priorities. Feedback included concerns about the timing of the fee increase, its magnitude, and need to pass the cost of the increased fees on to customers and taxpayers. In addition, concerns were raised about the impact that an increase to Operator Certification fees would have on the professionals that operate important drinking water and wastewater infrastructure.

Explanation of Proposed Fee Increases

ADEQ uses the water quality fee fund (WQFF) to implement various water quality programs, such as APP, reclaimed water, AZPDES and the Operator Certification program. In FY23, and in previous years, this fund had to be supplemented with money from other sources to operate those programs. All flat fees, hourly fees, and maximum fees for all programs would increase by Consumer Price Index (CPI), and would continue to increase or decrease based upon CPI annually. Fees for Operator Certification would increase based upon CPI, with an annual increase or decrease based upon CPI as well. While ADEQ has authority to increase permitting fees above CPI, for this rulemaking ADEQ has decided to raise fees only by CPI.

Consumer Price Index Limit on Fee Increases

In response to stakeholder input, and in accordance with A.R.S. § 41-1008(A)(3), ADEQ has limited the increase in this proposed rule to the percentage of change in the average CPI as published by the United States Department of Labor, Bureau of Statistics between that figure for 2023 and the calendar year in which the last fee increase occurred: 2011 for permitting fees, and 2016 for operator certification fees. The CPI for any year is the average of the Consumer Price Index for All Urban Consumers, Phoenix-Mesa-Scottsdale, AZ, all items published by the United States Department of Labor, as of the close of the 12-month period ending on June 30 of that year, available at: https://data.bls.gov/pdq/SurveyOutputServlet?data_tool=dropmap&series_id=CUURS48ASA0,CUUSS48ASA0. This CPI is a better representation of Arizona's rapidly expanding economy and population than the national CPI. Accordingly, ADEQ proposes increasing fees for water quality protection services (Article 1) and public water system design review (Article 2) by approximately 43%, and certified operator fees (Article 3) by approximately 34%.

Annual CPI Adjustments

ADEQ proposes adjusting water quality service fees every August 1 to the nearest \$10 by multiplying by the CPI for the most recent year and dividing by the CPI for the base year (2023). Again, the CPI for any year is the average of the Consumer Price Index for All Urban Consumers, Phoenix-Mesa-Scottsdale, AZ, all items ending on June 30 of that year, available at:

https://data.bls.gov/pdq/SurveyOutputServlet?data_tool=dropmap&series_id=CUURS48ASA0,CUUS48ASA0. There is about a two-week lag from the reference month (June) to the date on which the index is released by the Bureau of Labor Statistics, U.S. Department of Labor (that is, the CPI for June is released in mid-July). The first adjustment would occur on August 1, 2024.

Section by Section Explanation of Proposed Rules:

In order to make reasonable progress toward the goal of addressing water quality issues, ADEQ proposes the following amendments to 18 A.A.C. 14, Articles 1, 2, and 3:

Article 1

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|----------------------------------|--|
| R18-14-101 | Amend the definition of “water quality protection service” to clarify it includes pre-application consultation for permits, as well as review of annual reports. |
| R18-14-102
Table 1 | Amend to increase hourly rate and maximum fees for water quality protection services (including APP, AZPDES, and reclaimed water permits), and adjust those fees annually by CPI. Additionally, amend to adjust hourly rate and maximum fees for the UIC program annually by CPI. The proposed amendment also revises subsection (B) to eliminate the provision waiving the fee for the Department’s first hour of review. |
| R18-14-103 | Amend to eliminate the initial deposit requirement for water quality protection services subject to an hourly fee in subsection (B). The proposed amendment also removes subsection (C) to align with the Agency’s review practice for water quality protection services requests. |
| R18-14-104
Table 2
Table 3 | Amend to increase annual fees for water quality protection services subject to an hourly fee (including APP, AZPDES, and reclaimed water permits), and adjust those fees annually by CPI. Additionally, amend to adjust annual fees and annual waste disposal fees as applicable to UIC regulated facilities, subject to an hourly rate fee, annually by CPI. |
| R18-14-105 | Amend subsection (A) to align with the Agency’s billing practice of providing total fees paid to date and maximum fees paid on an as requested basis. The proposed amendment also revises subsection (B) to align with the elimination of the initial deposit requirement for water quality protection services subject to an hourly fee in R18-14-103(B). |

R18-14-108 Table 4 Table 5	Amend to increase APP water quality protection services flat fees (including Types 2, 3, and 4 general permits), and adjust those fees annually by CPI.
R18-14-109 Table 6	Amend to increase AZPDES water quality protection services flat fees (including initial and annual), and adjust those fees annually by CPI.
R18-14-110 Table 7	Amend reclaimed water general permit fees (including renewal), and adjust those fees annually by CPI.
R18-14-111	Amend to adjust UIC regulated facility services flat fees annually by CPI.
R18-14-112	Amend to eliminate flat fees for dry well registration and transfer of registration in subsections (1) and (2) as those facilities are subject to fees under the UIC program. The proposed amendment also increases flat fees for certificate of approval for sanitary facilities and subdivisions, and adjusts those fees annually by CPI.

Article 2

R18-14-202 Table 1	Amends to increase flat rate fees for design review services for public water systems (including priority review fees), and adjust those fees annually by CPI.
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Article 3

R18-14-301	Amends to increase certified operator fees (including certification or renewal), and adjust those fees annually by CPI.
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Immediate Effective Date.

Pursuant to A.R.S. § 41-1032(A)(1), ADEQ requests an immediate effective date for these rules in order to preserve public safety and protect human health and the environment by ensuring necessary funding for water quality protection services. Delaying the effective date would put all water quality protection services, inspections and enforcement at risk, for all programs. Drinking water inspections would occur at less frequency potentially jeopardizing the health and safety of consumers.

- 7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not 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:**

ADEQ reviewed an Audubon Society study that addressed the Economic Impact of Arizona's Rivers, Lakes, and Streams, which can be found here: <https://www.audubon.org/economic-impact-arizonas-rivers-lakes-and-streams>

8. 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.

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

The following discussion addresses each of the elements required for an economic, small business and consumer impact statement under A.R.S. § 41-1055.

Identification of the rulemaking: 18 A.A.C. 14, Articles 1, 2, and 3, amending R18-14-101 through R18-14-105, R18-14-108 through R18-14-110, and R18-14-112; R18-14-202; and R18-14-301; and their respective tables. These rules are designed to collect fees for water quality protection programs, which will go into the water quality fee fund (WQFF) - not to change the conduct of any regulated entities. The hourly fees, flat fees, and maximum fees would be increased throughout the noted articles. When ADEQ originally set its permitting fees in 2011 and its Operator Certification fees in 2016, those fees were based on conservative assumptions, including costs associated with the minimum level of staffing that ADEQ believed was necessary to implement the permitting, compliance and enforcement programs, effectively, efficiently, and within licensing time-frames. Though using the best available information at the time, the actual costs of implementing the above programs is more than originally projected. The fees collected through the hourly and flat fees did not raise the revenue needed to properly conduct those programs, and outside funding had to be secured.

ADEQ's goal in this rulemaking is to establish water quality protection fees that will help sustain those programs while avoiding disproportionate impact on any one group of stakeholders. The amended fees included in this rulemaking are projected to raise about \$2.8 million; however, these increased fees alone will be insufficient to cover the full cost of those programs. State leadership approved a bill that will help ADEQ close the gap for FY24. No new fees are being proposed in this rulemaking.

This rulemaking addresses the continued shortfall created by the elimination of the General Fund from ADEQ's budget in 2011 and the subsequent increase in program costs due to inflation, and includes increases to the following categories of fees:

- Hourly-based fees for individual permits or water quality protection services subject to variable review times;

- Flat fees for water quality protection services subject to predictable average times for review, such as for general permits;
- Annual fees to cover the costs of administering permit coverage; and
- Flat fees for operator certification.

Description of Water Quality Programs: ADEQ is responsible for developing permit programs for AZPDES, APP, UIC, and reclaimed water, as well as ensuring safe potable water for the public through (among other things) public water system design review and operator certification. See A.R.S. §§ 49-203(A)(2), (5), (6) and (7); and 49-351. These programs help protect human health and the environment by ensuring clean and safe water for consumption, recreational use, and agricultural use, among other things, through permitting, inspections, compliance, and enforcement of federal and state requirements. The permitting programs protect both surface water and groundwater through the issuance, management, and modification of permits that ensure pollutant limits are set at levels protective of human health and the environment. The safe drinking water program protects the drinking water for Arizonans, by conducting site inspections and monitoring for compliance. Complaints are investigated, and data involving compliance and/or noncompliance is compiled and tracked. Assistance for the regulated community is provided, and oversight is given when non-compliance events take place to ensure proper remediation.

Regulatory Universe: ADEQ's Water Quality Programs are responsible for protecting and enhancing public health and the environment by ensuring healthy drinking water in public water systems and by controlling current and future sources of surface and groundwater pollution. ADEQ's Certified Operator program establishes guidelines to ensure that only certified operators make decisions about process control or system integrity that affect public health. The program establishes minimum standards for certification and recertification of the operators of drinking water and wastewater systems.

ADEQ currently regulates more than 450 facilities with Individual Aquifer Protection Permits with approximately 150 of these facilities also requiring an Individual AZPDES permit to allow for a safe surface water discharge. As many as 4,000 facilities require a Type 2, 3, or 4 general permit for the APP or reclaimed water programs; these are generally for smaller discharge volumes or activities not requiring extensive Departmental review. ADEQ issues approximately 100 to 150 Certificates of Sanitary Facilities per year for new housing subdivisions. ADEQ's stormwater program accounts for approximately 11,000 to 30,000 permits (Construction,

Multisector, and De Minimis) at any time. In addition to ADEQ's own permitting program, all 15 Arizona Counties and some cities have delegated programs for issuing and inspecting on permitted facilities in their jurisdictions.

Current Appropriation: The budget required for the FY24 Water Quality Program is approximately \$19.2 million. The Program has operated at a deficit since the fees-related rulemakings in 2011. Without a fee increase, the fees ADEQ generates through the permitting and operator certification processes will only be approximately \$7.3 million. This rule is designed to help address the FY24 deficit, and allow for future, slower increases in fees through CPI. Again, while this fee rulemaking will not generate revenue sufficient to cover all necessary costs, an inflation adjusted fee increase is necessary and fair to all stakeholders.

Recent Implemented Efficiencies: ADEQ has continued to do more with fewer resources; despite the fact that ADEQ's budget is roughly \$64.8 million less than it was in 2008 (in FY08 dollars). ADEQ has reduced the average time to obtain an environmentally protective permit by 76%, while decreasing its workforce by 36%. The AZPDES program permit backlog is one of the lowest in the country. Under our Safe Drinking Water Act programs, 66% fewer systems are delivering water that does not meet federal limits, and 99.8% of Arizonans are served healthy drinking water every day. While ADEQ continues to execute its mission with fewer resources, the current revenue flowing to the Water Quality Fee Fund is insufficient to maintain those advances.

Regulatory Objective: ADEQ preserves and protects human health and the environment by establishing and implementing controls for current and future sources of ground and surface water pollution, ensuring safe and clean drinking water is provided by public water systems, and certifying operators of public water systems. *See* A.R.S. §§ 49-203(A)(2) (AZPDES permit program); (A)(5) (APP permit program); (A)(6) (UIC permit program); (A)(7) (permit program for the direct reuse of reclaimed water); 49-351 (potable water systems); 49-352 and 49-361 (operator certification).

EPA requires states to adopt programs that are at least as stringent as the federal CWA and SDWA programs in order to receive primary implementation and enforcement authority within its jurisdiction (primacy) for those programs. ADEQ must meet certain criteria and benchmarks to maintain primacy. If ADEQ is unable to adequately fund these programs, the EPA may step in and regain primary regulatory authority over these water quality programs. Most in the regulated community agree that ADEQ should implement the CWA and SDWA programs instead of EPA.

Resource Reduction Impacts: Without remedy, the WQFF deficit will impact ADEQ's long term ability to effectively implement state and federal water quality programs. For instance, this may impact ADEQ's inspection frequency as well as our ability to issue environmentally protective permits and maintain the improvements we have made in our permitting time frames all while protecting vital surface and groundwater sources of drinking water. Increasing fees for the water quality programs themselves will allow ADEQ to utilize previously reallocated funds to address other items, such as the Auditor General's findings, that included developing all required aquifer water quality standards, conducting key ongoing groundwater monitoring of the State's aquifers, monitoring for agricultural pesticides in groundwater and surrounding soil, or reducing the number of impaired surface waters within the State. Additionally, failure to adequately fund the CWA and SDWA programs could cause ADEQ to lose primacy of these programs and corresponding grant funds. If the programs revert back to EPA, Arizona would lose control over enforcement and permitting decisions, and EPA would become the main regulatory body for those programs.

Least burden and cost; description of alternatives: A.R.S. § 41-1052(D)(3) requires ADEQ to demonstrate it has selected the alternative with the least burden and cost necessary to achieve the underlying regulatory objective. Similarly, A.R.S. § 49-104(B)(17) requires that fees be "fairly assessed and impose the least burden and cost to the parties subject to the fees" and be based on "the direct and indirect costs of the department's relevant duties ... directly related to issuing licenses ... and enforcing the requirements of the applicable regulatory program." For this rulemaking, ADEQ interprets those requirements to mean collecting fee amounts that will help the Department provide clean water resources to communities within the State, and meet the objectives of protecting all waters from pollution. *See* A.R.S. §§ 49-203(A)(2) (AZPDES permit program); (A)(5) (APP permit program); (A)(6) (UIC permit program); (A)(7) (permit program for the direct reuse of reclaimed water); 49-351 (potable water systems); 49-352 and 49-361 (operator certification). The Department believes the fees are "fairly assessed" because the fees are based on "the direct and indirect costs" of the applicable programs.

Alternatives: ADEQ has involved the regulated community in discussions regarding alternative fee increases. ADEQ considered a fee increase that would completely eliminate the annual deficit for the WQFF, but would cause stakeholders to internalize the full burden of the \$11.9 million deficit. The current proposed fee increase will impact the parties subject to fees in a fair and proportional way, however, it will not completely bridge the gap necessary to meet the budget shortfall.

ADEQ's goal in this rulemaking is to establish water quality protection fees that will help sustain the programs while avoiding disproportionate impact on any one group of stakeholders.

ADEQ has aggressively pursued federal grant opportunities, and used EPA grants to develop and maintain its regulatory programs. Notwithstanding aggressive budget reductions that resulted in loss of staff through reductions in force and layoffs, fee increases are necessary to help cover the cost to implement and administer the programs.

ADEQ's ability to raise revenue is limited by the powers and duties granted it through statute, specifically A.R.S. §§ 49-104(C) and 49-203(A)(8). While ADEQ can impose civil and criminal penalties of up to \$25,000 per day, both civil and criminal penalties obtained under an environmental enforcement action must be deposited in the General Fund (A.R.S. §§ 49-262(E) and 49-263(G)).

ADEQ considered the impact that a fee raise would have on the parties subject to the increases, and determined that the least amount of fees necessary to help the Department bridge the deficit would be fair and proportional to the parties impacted.

Cost/Benefit: The probable costs for this rule are the \$2.8 million in increased fees necessary for ADEQ to close the \$11.9 million deficit needed to maintain the water quality programs. These costs would be primarily incurred by permittees - ranging from private and public waste water treatment plants to mining companies - and certified operators.

The probable benefits are:

- Ability to address some of the issues raised in the '21 Auditor General's Report: As noted above, increasing fees for the water quality programs themselves will allow ADEQ to utilize previously reallocated funds to address other items, such as the Auditor General's findings.
- Maintain or improve our advances in providing drinking water that meets federal Standards: Under our Safe Drinking Water Act programs, 66% fewer systems are delivering water that does not meet federal limits, and 99.8% of Arizonans are served healthy drinking water every day. Increased revenue will allow us to maintain and improve this performance.
- Maintain or improve our ability to issue environmentally protective permits, quickly: ADEQ has reduced the average time to obtain an environmentally protective permit by 76%, while decreasing its workforce by 36%. This includes the individual permit in the

Aquifer Protection Permitting Program, Reclaimed water and Arizona Pollution Discharge Elimination System Permits programs. Increased revenue will allow us to maintain and improve this efficiency.

- Ability of Arizona to implement the federal Clean Water Act program and federal Safe Drinking Water Act program: ADEQ obtained primacy for the AZPDES program in 2002, and primacy for safe drinking water systems in 1978, with federal approval for expansion of the initial programs in the years since. *See* 43 FR 38083; 67 FR 49916. If EPA were to subsume these programs due to lack of ADEQ's financial ability to operate them, there could be a time lag with no oversight of these programs. EPA does not have the bandwidth to expeditiously begin running a program that ADEQ has run for several decades. ADEQ maintaining primacy means that there will not be a delay in either reviewing or issuing permits, or inspecting and ensuring that permittees follow local, state, and federal rules that benefit Arizonans.
- ADEQ maintains control over non-compliance events: The CWA and SDWA have reporting requirements that permittees must follow. Because Arizona has primacy over those federal programs, facilities and operators have to submit required information to ADEQ for transmittal to EPA. This allows ADEQ to maintain a positive working relationship with the regulatory community, and monitor and quickly respond if the information provided by permittees shows a facility is in non-compliance and negatively impacting human health and the environment. If ADEQ was unable to provide this compliance assistance service, EPA would have to step in, causing delay in problem solving.
- Rulemaking oversight: When EPA adopts a new regulation, Arizona has the authority to review that regulation and determine whether to adopt it and incorporate it into its rules with or without tailoring the requirements to our unique circumstances. If the CWA and SDWA programs are reverted back to the EPA, Arizona would lose the ability to implement the programs with tailored regulations for Arizona that align with federal regulations.
- Outreach to regulated community: Throughout the year, ADEQ staff participates in numerous conferences and training seminars with the goal of educating the regulated community about ADEQ's water quality requirements and policies. These include providing updates to the community on new rules, and helping ensure compliance with permits. It is unlikely that EPA would participate in such events in Arizona.

For these reasons, ADEQ believes that the benefits exceed the cost.

Rules More Stringent than Corresponding Federal Law. Not applicable. While the CWA and SDWA are applicable to some of ADEQ's water quality programs, these federal laws do not specify funding structures for the programs.

Probable Impact on Political Subdivisions of this State Directly Affected by this Rulemaking:

Political subdivisions represent approximately 40 percent of the individual water quality permitting universe and they will bear the greatest impact. This is because they own or operate facilities and/or conduct multiple activities requiring both APP and AZPDES permit coverage. Larger municipalities also typically own and operate multiple, more complex, and larger facilities. Smaller communities will likely be affected more so than large communities because they have a smaller population over which to spread the costs.

Many municipalities operate wastewater treatment facilities (WWTPs), which require various APP, AZPDES, and reclaimed water permits. Many municipalities also have reclaimed water permits. The typical municipality will also pay annual or renewal fees on most of these permits. For Articles 1 and 2 (water quality protection services and public water system design review, respectively), the fees will increase by a CPI adjustment of approximately 43%. For Article 3 (operator certification), the fees will increase by a CPI adjustment of approximately 34%. ADEQ has classified the increases as moderate for all parties impacted. The proposed fee increases do not fully fund the programs, but help ADEQ minimize the deficit. While a less than CPI adjusted increase would likely result in a minimal impact, the funds raised would also be insufficient to meet the needs of the programs. A greater than CPI increase might more fully fund the programs, but would have caused a substantial impact to all those affected.

Examples of the impact of the fee increases can be best shown by the impact on different classes of customers. A large municipality might have multiple wastewater treatment plants requiring an individual APP and, sometimes an individual AZPDES. In this example we will assume that the plant in question has a discharge volume of ten million gallons or more. That municipality would currently pay \$8,500 per year for the APP discharge and \$4,000 year for the AZPDES discharge, for a total of \$12,500 per year. Under the fee model proposed in this rulemaking, that municipality would pay \$12,130 per year for the APP discharge and \$5,708 for the AZPDES discharge, for a total of \$17,838. ADEQ considers this a moderate increase in cost for a large municipality that may have multiple plans for which it is responsible. The same holds true for any municipality regardless of size; since fees are tied to discharge volume, smaller municipalities

will have correspondingly smaller annual fee burdens. By way of an example, the table below demonstrates the change to individual AZPDES annual fees, as is described above:

<u>Permitted Discharge Volume (GPD) or Minor/Major Industrial</u>	<u>Current Annual Fee</u>	<u>New Annual Fee</u>
Less than 99,999	\$250	\$357
100,000 to 999,999	\$500	\$714
1,000,000 to 9,999,999	\$2,500	\$3568
10,000,000 or more	\$4,000	\$5,708
Minor	\$500	\$714
Major	\$2,500	\$3,568

The CPI increase that applies to ADEQ Operator Certification will be approximately 34%. Municipalities or private companies may, and often do, reimburse employees for these expenses. ADEQ recognizes, however, that many operators in smaller communities are financially responsible for their own certifications. The increase of 34% reflects an adjustment that will aid the administration of the program. Operators have to renew their certification every three years. Currently, an operator with four certificates, the highest number available, pays \$300 every three years. The increase of 34% would require that an operator with all four certifications pay \$402 every three years. Under the new fee model, the cost for renewing the highest number of certifications is moderate. The table below demonstrates the comparison between current fees and new fees for operator certifications:

Description	Current Fee	New Fee
New certification	\$65	\$87
An operator that has not held a lower grade level for the required amount of time requests the Departments determination on experience and education in order to be admitted to a higher grade certification examination	\$150	\$201

An applicant that requests a certificate based on reciprocity with another jurisdiction	\$250	\$334
An operator submitting a certificate renewable shall submit a fee for each certificate (see below)		
If the operator has multiple certificates; the first certificate	\$150	\$201
Each additional certificate with the same expiration date	\$50	\$67

Reduction of Impact on Small Businesses: A.R.S. § 41-1035 requires state agencies to reduce the impact of a rulemaking on small businesses, if any of the following methods are legal and feasible in meeting the statutory objectives which are the basis of the rule making:

1. Establish less stringent compliance or reporting requirements in the rule for small businesses.
2. Establish less stringent schedules or deadlines in the rule for compliance or reporting requirements for small businesses.
3. Consolidate or simplify the rule's compliance or reporting requirements for small businesses.
4. Establish performance standards for small businesses to replace design or operational standards in the rule.
5. Exempt small businesses from any or all requirements of the rule.

The listed methods are not generally relevant to a rule establishing fees. *See* A.R.S. § 49-104(B)(17) (requiring fees be “fairly assessed” and based on “direct and indirect costs.”)

Probable Impact on Small Businesses: Small businesses with facilities that require APP or AZPDES permit coverage include small construction companies, truck stops and gas stations, and mobile home and recreational vehicle parks. Generally, these types of small businesses do not operate facilities requiring reclaimed water permits, although a small golf course could have a reclaimed water general permit for use of treated effluent for irrigation. Truck stops and gas

stations likely have general APP permits for drywells and will also be assessed the increased APP fees. Small businesses tend to have a smaller customer base over which to spread the costs of the increased fees.

Truck stops, gas stations, and mobile home and recreational vehicle parks that are not within incorporated communities served by centralized sewer, would likely require on-site wastewater treatment. The APP Type 4.23 general permit is for larger on-site facilities (up to 24,000 gallons per day).

Water and wastewater operators in Arizona who are certified, who seek to become certified, or seek additional certifications bear the costs of paying the fees for renewals, examinations, reciprocity, or early examination. ADEQ's Operator Certification program has approximately 6,800 certified operators who hold approximately 12,000 certificates. About 3,800 operators hold multiple certifications; about 1,500 operators hold all four certifications.

An operator certified in Arizona can have a maximum of four certificates, meaning they are certified in each of the four classes of facilities: water treatment plants, water distribution systems, wastewater treatment plants, or wastewater collection systems. An operator with four certificates could pay a maximum renewal fee of \$402 every three years.

These rules do not make any changes to current costs for examination or professional development hours (PDHs). An operator will still be responsible for costs or fees paid to the examination contractor or for PDHs. The current cost to sit for an exam at Gateway is \$89, which is paid to Gateway. Generally, the fee can be up to \$109 for examinations held off-site from Gateway. The exam fee covers costs for Gateway and ABC operator certification examinations; ADEQ does not receive any part of this examination fee.

It is likely that most small businesses that require permitting or operator certification will be smaller waste water treatment plants or smaller municipalities, and to the extent that the small businesses reimburse operators, the increased fees will moderately impact them – as compared to the minimal impact of a less than CPI increase, or the significant impact of a greater than CPI increase.

Identification of Persons Directly Affected by the Rule Making: Applicants and permittees of the drinking water, APP, UIC, reclaimed water, and AZPDES permitting programs will be affected by these rules, as well as individuals certified by our Operator Certification program. Permittees include businesses, individuals, political subdivisions, federal agencies, and non-profit organizations. Other entities that may be indirectly impacted by the rules include customers of

permittees. This rulemaking does not directly impact the fees of ADEQ's delegated government entities. A.A.C. R18-14-107 establishes authority for counties or other local governments to set independent fees for implementing ADEQ delegated water protection programs.

ADEQ anticipates that this rulemaking will affect 17,000 to nearly 38,000 permitted facilities or activities, as well as an unknown number of facilities or activities in the future. ADEQ anticipates the increased fees will have a moderate impact on these persons – as compared to the minimal impact of a less than CPI increase, or the significant impact of a greater than CPI increase.

Probable Effect on State Revenues: ADEQ estimates that fees from this rulemaking will directly affect state revenues by increasing revenues to the WQFF Fund by \$2.8 million annually.

10. A description of any changes between the proposed rulemaking, to include supplemental notices, and the final rulemaking:

No changes were made to the rules.

11. An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments:

The proposed rule was posted on ADEQ's website and published in the Arizona Administrative Register on April 28, 2023. A virtual oral proceeding regarding the proposed rule was held on May 30, 2023. Close of comment was May 30, 2023. ADEQ received no comments at the oral proceeding. ADEQ received the following written comments on the proposed rule.

Comment 1: Stephen Griffin, PhD, founder & CTO of InnovaQuartz LLC & SilicaPhysics LLC, and Technical Advisor to Trimedyne, Inc., email dated May 15, 2023:

“An increasing population as well as newly emergent challenges regularly confront our State's scientists and technicians charged with maintaining our water quality, from trace precipitation drug residues in wastewater to perfluorinated alkyl substances (PFAS) in our surface and groundwaters. While nobody likes paying higher fees for government services, absent some billionaire's largess in bequeath of an adequate trust, ADEQ really needs our support for fee increases AND for legislation that provides additional funding from other sources.”

ADEQ Response 1:

ADEQ appreciates the comment.

Comment 2: Catherine Land Evilsizor, email dated May 15, 2023:

“ADEQ should absolutely charge and/or receive funding via the legislature adequate to operate. Water quality is essential to all life.

I am in favor of raising fees to cover the cost of the important work of ADEQ for our state.”

ADEQ Response 2:

ADEQ appreciates the comment.

Comment 3: City of Phoenix, letter dated May 30, 2023, regarding ADEQ Water Quality Funding Sources:

“The City strongly supports ADEQ’s efforts to obtain a reliable annual funding source to support the water quality goals of Arizona, rather than relying solely on permittee fees. To this end, the City supports Senate Bill (SB) 1391 which would allocate \$9,060,000 to the Water Quality Fee Fund, in addition to the one-time \$9,500,000 appropriation from state general funds for Fiscal Year 2023-2024.

If SB 1391 fails to pass, the City urges ADEQ to continue to investigate and pursue reliable, sustainable funding for the protection of public health and the environment rather than return to a fully fee-based approach, especially considering the increased state-wide program activities ADEQ will need to fund based on the Auditor General’s report. Permittees already pay for the cost of getting a permit and for any of the unfunded conditions required by permits. Adding increased permit fees that are not directly related to the cost of obtaining a permit unfairly places the burden of ADEQ’s water quality division on those already paying to mitigate and minimize their own impacts on water quality. Instead, permittees should only be charged for the direct cost of permitting (fee-for-service). Placing the sole responsibility for funding ADEQ’s water quality program on permittees would place an unreasonable and non-justifiable burden on a few entities and would not provide a reliable and consistent funding source.”

ADEQ Response 3:

ADEQ appreciates the comment. In accordance with statutory authority, ADEQ is not “charg[ing] or receiv[ing] a fee or mak[ing] a rule establishing a fee unless the fee for the specific activity is expressly authorized by statute...” A.R.S. § 41-1008(A)(1). Further, A.R.S. § 49-104(B)(17) requires that fees be “fairly assessed and impose the least burden and cost to the parties subject to the fees” and be based on “the direct and indirect costs of the department’s relevant duties ... directly related to issuing licenses ... and enforcing the requirements of the applicable regulatory program.”

Comment 4: City of Phoenix, letter dated May 30, 2023, regarding Operator Certification Fees:

“The City does not support ADEQ’s proposal to increase the fees annually for the Operator Certification program. ADEQ has not provided sufficient justification for the proposed increases. No additional functions or efficiencies were identified by ADEQ that would be added to the Operator Certification program as a result of operator certification fee increases. An annual adjustment using the CPI would result in a significant and continually growing burden on operators.

For example, over the course of three years, the cost for an operator with two certifications would rise by \$36. Many operators have three or even four different certifications they keep up to date. This reflects just the first three years. With the proposed annual CPI adjustment, these fees will continue to rise over time and become increasingly burdensome for individual operators and for companies that reimburse employees for these expenses. This is one of the most significant financial implications to the City from these fee increases, due to the sheer number of operators we employ.

The City is also concerned the increased fees could result in operator workforce depletion. The water and wastewater industry are currently experiencing a workforce crisis, struggling to recruit, train, and retain employees, and approximately one-third of the water sector workforce will be eligible to retire within the next several years. This fee increase will further exacerbate the workforce crisis, leaving the state with less certified operators available to operate water and wastewater systems. The City believes that this increase will disincentivize an individual obtaining multiple types of operator certifications and that this additional financial burden on the individual operators, as consumers, would further jeopardize the public health and the environment.”

ADEQ Response 4:

ADEQ appreciates the comment. ADEQ stands by the assertion in the preamble that the impact to individual operators is moderate. ADEQ has included within the preamble an example of an operator with four certificates to illustrate the cost increase. Similarly, the impact to businesses and municipalities that reimburse their employees would also be moderate. Fees for operator certification have not been adjusted since 2016. Those fees were based on conservative assumptions, including the minimum number of staffing and resources necessary to effectively implement the program. Though ADEQ used the best available information at the time, the actual costs of implementing the programs exceeded the 2016 projections, causing a deficit. Without increasing the costs of certification, the deficit that follows would jeopardize ADEQ’s ability to ensure safe operation of drinking water and waste water systems. Again, an inflation adjusted fee increase is necessary and fair to all stakeholders.

ADEQ is working to create and improve a robust operator certification program to ensure that the workforce does not deplete. Though still developing, these measures will likely include items such as training and community outreach to encourage the next generation of operators and ADEQ is happy to partner with other organizations, such as the City of Phoenix, in that effort. Protecting human health and the environment is ADEQ’s top priority, and an aspect of attaining those goals is ensuring that the program is sufficiently funded. ADEQ has added supplemental information regarding operator certification into the preamble.

Comment 5: City of Phoenix, letter dated May 30, 2023, regarding AZPDES Multi Sector General Permit (“MSGP”):

“The proposed fee increase will be magnified when passed along by multiple MSGP permit holders across Arizona to others involved in an AZPDES Sector (for example, in Sector S Air Transportation fueling, hangar, air service, airport, etc.) or between AZPDES Sectors (for example, Air Transportation, Land Transportation, Warehousing, Manufacturing, etc.). Increasing fees will cause the biggest impact to small businesses. Permit fees are a barrier to business entry and endanger small business sustainability. Fees based solely on acreage do not work for all small businesses/co-permittees. For example, mobile providers have no leasehold or location/storage area and are only working in small areas but are expected to pay an amount based on acreage. For a mobile provider operating at all three Phoenix airport locations, this is an increase from \$1,050 to \$1497 annually based on the increase from \$350 to \$499 annually for sites that are <=1 acre.

The City requests that ADEQ consider the following:

- Fee waivers for the following small business partners: mobile mechanics and wash service providers.
- De minimus fees for mobile providers based on the business rather than the facility acreage. For example: if located at one to three facilities \$100 annual fee; if located at four to six facilities \$200 annual fee. This would lower the cost barrier to business entry into the field.
- Phase in fee increases over multiple years to reduce impacts to small businesses or assess a lower annual fee, as noted in the bullet above.
- If ADEQ retains the 5-year No Exposure Certificate (“NEC”), the fee should be prorated and refunded if the business closes during that 5-year period or provide the option of either paying for a 5-year NEC up front or paying an annual fee (similar to vehicle registrations).

The cost burden for a No Exposure Certificate (“NEC”) holder is excessive, particularly considering that the owner is certifying there is no potential for contaminants to be discharged to stormwater infrastructure and when compared to a site that has filed a Notice of Intent (“NOI”), especially considering a site with a filed NEC has already taken certain active measures and Best Management Practices to not expose activities to stormwater, and because an NEC only requires a review from ADEQ once every five years. The City requests ADEQ evaluate the ideas for NEC fee adjustments as noted in the bulleted list above.”

ADEQ Response 5:

ADEQ appreciates the comment. A.R.S. § 41-1051(D)(3) requires ADEQ to demonstrate it has selected the least burden and cost necessary to achieve the underlying regulatory objective. ADEQ has interpreted the statutory requirements regarding fees to mean that the Department may collect fee amounts that will help provide clean water resources to communities within the State, and meet the objectives of protecting all waters from pollution. *See* A.R.S. §§ 49-104(B)(17) (requiring fees be

fairly assessed, among other things); 49-203(A)(2) (AZPDES permit program); (A)(5) (APP permit program); (A)(6) (UIC permit program); (A)(7) (permit program for the direct reuse of reclaimed water); 49-351 (potable water systems); 49-352 and 49-361 (operator certification). ADEQ stands by its statement in the preamble that small businesses requiring permitting will experience a moderate impact from the fee increase, because it only corresponds to an increase in CPI.

While ADEQ understands that permit fees are a requirement that impacted businesses will need to incorporate into their business models, the alternatives the City suggests: fee waivers, de minimus fees, and phased in fees, do not allow for proper implementation of the water quality programs, inhibiting ADEQ's ability to meet its regulatory objectives. To use the example provided, for NECs, an ADEQ employee will spend approximately 10 hours reviewing the documentation submitted by the party seeking the certificate in order to approve or deny the submission. The party receives the benefit of the NEC in not having to obtain further permits such as an MSGP, and ADEQ retains rights to inspect the property. By not charging a fee, or charging a de minimus fee for NECs, ADEQ would not be able to fully cover the cost of the program.

When the fees were established in 2011 ADEQ did its best to calculate what an appropriate fee model would be in order to protect the environment. Today, though there is a moderate impact to these small businesses, a less than CPI increase or another model such as those suggested by the City would mean that the programs are not receiving adequate support to operate. The goal with this rulemaking is to establish fees that help ADEQ sustain the water quality programs while not disproportionately impacting any one group of permittees. A CPI increase remains appropriate given the circumstances. ADEQ commits to exploring alternatives to the permit fee structures in the future.

Comment 6: Arizona Mining Association (AMA), letter dated May 30, 202[3]:

“As a general matter, AMA supports an adequately funded Water Quality Division. The Division does important work that benefits all Arizonans, not just AMA members. This past legislative session, AMA supported ADEQ receiving additional funds outside of permit fees to support its non-permitting activities, and we anticipate doing the same in future years. Such non-permit sources of funding are important because, as explained below, statutory limits exist on the types of expenses that ADEQ may recover through permit fees in some of its key water quality programs.

With respect to the current proposed rule, AMA supports ADEQ's proposal to increase its fees for water quality protection services and public water system design reviews by approximately 43%, and certified operator fees by approximately 34%. These increases allow the agency to keep up with the significant inflation that has occurred since the fees were last adjusted. AMA also supports the proposed annual Consumer Price Index (“CPI”) adjustments for the various water quality fees.

In particular, AMA appreciates ADEQ’s recent successful efforts to streamline the process for reviewing and then issuing environmentally protective permits. These commendable efforts make it more palatable for the regulated community to support an increase in permitting fees. As part of the planned increase in fees, we encourage ADEQ to continue moving forward with and improving on its permit streamlining efforts.”

ADEQ Response 6:

ADEQ appreciates the comment.

Comment 7: Arizona Mining Association (AMA), letter dated May 30, 202[3], regarding statutory limits:

“Although AMA supports the proposed fee increases, it is important to note that the statutes for both the aquifer protection permit (“APP”) program and the Arizona Pollutant Discharge Elimination System (“AZPDES”) permit program place limits on the fees that ADEQ can charge for processing permits. A.R.S. § 49-241.02(A) gives ADEQ authority to establish fees by rule but only “to pay the expenses incurred in implementing the [APP] program.” The APP program is found in A.R.S. Chapter 49, Chapter 2, Article 3. Similarly, A.R.S. § 49-255.01(J) only authorizes ADEQ to establish fees (including maximum fees) by rule “to pay expenses incurred in implementing the AZPDES program.” The AZPDES program is found in A.R.S. Title 49, Chapter 2, Article 3.1. Other programs such as ambient monitoring, adopting water quality standards, identifying impaired waters, establishing total maximum daily loads (“TMDLs”), and implementing voluntary nonpoint source measures are found in separate articles and are not part of the statutorily defined APP and AZPDES programs. Based on these statutory limits, ADEQ should ensure the fees it is proposing for APP and AZPDES water quality services are not used to support or fund activities outside of the permitting programs.”

ADEQ Response 7:

ADEQ appreciates the comment. In accordance with ADEQ’s statutory authority, the fees charged for the APP and AZPDES permit programs are based on “expenses incurred in implementing the [] program[s].” *See* A.R.S. §§ 49-241.02(A) and 49-255.01(J). The increased permit fees ADEQ proposes correspond to only what is necessary for implementing the APP and AZPDES programs and are restricted to the increase in costs due to inflation since the inception of the relevant fees. The programs will also not be self funded, as a CPI-only based approach does not fully solve the deficit the programs face. ADEQ is relying on the legislative appropriation mentioned in the preamble to provide the remaining funds for FY24.

Comment 8: Arizona Mining Association (AMA), letter dated May 30, 202[3], regarding the findings of the 2021 Auditor General’s Report:

“AMA finally requests that ADEQ remove all references to needing funds to implement the findings of the 2021 Auditor General’s Report of ADEQ’s Water Quality Division in the preamble to the final version of this rule. Setting aside any questions about the accuracy or legitimacy of many of the findings in the 2021 Report, all of the findings relate to ancillary activities that are outside the scope of the main permit programs administered by ADEQ. For the reasons described above, addressing the findings should not be paid for by the fees collected under ADEQ’s water quality protection fees rule.”

ADEQ Response 8:

ADEQ appreciates the comment. ADEQ acknowledges the findings of the 2021 Auditor General’s Report are regarding programs ancillary to the main permitting programs administered by ADEQ. The statements in the preamble involving resolution of those findings is intended to show that ADEQ does not currently have sufficient funding to conduct permitting program services it is required to conduct. The most recent rulemaking for water quality fees in 2011, and for operator certification in 2016, was an attempt to make the permit programs fully funded based upon fees. Since 2011, the cost of issuing permits has risen with the cost of inflation. To meet the increased monetary needs of the permit programs, ADEQ has utilized funding from other areas of the Department that could be re-allocated. With the proposed fee increases, the permit programs would ideally be closer to, but not fully, self sustaining. Without the need to fund the permitting programs from other sources within the Department, ADEQ can address the ancillary findings of the Auditor General’s Report, which will further the goals of protecting and enhancing human health and the environment. ADEQ has clarified the preamble.

12. 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:

Not applicable.

a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:

Not applicable. These rules establish fees for water quality protection services (Article 1), public water system design review (Article 2), and certified operators (Article 3). The requirements for a permit, license, or agency authorization (for which ADEQ charges such fees) are established elsewhere in rule, specifically 18 A.A.C. 9.

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:

Not applicable. While the CWA and SDWA are applicable to some of ADEQ's water quality programs, these federal laws do not specify funding structures for the programs.

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.

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

Not applicable.

14. Whether the rule was previously made, amended or repealed as an emergency rule. If so, cite the notice published in the *Register* as specified in R1-1-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:

Not applicable.

15. The full text of the rules follows:

TITLE 18. ENVIRONMENTAL QUALITY
CHAPTER 14. DEPARTMENT OF ENVIRONMENTAL QUALITY
PERMIT AND COMPLIANCE FEES
ARTICLE 1. WATER QUALITY PROTECTION FEES

Section

- R18-14-101. Definitions
- R18-14-102. Hourly Rate and Maximum Fees for Water Quality Protection Services
 - Table 1. Maximum Fees
- R18-14-103. Initial Fees
- R18-14-104. Annual Fees for Water Quality Protection Services Subject to Hourly Rate Fee
 - Table 2. APP Annual Registration Fees
 - Table 3. AZPDES Annual Fees
- R18-14-105. Fee Assessment and Collection
- R18-14-108. APP Water Quality Protection Services Flat Fees
 - Table 4. Type 2 and 3 General Permit Fees
 - Table 5. Type 4 General Permit Fees
- R18-14-109. AZPDES Water Quality Protection Services Flat Fees
 - Table 6. AZPDES Water Quality Protection Services Flat Fees
- R18-14-110. Reclaimed Water Flat Fees
 - Table 7. Reclaimed Water General Permit Fees
- R18-14-111. UIC Flat Fees
- R18-14-112. Other Flat Fees

ARTICLE 2. PUBLIC WATER SYSTEM
DESIGN REVIEW FEES

Section

- R18-14-202. Flat Rate Fees
 - Table 1. Design Review Service Fees

ARTICLE 3. CERTIFIED OPERATOR FEES

Section

- R18-14-301. Certified Operator Fees

ARTICLE 1. WATER QUALITY PROTECTION FEES

R18-14-101. Definitions

In addition to the definitions in A.R.S. §§ 49-201, 49-241.02, 49-255, 49-331, and A.A.C. R18-9-101, A.A.C. R18-9-701, and A.A.C. R18-9-A901, the following terms apply to this Article:

1. "APP" means an Aquifer Protection Permit.
2. "Complex modification" means:
 - a. A revision of an individual Aquifer Protection Permit for a facility within a mining sector as defined in A.R.S. § 49-241.02(F)(1); and
 - b. A revision of an individual Aquifer Protection Permit for a facility within a non-mining sector due to any of the following:
 - i. An expansion of an existing pollutant management area requiring a new or relocated point of compliance;

- ii. A new subsurface disposal including injection or recharge, or new wetlands construction;
 - iii. Submission of data indicating contamination, or identification of a discharging facility or pollutants not included in previous applications that requires reevaluation of BADCT; or
 - iv. Closure of a facility that cannot meet the clean closure requirements of A.R.S. § 49-252 and requires post-closure care, monitoring, or remediation.
3. “Courtesy review” means a design review service that the Department performs within 30 days from the date of receiving the submittals, of the 60 percent completion specifications, design report, and construction drawings for a sewage collection system.
 4. “Priority review” means a design review service for an APP Type 4 permit application that the Department completes using not more than 50 percent of the total review time-frame for the applicable Type 4 permit application as specified in 18 A.A.C. 1, Table 10.
 5. “Request” means a written application, notice, letter, or memorandum submitted by an applicant to the Department for water quality protection services. The Department considers a request made on the date it is received by the Department.
 6. “Review hours” means the hours or portions of hours that the Department’s staff spends on a request for a water quality protection service. Review hours include the time spent by the project manager and technical review team members, and if requested by the applicant, the supervisor or unit manager.
 7. “Review-related costs” means any of the following costs applicable to a specific request for water quality protection service:
 - a. Presiding officer services for public hearings on a permitting decision,
 - b. Court reporter services for public hearings on a permitting decision,
 - c. Facility rentals for public hearings on a permitting decision,
 - d. Charges for laboratory analyses performed during the review, and
 - e. Other reasonable and necessary review-related expenses documented in writing by the Department and agreed to by an applicant.
 8. “Standard modification” means an amendment to an individual Aquifer Protection Permit that is not a complex modification.
 9. “UIC” means Arizona’s Underground Injection Control Program.
 10. “Water quality protection service” means:
 - a. Reviewing a request for an APP determination of applicability;
 - b. ~~Pre-application consultation. Issuing~~ issuing, renewing, amending, modifying, transferring, or denying an aquifer protection permit, an AZPDES permit, a UIC permit, a UIC application for an aquifer exemption or an injection depth waiver or a reclaimed water permit;
 - c. Reviewing supplemental information required by a permit condition, including annual reports and closure for an APP;
 - d. Performing an APP clean closure plan review;
 - e. Issuing or denying a Certificate of Approval for Sanitary Facilities for a Subdivision;
 - f. Registering or transferring registration of a dry well;
 - g. Conducting a site visit;
 - h. Reviewing proprietary and other reviewed products under A.A.C. R18-9-A309(E);
 - i. Reviewing, processing, and managing documentation related to an AZPDES general permit, including a notice of intent, notice of termination, certificate of no exposure, and waiver;
 - j. Registering and reporting land application of biosolids; or

- k. Pretreatment program review, inspection, or audit.

R18-14-102. Hourly Rate and Maximum Fees for Water Quality Protection Services

- A. The Department shall assess and collect an hourly rate fee for a water quality protection service, except for APP minor permit amendments specified under A.A.C. R18-9-A211(C)(1), (2) and (3) and A.A.C. R18-9-B906(B), unless a flat fee is otherwise designated in this Article, and UIC minor modifications specified under A.A.C. R18-9-C633(A).
- B. Hourly rate fees. The Department shall calculate the fee using an hourly rate of ~~\$122~~ \$174, adjusted annually under subsection (D), except for the UIC program, where the Department shall calculate the fee using an hourly rate of \$145, adjusted annually under subsection (D). These rates shall then be multiplied by the number of review hours to provide a water quality protection service, plus any applicable review-related costs, up to the maximum fee specified in subsection (C), adjusted annually under subsection (D). ~~The Department shall not charge an applicant for the first 60 minutes of Department pre-application consultation time costs for the project manager.~~
- C. Maximum fees for a water quality protection service assessed at an hourly rate in Table 1, adjusted annually under subsection (D).
- D. The Director shall adjust the hourly rate and maximum fees listed in subsections (B) and (C) every August 1 to the nearest \$10, beginning August 4, 2023, by multiplying the hourly rate or maximum fee by the Consumer Price Index (CPI) for the most recent year, and then dividing by the CPI for the year 2023. The CPI for any year is the average of the Consumer Price Index for All Urban Consumers, Phoenix-Mesa-Scottsdale, AZ, all items published by the United States Department of Labor, as of the close of the 12-month period ending on June 30 of that year.

Table 1. Maximum Fees

Program Area	Permit Type	Maximum Fee
APP	Individual or area-wide	\$200,000 <u>\$285,400</u>
APP	Complex modification to individual or area-wide	\$150,000 <u>\$214,050</u>
APP	Clean closure of facility	\$50,000 <u>\$71,350</u>
APP	Standard modification to individual or area-wide (per modification up to the maximum fee, and modification can be reassigned under A.A.C. R18-1-516): <ul style="list-style-type: none"> ▪ Maximum fee (cumulative per submittal) \$150,000 <u>\$214,050</u> ▪ Modification under A.A.C. R18-9-A211(C)(1) through (3) No fee ▪ Modification under A.A.C. R18-9-A211(C)(4) through (6) \$5,000 <u>\$7,135</u> ▪ Modification under A.A.C. R18-9-A211(C)(7), (D)(2)(b) through (i), and (k) through (l) \$15,000 <u>\$21,405</u> ▪ Modification under A.A.C. R18-9-A211(D)(2)(a) and (j) \$25,000 <u>\$35,675</u> ▪ Modification under A.A.C. R18-9-A211(B) that is not classified as complex modification under R18-14-101(2) \$25,000 <u>\$35,675</u> 	

APP	<p>For an APP issued before July 1, 2011, the fee for a submittal required by a compliance schedule is assessed per submittal and cumulative up to the maximum fee. The applicable maximum fee for all compliance schedule submissions shall be according to one of the three maximum fee categories listed below. The maximum fee is for the lifetime of the APP unless a new compliance schedule is established in the APP due to a modification that is classified as both a significant amendment under A.A.C. R18-9-A211(B) and a complex modification under R18-14-101(2)</p> <ul style="list-style-type: none"> ▪ For a permit with a compliance schedule where one or more submissions require a permit modification that requires a determination or reevaluation of BADCT, the fee is assessed as described above for each standard modification, with a maximum fee for the permit’s entire compliance schedule of: <p style="text-align: right;">\$150,000 <u>\$214,050</u></p> ▪ For a permit with a compliance schedule where one or more submissions require a permit modification, but no determination or reevaluation of BADCT is required, the fee is assessed as described above for each standard modification, with a maximum fee for the permit’s entire compliance schedule of: <p style="text-align: right;">\$100,000 <u>\$142,700</u></p> ▪ For a permit with a compliance schedule requiring one or more submissions that require ADEQ review but do not require a permit modification, the maximum fee for the permit’s entire compliance schedule is: <p style="text-align: right;">\$100,000 <u>\$142,700</u></p> 	
APP	For an APP issued on or after July 1, 2011, the fee for a submittal required by a compliance schedule is assessed per submittal and cumulative up to the maximum fee for the lifetime of the APP	\$100,000 <u>\$142,700</u>
APP	Determination of applicability	\$15,000 <u>\$21,405</u>
APP	Reviewing proprietary and other reviewed products under A.A.C. R18-9-A309(E)	\$15,000 <u>\$21,405</u>
AZPDES	Individual permit for municipal separate storm sewer system	\$40,000 <u>\$57,080</u>
AZPDES	<p>Individual permit for wastewater treatment plant (based on gallons of discharge per day)</p> <ul style="list-style-type: none"> ▪ 3,000 to 99,999 ▪ 100,000 to 999,999 ▪ 1,000,000 to 9,999,999 ▪ 10,000,000 or more 	<p style="text-align: right;">\$15,000 <u>\$21,405</u></p> <p style="text-align: right;">\$20,000 <u>\$28,540</u></p> <p style="text-align: right;">\$30,000 <u>\$42,810</u></p> <p style="text-align: right;">\$50,000 <u>\$71,350</u></p>

AZPDES	Individual permit for a facility or activity that is not a wastewater treatment plant or a municipal separate storm sewer	\$30,000 <u>\$42,810</u>
AZPDES	Amendment to an individual permit	\$12,500 <u>\$17,838</u>
AZPDES	Approval of a new or revised pretreatment program under AZPDES	\$10,000 <u>\$14,270</u>
AZPDES	Consolidated individual permit for multiple AZPDES individual permits, as allowed under A.A.C. R18-9-B901(C)	Aggregate of the applicable maximum fees
Reclaimed	Reclaimed water individual permit	\$32,000 <u>\$45,664</u>
UIC	Area	\$200,000
	Area Modification / Renewal	\$150,000
UIC	Classes I, II, III, V Individual	\$200,000
	Classes I, II, III, V Modification / Renewal	\$150,000
UIC	Classes VI Individual	No Max
	Classes VI Modification	No Max

R18-14-103. Initial Fees

- ~~A.~~ A person shall submit the applicable fee at the time a request for a water quality protection service is submitted to the Department.
- ~~B.~~ ~~For each water quality protection service subject to an hourly rate fee established under R18-14-102:~~
 - ~~1.~~ ~~An applicant shall submit a \$2,000 initial fee at the time a request is submitted to the Department for review.~~
 - ~~2.~~ ~~If requested by an applicant, the Department may set a lower initial fee when the Department estimates a review fee that is less than the applicable initial fee.~~
- ~~C.~~ ~~The Department shall not review a request for a water quality protection service if the applicant or permittee has not paid any fee due under this Article, unless the applicant or permittee has an outstanding water quality protection service bill that is under appeal pursuant to R18-14-106.~~

R18-14-104. Annual Fees for Water Quality Protection Services Subject to Hourly Rate Fee

- A.** Annual Registration Fees. The annual registration fee required under A.R.S. § 49-242 is in Table 2, adjusted annually under subsection (E).
- B.** The Department shall assess an annual fee for an AZPDES-related water quality protection service subject to an hourly rate fee as listed in Table 3, adjusted annually under subsection (E).
- C.** The Department shall assess an annual fee of ~~\$500~~ \$714, adjusted annually under subsection (E), for an individual reclaimed water permit.
- D.** The Department shall assess an annual fee and an annual waste disposal fee as applicable to UIC regulated facilities, subject to an hourly rate fee, as listed in Tables 3.1 and 3.2, adjusted annually under subsection (E).
- E.** The Director shall adjust the annual fees listed in subsections (A), (B), (C), and (D) every August 1, to the nearest \$10, beginning August 4, 2023, by multiplying the annual fee by the Consumer Price Index (CPI) for the most recent year, and then dividing by the CPI for the year 2023. The CPI for any year is the average of the Consumer Price Index for All Urban Consumers, Phoenix-Mesa-Scottsdale, AZ, all items published by the United States Department of Labor, as of the close of the 12-month period ending on June 30 of that year.

Table 2. APP Annual Registration Fees

Discharge or Influent per Day under the Individual APP or Notice of Disposal (in Gallons)	Annual Registration Fee	Annual Registration Fee if New Facility Under New APP Not Yet Constructed
3,000 to 9,999	\$500 <u>\$714</u>	\$250 <u>\$357</u>
10,000 to 99,999	\$1,000 <u>\$1,427</u>	\$250 <u>\$357</u>
100,000 to 999,999	\$2,500 <u>\$3,568</u>	\$500 <u>\$714</u>
1,000,000 to 9,999,999	\$6,000 <u>\$8,562</u>	\$625 <u>\$892</u>
10,000,000 or more	\$8,500 <u>\$12,130</u>	\$750 <u>\$1,070</u>

Table 3. AZPDES Annual Fees

Permit Type	Annual Fee	Annual Fee if New Facility Under New AZPDES Not Yet Constructed
Municipal separate storm sewer system	\$10,000 <u>\$14,270</u>	N/A
Wastewater treatment plant (based on gallons of discharge per day):		
▪ Less than 99,999	\$250 <u>\$357</u>	\$250 <u>\$357</u>
▪ 100,000 to 999,999	\$500 <u>\$714</u>	\$500 <u>\$714</u>
▪ 1,000,000 to 9,999,999	\$2,500 <u>\$3,568</u>	\$625 <u>\$892</u>
▪ 10,000,000 or more	\$4,000 <u>\$5,708</u>	\$750 <u>\$1,070</u>
Facility or activity that is not a wastewater treatment plant or municipal separate storm sewer and designated in the permit as either:		
Major	\$2,500 <u>\$3,568</u>	\$625 <u>\$892</u>
Minor	\$500 <u>\$714</u>	\$500 <u>\$714</u>
Pretreatment program	\$3,000 <u>\$4,281</u>	N/A
Consolidated individual permit for multiple AZPDES individual permits, as allowed under A.A.C. R18-9-B901(C)	Aggregate of the applicable annual fees of each individual permit	Aggregate of the applicable annual fees of each individual permit

Table 3.1. UIC Annual Fees

Permit Type	Annual Registration Fee	Annual Waste Disposal Fee
Area	\$10,000 (and not subject to any other annual registration fee in Tables 3.1 and 3.2)	N/A
Class I	No Annual Registration Fee	\$0.002/gallon. Minimum Fee: \$10,000/year Maximum Fee: \$25,000/year

Class II	See Table 3.2	N/A
Class III	See Table 3.2	N/A
Class V "Individual"	See Table 3.2	N/A
Class VI	No Annual Registration Fee	\$0.08/ton Minimum Fee: \$10,000/year

Table 3.2. UIC Annual Registration Fees

Design Injection Flow Rate in Gallons per day ^{1,2}	Annual Registration Fee
3,000 to 9,999	\$600
10,000 to 99,999	\$1,200
100,000 to 999,999	\$3,000
1,000,000 to 9,999,999	\$7,000
10,000,000 or more	\$10,000

¹ A Class II, III or V Individual UIC permittee with multiple wells or multiple permits may consolidate their same-class wells for the purpose of "design injection flow rate in gallons per day" under Table 3.2.

² An Area permit is not subject to Table 3.2.

R18-14-105. Fee Assessment and Collection

A. Billing. The Department shall bill an applicant for water quality protection services subject to an hourly rate no more than monthly, but at least quarterly. The following information shall be included in each bill:

1. The dates of the billing period;
2. The date and number of review hours itemized by employee name, position type and specifically describing:
 - a. Each water quality protection service performed,
 - b. Each facility involved and program component, and
 - c. The hourly rate for each water quality protection service performed;
3. A description and amount of each review-related cost incurred for the project;
4. ~~The total fees paid to date, the~~ The total fees due for the billing period, and the date when the fees are due, which shall be at least 35 days after the date on the bill; ~~The total fees paid to date~~ and the maximum fee for the project shall be provided upon request.

B. Final bill. After the Department makes a final determination whether to grant or deny a request for water quality protection services subject to an hourly rate fee, or when an applicant withdraws or closes the request, the Department shall prepare a final itemized bill of its review.

1. ~~If the total fee exceeds the amount of the initial fee plus all invoicing, the Department shall issue a final itemized bill for the cost of the water quality protection services up to the applicable maximum fee established under R18-14-102.~~
2. ~~If the total fee is less than the initial fee and all paid invoicing charges, the Department shall refund the difference to the applicant.~~
3. 1. Fees for water quality protection services shall be paid in U.S. dollars by cash, check, cashier's check, money order, or any other method acceptable to the Department.
4. 2. The Department shall not release the final permit or approval until the final itemized bill is paid in full.

R18-14-108. APP Water Quality Protection Services Flat Fees

- A. The Department shall assess a flat fee for an APP water quality protection service listed in this Section.
- B. Type 1 General Permits. No fee is required, except as stated in A.A.C. R18-9-A304(A)(2).
- C. Fees for Type 2 and Type 3 General Permits and related water quality protection services are listed in Table 4, adjusted annually under subsection (E). For purposes of this Section, “complex” is defined in A.A.C. R18-1-501(9). “Standard” means any permit that does not meet the definition of complex.

Table 4. Type 2 and 3 General Permit Fees

Permit Description	Permit Fee	Renewal Fee
Standard Type 2: <u>2.01, 2.03, 2.04, 2.05, and 2.06</u>	\$1,500 <u>\$2,141</u>	\$500 <u>\$714</u>
Complex Type 2: <u>2.02</u>	\$3,000 <u>\$4,281</u>	\$1,000 <u>\$1,427</u>
Standard Type 3: <u>3.02, 3.03, 3.05, 3.06, and 3.07</u>	\$4,500 <u>\$6,422</u>	\$1,500 <u>\$2,141</u>
Complex Type 3: <u>3.01 and 3.04</u>	\$7,500 <u>\$10,703</u>	\$2,500 <u>\$3,568</u>
Amendment to Notice of Intent	Same as applicable renewal fee	N/A
Transfer of permit authorization	\$50 <u>\$71</u>	N/A
If a site contains more than one facility covered by the same Type 2 or Type 3 General Permit and each facility is substantially similar in design, construction, and operation, the first facility is paid at the full applicable fee, and each additional facility is:	Half the applicable fee	Half the applicable fee

- D. Fees for Type 4 General Permits and related water quality protection services are listed in Table 5, adjusted annually under subsection (E).

Table 5. Type 4 General Permit Fees

Water Quality Protection Service	Description	Permit Fee
4.01 General Permit: Sewage Collection Systems	Under each Notice of Intent to Discharge, the fee is assessed on a per-component basis for the components listed below and is assessed cumulatively up to the maximum fee: <ul style="list-style-type: none"> ▪ Maximum fee ▪ Force mains with design flow less than or equal to 10,000 gpd ▪ Each additional increment of 50,000 gpd or less of force mains ▪ Gravity sewer with design flow less than or equal to 10,000 gpd ▪ Each additional increment of 50,000 gpd or less of gravity sewer ▪ Each sewer lift station ▪ Each depressed sewer ▪ Realignment of existing sewer for a contiguous project that is less than 300 linear feet with no change in design flow or pipe size 	\$25,000 <u>\$35,675</u> \$1,000 <u>\$1,427</u> \$1,000 <u>\$1,427</u> \$1,000 <u>\$1,427</u> \$1,000 <u>\$1,427</u> \$1,000 <u>\$1,427</u> \$1,000 <u>\$1,427</u> \$500 <u>\$714</u>

4.01 General Permit courtesy review	If an applicant requests courtesy review, the Department shall approve or deny the request. When determining whether to approve a courtesy review request, the Department shall consider the complexity of the project and the Department's current work load	One-third applicable fee upon submittal, then balance of fee if Notice of Intent to Discharge is submitted with final documentation within 180 days of first submittal
4.23 General Permit: 3,000 to less than 24,000 Gallons per day Design Flow	<ul style="list-style-type: none"> ▪ Onsite wastewater treatment facility with up to: <ul style="list-style-type: none"> • Three treatment technologies and disposal methods consisting of technologies or designs that are covered under other Type 4 general permits; and • Two onsite wastewater treatment facilities ▪ Maximum fee (cumulative) ▪ Each additional onsite wastewater treatment facility on same Notice of Intent to Discharge up to maximum fee ▪ Each additional treatment technology or disposal method consisting of technologies or designs that are covered under other Type 4 general permits on same Notice of Intent to Discharge up to maximum fee 	\$3,600 <u>\$5,137</u> \$7,500 <u>\$10,703</u> \$1,200 <u>\$1,712</u> \$500 <u>\$714</u>
4.23 General Permit annual report	Annual report required under A.A.C. R18-9-E323(G)	\$200 <u>\$285</u>
Type 4 General Permits (4.02 through 4.22)	<ul style="list-style-type: none"> ▪ Maximum fee ▪ First Type 4 general permit ▪ Each additional Type 4 general permit on same Notice of Intent to Discharge 	\$3,700 <u>\$5,280</u> \$1,200 <u>\$1,712</u> \$500 <u>\$714</u>
Alternative Design under A.A.C. R18-9-A312(G)	A request for an alternative design, installation, or operational feature, per alternative design: <ul style="list-style-type: none"> ▪ Type 4.01 general permit ▪ All other Type 4 general permits 	\$750 <u>\$1,070</u> \$250 <u>\$357</u>
Interceptor under A.A.C. R18-9-A315	A design requiring an interceptor (per interceptor)	\$100 <u>\$143</u>
Transfer	Transfer of discharge authorization	\$50 <u>\$71</u>
Priority Review	If an applicant requests priority review, the Department shall approve or deny the request. When determining whether to approve a priority review request, the Department shall consider the complexity of the project and the Department's current work load.	Double the Applicable Fee (including any applicable maximum fee)

E. The Director shall adjust the APP water quality protection services flat fees listed in subsections (C) and (D) every August 1, to the nearest \$10, beginning August 4, 2023, by multiplying the APP water quality protection services flat fee by the Consumer Price Index (CPI) for the most recent year, and then dividing by the CPI for the year 2023. The CPI for any year is the average of the Consumer Price Index for All Urban Consumers, Phoenix-Mesa-Scottsdale, AZ, all items published by the United States Department of Labor, as of the close of the 12-month period ending on June 30 of that year.

R18-14-109. AZPDES Water Quality Protection Services Flat Fees

- A. The Department shall assess a flat fee for an AZPDES water quality protection service, as described in Table 6, adjusted annually under subsection (D).
- B. In addition to the requirements in A.A.C. R18-9-A907(B), a draft permit will state the category and fee assigned to the permit and the factors for establishing the fee, according to Table 6. Any person may comment on the fee category assignment as part of the public comment period described in A.A.C. R18-9-A908.
- C. Annual Fee. The Department shall bill an annual fee, as described in Table 6, adjusted annually under subsection (D), to permittees who have not filed a notice of termination for an applicable general permit.

Table 6. AZPDES Water Quality Protection Services Flat Fees

Category	Factors for Establishing Fees	Initial Fee	Annual Fee
Municipal Separate Storm Sewer System General Permit	The fee is based on the population of the permitted area:		
	▪ Less than or equal to 10,000	\$2,500 <u>\$3,568</u>	\$2,500 <u>\$3,568</u>
	▪ Greater than 10,000 but less than or equal to 100,000	\$5,000 <u>\$7,135</u>	\$5,000 <u>\$7,135</u>
	▪ Greater than 100,000	\$7,500 <u>\$10,703</u>	\$7,500 <u>\$10,703</u>
	The fee for a non-traditional municipal separate storm sewer system, such as a hospital, college or military facility	\$5,000 <u>\$7,135</u>	\$5,000 <u>\$7,135</u>
Construction General Permit	The fee is based on the amount of acreage identified in the Notice of Intent:		
	▪ Less than or equal to 1 acre	\$250 <u>\$357</u>	\$250 <u>\$357</u>
	▪ Greater than 1 acre but less than or equal to 50 acres	\$350 <u>\$499</u>	\$350 <u>\$499</u>
	▪ Greater than 50 acres	\$500 <u>\$714</u>	\$500 <u>\$714</u>
	Pollution prevention plan review	\$1,000 <u>\$1,427</u>	N/A
	▪ Each additional submittal due to deficiency	\$500 <u>\$714</u>	N/A
	Waiver	\$750 <u>\$1,070</u>	N/A
	If more than one person must apply for general permit coverage of the same facility or discharge activity, each person pays:	Fee applicable to the amount of acreage each person controls	Fee applicable to the amount of acreage each person controls
Multi-Sector General Permit	The fee is based on the amount of acreage identified in the Notice of Intent:		
	▪ Less than or equal to 1 acre	\$350 <u>\$499</u>	\$350 <u>\$499</u>

	<ul style="list-style-type: none"> ▪ Greater than 1 acre but less than or equal to 40 acres ▪ Greater than 40 acres <p>Pollution prevention plan review</p> <ul style="list-style-type: none"> ▪ Each additional submittal due to deficiency <p>Certificate of No Exposure</p> <p>If more than one person must apply for general permit coverage of the same facility or discharge activity, each person pays:</p>	<p>\$500 <u>\$714</u></p> <p>\$1,000 <u>\$1,427</u></p> <p>\$1,000 <u>\$1,427</u></p> <p>\$500 <u>\$714</u></p> <p>\$1,250 <u>\$1,784</u></p> <p>Fee applicable to the amount of acreage each person controls</p>	<p>\$500 <u>\$714</u></p> <p>\$1,000 <u>\$1,427</u></p> <p>N/A</p> <p>N/A</p> <p>N/A</p> <p>Fee applicable to the amount of acreage each person controls</p>
General Permits for Non-Stormwater Discharges	<p>The fee is based on the Department’s total anticipated staff hours (including permit development, customer service, review of the notice of intent, and annual data review and inspections) divided by the total number of potential permittees over a five-year period:</p> <ul style="list-style-type: none"> ▪ Level 1A <ul style="list-style-type: none"> • Staff hours: 1,500 • Number of potential permittees: 750 ▪ Level 1B <ul style="list-style-type: none"> • Staff hours: 1,500 • Number of potential permittees: 375 ▪ Level 2 <ul style="list-style-type: none"> • Staff hours: 1,000 • Number of potential permittees: 100 ▪ Level 3 <ul style="list-style-type: none"> • Staff hours: 1,300 • Number of potential permittees: 100 ▪ Level 4A <ul style="list-style-type: none"> • Staff hours: 1,600 • Number of potential permittees: 100 ▪ Level 4B <ul style="list-style-type: none"> • Staff hours: 1,900 • Number of potential permittees: 100 <p>Pollution prevention plan review</p> <ul style="list-style-type: none"> ▪ Each additional submittal due to deficiency 	<p>\$250 <u>\$357</u></p> <p>\$500 <u>\$714</u></p> <p>\$1,250 <u>\$1,784</u></p> <p>\$1,500 <u>\$2,141</u></p> <p>\$2,000 <u>\$2,854</u></p> <p>\$2,500 <u>\$3,568</u></p> <p>\$1,000 <u>\$1,427</u></p> <p>\$500 <u>\$714</u></p>	<p>\$250 <u>\$357</u></p> <p>\$500 <u>\$714</u></p> <p>\$1,250 <u>\$1,784</u></p> <p>\$1,500 <u>\$2,141</u></p> <p>\$2,000 <u>\$2,854</u></p> <p>\$2,500 <u>\$3,568</u></p> <p>N/A</p> <p>N/A</p>

Emergency Discharge General Permit	Authorization for emergency discharge	\$10,000 <u>\$14,270</u>	N/A
Transfer	Authorization for permit transfer as allowed under A.A.C. R18-9-B905	\$50 <u>\$71</u>	N/A
Biosolids Land Applicators	Initial registration	\$500 <u>\$714</u>	N/A
	Registration amendment	\$250 <u>\$357</u>	N/A
	Annual report based on amount of dry metric tons applied		
	<ul style="list-style-type: none"> ▪ Less than or equal to 7,500 dry metric tons ▪ Greater than 7,500 dry metric tons but less than or equal to 15,000 dry metric tons ▪ Greater than 15,000 dry metric tons 	N/A N/A N/A	\$2,500 <u>\$3,568</u> \$3,000 <u>\$4,281</u> \$4,500 <u>\$6,422</u>

D. The Director shall adjust the AZPDES water quality protection services flat fees listed in subsections (C) and (D) every August 1, to the nearest \$10, beginning August 4, 2023, by multiplying the AZPDES water quality protection services flat fee by the Consumer Price Index (CPI) for the most recent year, and then dividing by the CPI for the year 2023. The CPI for any year is the average of the Consumer Price Index for All Urban Consumers, Phoenix-Mesa-Scottsdale, AZ, all items published by the United States Department of Labor, as of the close of the 12-month period ending on June 30 of that year.

R18-14-110. Reclaimed Water Flat Fees

A. The Department shall assess a flat fee for a reclaimed water quality protection service as listed in Table 7, adjusted annually under subsection (B). For purposes of this Section, “complex” is defined in A.A.C. R18-1-501(9). “Standard” means any permit that does not meet the definition of complex.

Table 7. Reclaimed Water General Permit Fees

Permit Description	Permit Fee	Renewal Fee
Standard Type 2: <u>Class A, A+, B, and B+</u>	\$600 <u>\$856</u>	\$450 <u>\$642</u>
Complex Type 2: <u>Class C</u>	\$750 <u>\$1,070</u>	\$575 <u>\$821</u>
Standard Type 3: <u>Reclaimed Water Agent, Reclaimed Water Blending Facility</u>	\$1,500 <u>\$2,141</u>	\$1,250 <u>\$1,784</u>
Complex Type 3: <u>Gray Water</u>	\$2,000 <u>\$2,854</u>	\$1,500 <u>\$2,141</u>
Amendment to Notice of Intent	Same as applicable renewal fee	N/A
Transfer of permit authorization	\$50 <u>\$71</u>	N/A

B. The Director shall adjust the reclaimed water quality protection services flat fees listed in subsections (A) every August 1, to the nearest \$10, beginning August 4, 2023, by multiplying the reclaimed water quality protection services flat fee by the Consumer Price Index (CPI) for the most recent year, and then dividing by the CPI for the year 2023. The CPI for any year is the average of the Consumer Price Index for All Urban Consumers, Phoenix-Mesa-Scottsdale, AZ, all items published by the

United States Department of Labor, as of the close of the 12-month period ending on June 30 of that year.

R18-14-111. UIC Flat Fees

- A.** The Department shall assess a flat fee for the following UIC regulated facility services, adjusted annually under subsection (B):
1. Well installation in an Area Permit, \$200 per well installation.
 2. Class V authorization by rule, \$200 per well inventory.
 3. Class V authorization by rule, \$100 per well transfer.
- B.** The Director shall adjust the UIC regulated facility services flat fees listed in subsections (A) every August 1, to the nearest \$10, beginning August 4, 2023, by multiplying the UIC regulated facility services flat fee by the Consumer Price Index (CPI) for the most recent year, and then dividing by the CPI for the year 2023. The CPI for any year is the average of the Consumer Price Index for All Urban Consumers, Phoenix-Mesa-Scottsdale, AZ, all items published by the United States Department of Labor, as of the close of the 12-month period ending on June 30 of that year.

R18-14-112. Other Flat Fees

Flat fees. The Department shall assess a flat fee for the following water quality protection services:

1. ~~Dry well registration, \$100 per dry well until:~~
 - a. ~~The fees in R18-14-111 are applicable, and~~
 - b. ~~A.R.S Title 49, Chapter 2, Article 8 is removed.~~
2. ~~Dry well transfer of registration, \$50 per transfer:~~
 - a. ~~The fees in R18-14-11 are applicable, and~~
 - b. ~~A.R.S Title 49, Chapter 2, Article 8 is removed.~~
3. ~~1.~~ Certificate of Approval for Sanitary Facilities for Subdivisions.
 - a. Subdivision with public sewerage system: ~~\$800~~ \$1,142, adjusted annually under subsection (2), for every increment of 150 lots or less;
 - b. Subdivision with individual sewerage system:
 - i. ~~\$500~~ \$714, adjusted annually under subsection (2), for less than 10 lots;
 - ii. ~~\$1,000~~ \$1,427, adjusted annually under subsection (2), for greater than 10 lots but less than 50 lots;
 - iii. ~~\$1,000~~ \$1,427, adjusted annually under subsection (2), for each additional increment of 50 lots or less.
 - c. If water from a central system is not provided to the lot, the fee is one and one-half the applicable fee stated in subsection (3)(a) or (b).
 - d. Condominium subdivision: ~~\$1,000~~ \$1,427, adjusted annually under subsection (2), for every increment of 150 units or less.
2. The Director shall adjust the water quality protection services flat fees listed in subsections (1) every August 1, to the nearest \$10, beginning August 4, 2023, by multiplying the water quality protection services flat fee by the Consumer Price Index (CPI) for the most recent year, and then dividing by the CPI for the year 2023. The CPI for any year is the average of the Consumer Price Index for All Urban Consumers, Phoenix-Mesa-Scottsdale, AZ, all items published by the United States Department of Labor, as of the close of the 12-month period ending on June 30 of that year.

**ARTICLE 2. PUBLIC WATER SYSTEM
DESIGN REVIEW FEES**

R18-14-202. Flat Rate Fees

- A. The Department shall assess and collect a flat rate fee for design review services for public water systems.
- B. Design criteria for public water systems are specified in 18 A.A.C. 4 and 18 A.A.C. 5.
- C. An applicant shall submit public water system design review fees with an application for an Approval to Construct, as specified in 18 A.A.C. 5, Article 5.
- D. The flat rate fees for a design review service:
 - 1. Are established in Table 1, adjusted annually under subsection (I), are assessed on a per-unit basis where applicable, and are cumulative unless otherwise specified in this Article;
 - 2. Shall be paid by cash, check, cashier’s check, money order, or any other method acceptable to the Department; and
 - 3. Shall be paid in full before the Department issues approval of an application.
- E. The Department shall refund 50 percent of the application fee paid by an applicant if, during the administrative completeness review time-frame period, the applicant:
 - 1. Fails to respond in a reasonably timely manner, as set forth in A.A.C. R18-1-507, to a notice of administrative deficiencies requesting additional information under A.A.C. R18-1-503, and the Department denies the application; or
 - 2. Withdraws the application.
- F. If an application is denied under A.A.C. R18-1-507 after the end of the administrative completeness review time-frame, the Department shall retain the flat fee paid by the applicant.
- G. If an applicant requests priority review, the Department shall approve or deny the request. When determining whether to approve a priority review request, the Department shall consider the complexity of the project and the Department’s current work load. If priority review is approved by the Department, the applicant shall pay the priority review fee specified in Table 1, adjusted annually under subsection (I).
- H. State agencies are exempt from all fees imposed under this Article pursuant to A.R.S. § 49-353(A)(2)(b).
- I. The Director shall adjust the design review services fees listed in Table 1 every August 1, to the nearest \$10, beginning August 4, 2023, by multiplying the design review services fee by the Consumer Price Index (CPI) for the most recent year, and then dividing by the CPI for the year 2023. The CPI for any year is the average of the Consumer Price Index for All Urban Consumers, Phoenix-Mesa-Scottsdale, AZ, all items published by the United States Department of Labor, as of the close of the 12-month period ending on June 30 of that year.

Table 1. Design Review Service Fees

Public Water System Design Review Application Types	Fees ^{1, 2}
Approval to Construct Public Water Supply Distribution System:	
• 150 or fewer service connections	\$900 <u>\$1,284</u>
• 151 to 300 service connections	\$1,400 <u>\$1,998</u>
• 301 to 450 service connections	\$1,900 <u>\$2,711</u>
• 451 to 600 service connections	\$2,400 <u>\$3,425</u>
• 601 to 750 service connections	\$2,900 <u>\$4,138</u>
• Each additional 150 service connections	Add \$500 <u>\$714</u>
Water Treatment Plants and Blending Plans (including new source approval if applicable):	

• < 0.1 mgd	\$1,500 <u>\$2,141</u>
• ≥ 0.1 mgd and < 1 mgd	\$2,000 <u>\$2,854</u>
• ≥ 1 mgd and < 5 mgd	\$3,000 <u>\$4,281</u>
• ≥ 5 mgd	\$5,000 <u>\$7,135</u>
Well (including new source approval if applicable)	\$1,250 <u>\$1,784</u>
Storage Tank	\$800 <u>\$1,142</u>
Booster Pump	\$800 <u>\$1,142</u>
Main Line Extension	\$250 <u>\$357</u>
Chlorinators/Disinfection Devices	\$250 <u>\$357</u>
Extension of Time to Construct ³	50% of the application fee, not to exceed \$500 <u>\$714</u>
Priority Review Fee ⁴	Double the Standard Fee

1 Fees are calculated on a per-unit basis; i.e., a separate fee is assessed for each separate storage tank, booster pump, disinfection device, or main line extension.

2 Fees for each application type are cumulative; an applicant must pay the total of all pertinent fees.

3 Extensions of time to construct are issued pursuant to A.A.C. R18-5-505(E); the Section states that an Approval to Construct becomes void if construction is not commenced or completed within a specified time period, unless the Department grants an extension of time.

4 Priority Review Projects require Department authorization prior to filing.

ARTICLE 3. CERTIFIED OPERATOR FEES

R18-14-301. Certified Operator Fees

A. Definition terms from A.A.C. R18-5-101 apply to this Article.

B. The Department shall assess and collect a flat rate fee for a certification or renewal under the operator certification program.

C. A person shall submit the applicable fee when requesting a certification or renewal under 18 A.A.C. 5, Article 1, as described below:

1. An applicant that seeks new certification shall submit a ~~\$65~~ \$87 fee, adjusted annually under subsection (D), per certification.
2. An operator that has not held a lower grade level for the required amount of time requests the Department's determination on experience and education in order to be admitted to a higher grade certification examination shall submit a fee of ~~\$150~~ \$201, adjusted annually under subsection (D), per application.
3. An applicant that requests a certificate based on reciprocity with another jurisdiction shall submit a fee of ~~\$250~~ \$334, adjusted annually under subsection (D), per application.
4. An operator submitting a certificate renewal shall submit a ~~\$150~~ \$201, adjusted annually under subsection (D), fee for each certificate. If the operator has multiple certificates, the first certificate is ~~\$150~~ \$201, adjusted annually under subsection (D), and each additional certificate with the same expiration date is ~~\$50~~ \$67, adjusted annually under subsection (D).

D. The Director shall adjust the certification or renewal fees listed in subsection (C) every August 1, to the nearest \$10, beginning August 4, 2023, by multiplying the certification or renewal fee by the Consumer Price Index (CPI) for the most recent year, and then dividing by the CPI for the year 2023. The CPI for any year is the average of the Consumer Price Index for All Urban Consumers, Phoenix-Mesa-Scottsdale, AZ, all items published by the United States Department of Labor, as of the close of the 12-month period ending on June 30 of that year.