

NOTICE OF PROPOSED RULEMAKING

TITLE 18. ENVIRONMENTAL QUALITY

CHAPTER 5. DEPARTMENT OF ENVIRONMENTAL QUALITY - ENVIRONMENTAL REVIEWS AND CERTIFICATION

PREAMBLE

1. **Permission to proceed with this proposed rulemaking was granted under A.R.S. § 41-1039 by the governor on:**

May 15, 2026

2. **Article, Part, or Section Affected (as applicable)** **Rulemaking Action**

R18-5-103

Amend

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

Authorizing statute: A.R.S. §§ 49-104(A)(1), (7), (8); 49-203(A)(7), (9), (10)

Implementing statute: A.R.S. § 49-211

4. **Citations to all related notices published in the *Register* that pertain to the current record of the proposed rule:**

Notice of Rulemaking Docket Opening: 32 A.A.R. 1449, June 26, 2026, Issue Number: 26, File number: (R26-97)

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

Name: Jon Rezabek

Natalie Kilker

Title: Legal Specialists

Division: Water Quality

Address: Arizona Department of Environmental Quality, 1110 W. Washington Ave., Phoenix, AZ 85007

Telephone: (602) 771-8219

(602) 771-0358

Email: awp@azdeq.gov

Website: <https://azdeq.gov/rulemaking/awp-implementation-update>

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 **An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:**

Introduction:

The Arizona Department of Environmental Quality ("ADEQ") was mandated by the Arizona Legislature, pursuant to Arizona Revised Statutes (A.R.S.) § 49-211, to "adopt all rules necessary to establish and implement a direct potable reuse of treated wastewater program, including rules establishing permitting standards and a permit application process". The statute, adopted from House Bill 2861, as enacted in the Second Regular Session on June 28, 2022, became effective on September 24, 2022. For purposes of this Notice and the proposed rule, the term "direct potable

reuse” is synonymous with “Advanced Water Purification” (or “AWP”), as the program is now called.

ADEQ, in consideration of Arizona’s water supply needs and the Legislative mandate, interpreted A.R.S. § 49-211 as a call to establish an AWP program that is both protective of human health and the environment, as well as imposing minimum burden upon the stakeholder community in achieving that goal. In March of 2025, those efforts culminated in the promulgation of the AWP program rules into the *Arizona Administrative Code* at Title 18, Chapters 1, 5, 9 and 14 (31 A.A.R. 1069). Since March of 2025, ADEQ has continued to meet with its AWP stakeholders who, in those meetings, have made recommendations on rule adjustments in an effort to make the program better and more implementable. This proposed rulemaking represents ADEQ’s review of those recommendations, the internal processing and studying of the program and its rules and the agency’s determination that the program can be improved upon in a limited number of rules while maintaining its original protective standard.

Associated Rulemakings:

This proposed rulemaking, collectively, includes four NPRMs, adding or amending rules in A.A.C. Title 18.

Environmental Quality:

- Chapter 1 (Department of Environmental Quality - Administration),
- Chapter 5 (Department of Environmental Quality - Environmental Reviews and Certification),
- Chapter 9 (Department of Environmental Quality - Water Pollution Control), and
- Chapter 14 (Department of Environmental Quality - Permit and Compliance Fees).

The proposed changes to Chapter 1 are specific to updating the Licensing Time-Frame requirements in Article 5, allowing for reduced review times in rule for Demonstration permits. The proposed changes to Chapter 5 are specific to amending the Operator Certification Committee rule in Article 1 in order to expand its scope to include the AWP operator certification program. The proposed amendments to Chapter 9 focus on updating the AWP program’s Operator Certification, Demonstration Permit, Enhanced Source Control, Tier 2 Chemical Control, Minimum Design Requirements and other miscellaneous rules in order to make the program more implementable, while maintaining its protective standard. The proposed changes to Chapter 14 are specific to updating the Certified Operator Fees in Article 3 to accommodate the AWP operator certification program.

Stakeholder Engagement:

ADEQ met with its AWP stakeholders regularly since the original AWP rules became effective in March of 2025 (31 A.A.R. 1069). ADEQ published draft rules on its website in June of 2026 and solicited the general public for comment in an effort to gather specific statements and opinion on the draft rules. ADEQ has already determined which comments from that function are appropriate for integration and values the continued input of the regulated community and the public, at-large.

Explanation of Rulemaking Amendments:

R18-5-103. Certification Committee

The proposed amendments to this Section consolidate operator certification oversight across drinking water, wastewater, and AWP programs into a single, cohesive committee. The summarized changes are: 1) Consolidation of Committee Oversight and Membership Updates; and 2) Renumbering.

- 1) Consolidation of Committee Oversight and Membership Updates. The proposed changes include expanding the scope of the certification committee, updating the committee composition, establishing allowances and limitations on representation. The Department proposes amending subsection (A) to extend the applicability and authority of the water and wastewater operator certification committee to the AWP program established in 18 A.A.C. 9, Article 8. The Department also proposes increasing total committee membership from 11 to 12 members by adding one new position for a currently employed and certified AWP operator. This change supports the Department's overarching objective to make the AWP and operator certification programs more efficient and effective without reducing environmental or public health protections. Rather than maintaining a separate 11-member committee for AWP (under R18-9-B804), consolidating oversight into 18 A.A.C. 5 establishes one comprehensive committee for all water programs. This eliminates administrative redundancy, streamlines agency operations, and reduces the volunteer burden on water industry professionals who serve on state committees.

Additionally, the Department proposes refining an existing position—a Grade 4 wastewater treatment plant operator—to require that this member additionally represent a facility with a design flow exceeding 5 million gallons per day (MGD) that may participate in the National Pretreatment Program. Adding representation for certified AWP operators and large-scale wastewater facility operators ensures the committee retains the specialized technical expertise needed to address advanced purification technology and source water quality considerations under the National Pretreatment Program.

Finally, The Department proposes adding subsection (D) to allow the Director to appoint a qualified individual to fill up to two listed membership positions simultaneously, while explicitly prohibiting any individual from representing three or more positions. Allowing qualified professionals to hold dual membership seats recognizes multi-dimensional industry expertise while preserving broad stakeholder representation and quorum reliability by capping representation at two seats per individual.

- 2) Renumbering. All other proposed changes to this Section consist of technical renumbering of subsections to maintain proper sequential structure following the additions and amendments described above.

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

Not Applicable.

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

In accordance with A.R.S. § 41-1055 and A.A.C. R1-1-502(B)(12), the Department has evaluated the preliminary economic, small business, and consumer impacts of this proposed rulemaking. Establishing the AWP program was mandated by the Arizona State Legislature under A.R.S. § 49-211. Participation in AWP is non-compulsory, serving as an opt-in regulatory framework for water provider agencies seeking to purify treated municipal wastewater for local supply augmentation. While the comprehensive AWP regulatory structure became effective in March 2025, ongoing stakeholder implementation discussions identified targeted regulatory refinements to enhance program efficiency without reducing public health safeguards.

While the broader AWP program resides primarily in 18 A.A.C. 9, Article 8, this specific rulemaking in 18 A.A.C. 5 is narrowly focused on consolidating operator certification governance under R18-5-103. The preliminary economic assessment for the Chapter 5 amendments is summarized as follows:

- (1) **Economic Impact on State Agencies and Regulated Water Providers.** The primary entities affected by this rulemaking include the Department, state and local government agencies, public and private water provider agencies, and certified water and wastewater operators. The proposed amendments to R18-5-103 merge the previously separate AWP certification committee into the existing Water and Wastewater Operator Certification Committee under Chapter 5, increasing total membership from 11 to 12. Adding a dedicated AWP operator seat, updating qualifications for the large-scale wastewater operator seat (>5 MGD with National Pretreatment Program participation), and allowing a single qualified individual to hold up to two committee positions directly streamlines administrative oversight. This consolidation reduces internal agency staff labor required to support duplicate committee operations and minimizes volunteer scheduling burdens on water industry professionals. The amendments impose no new regulatory fees, compliance reporting costs, or capital expenditures on public or private utilities.
- (2) **Impact on Small Businesses.** Pursuant to A.R.S. § 41-1035, the Department evaluated the potential impact of these proposed amendments on small businesses. Because participation in the AWP framework is entirely voluntary and the changes to R18-5-103 pertain strictly to committee administrative structure and operator certification oversight, the proposed rule imposes no direct regulatory burdens, compliance obligations, or licensing costs on small businesses. The rule makes no distinction between a water provider agency's duties to a small business versus any other consumer class. Consequently, the Department anticipates no significant or disproportionate adverse economic impact on small businesses.

- (3) Impact on Consumers and Water Customers. Indirect impacts on consumers and water utility customers are expected to be beneficial. By eliminating governance redundancies and establishing a streamlined operator certification structure, the proposed amendments lower administrative friction and operational costs associated with AWP implementation. These administrative efficiencies support water provider agencies in selecting cost-effective water supply projects, ensuring that any municipal utility costs passed along to consumer utility rates are minimized while enhancing long-term drought resilience and water supply reliability across Arizona.

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

Name: Jon Rezabek
Natalie Kilker
Title: Legal Specialists
Division: Water Quality
Address: Arizona Department of Environmental Quality, 1110 W. Washington Ave., Phoenix, AZ 85007
Telephone: (602) 771-8219
(602) 771-0358
Email: awp@azdeq.gov
Website: <https://azdeq.gov/rulemaking/awp-implementation-update>

11. The time, place, and nature of the proceedings to make, amend, repeal, or renumber the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

Comments about this proposed rulemaking will be accepted via email at the email address provided below. Written comments about this proposed rulemaking will also be accepted in person at the address provided below, Monday through Friday from 8 a.m. to 5 p.m. except for state holidays. Mailed written comments shall be postmarked within 30 days of this published notice.

Email: awp@azdeq.gov

Mailing Address:

ADEQ
Attn: Bernice Shabi
Groundwater Section
Water Quality Division
#160
1110 W. Washington St.
Phoenix, AZ 85007

An oral proceeding is scheduled on this proposed rulemaking.

Date: October 20, 2026

Time: 1:00 PM MST

Location: GoToWebinar hosted by Arizona Department of Environmental Quality

Webinar Registration Link: <https://attendee.gotowebinar.com/register/5960573937949306462>

For those who wish to join by phone only:

Call: 415-655-0052

Access Code: 858-310-727

Important Note: Phone-only access does NOT provide the option for the participant to speak. Audio PINs are provided to participants once they have logged into the webinar via their computers. Without this PIN, participants will not have the option to unmute themselves if they join by phone only.

Nature: Virtual

Public comment period ends: October 19, 2026

- 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:**

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

- 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:**

Yes, this collective rulemaking proposes to amend the Advanced Water Purification regulatory program, which includes issuing individual permits, pursuant to A.R.S. § 49-211. While the product (advanced treated water or finished water) of an Advanced Water Purification regulatory program facility is substantially the same, the facilities, activities and practices regulated by the program are substantially different in nature due to the treated wastewater source, a multitude of viable technological process configurations, a swift pace of technological progress in the field and the custom nature of the regulated parties and their circumstances. Moreover, general permits are not “technically feasible” for the Advanced Water Purification regulatory program under A.R.S. § 41-1037(A)(3), and not used in the program.

- 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:**

While the Safe Drinking Water Act (SDWA) (40 USC § 300f et seq.) does regulate the treatment and delivery of drinking water from public water systems across the United States, it does not explicitly regulate the treatment of “treated wastewater” (see proposed rule R18-9-A801) as a source, which is the subject of this

proposed rule. In fact, SDWA only contemplates surface and ground water as sources for public water systems. Some Advanced Water Purification facilities will be considered public water systems for the purposes of the SDWA and regulated in accordance with the SDWA in addition to the proposed AWP program.

- 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 rules:**

Not Applicable.

- 14. The full text of the rules follows:**

Rule text begins on the next page.

TITLE 18. ENVIRONMENTAL QUALITY

CHAPTER 5. DEPARTMENT OF ENVIRONMENTAL QUALITY - ENVIRONMENTAL REVIEWS AND CERTIFICATION

ARTICLE 1. CLASSIFICATION OF WATER AND WASTEWATER FACILITIES AND CERTIFICATION OF OPERATORS

Section

R18-5-103. Certification Committee

ARTICLE 1. CLASSIFICATION OF WATER AND WASTEWATER FACILITIES AND CERTIFICATION OF OPERATORS

R18-5-103. Certification Committee

- A. Upon the effective date of this rule, the Director shall establish a certification committee to make recommendations and to provide the Department with technical advice and assistance related to this Article ~~and Chapter 9, Article 8~~ when requested.
- B. The certification committee shall consist of members appointed to 12 members positions as follows:
1. One employee of the Department~~;~~
 2. One currently employed wastewater treatment plant operator with Grade 4 certification that additionally represents a wastewater treatment facility with a design flow of greater than 5 million gallons per day (MGD) and that may participate in the National Pretreatment Program~~;~~
 3. One currently employed water treatment plant operator with Grade 4 certification~~;~~
 4. One currently employed wastewater collection system operator with Grade 4 certification~~;~~
 5. One currently employed water distribution system operator with Grade 4 certification~~;~~
 6. One faculty member teaching sanitary sciences or environmental engineering at an Arizona university or community college~~;~~
 7. One professional engineer, registered and residing in Arizona, engaged in consulting in the field of sanitary engineering or environmental engineering~~;~~
 8. One elected or appointed municipal official~~;~~
 9. One representative of an investor-owned water or wastewater facility~~;~~
 10. One representative of a small public water system~~;~~ ~~and~~
 11. One currently employed remote operator representative~~;~~ and
 12. One currently employed and certified AWP operator.
- C. The Director shall appoint each certification committee member.
- D. The Director may appoint a single person to represent two listed positions if qualified, but may not appoint a single person to represent three or more listed positions.

- DE.** The certification committee shall meet at least twice a year. At the first meeting of each calendar year, the certification committee shall select, from its membership, a chairperson and other officers as necessary. The Department's certification committee member is the executive secretary, who is responsible for keeping records of all meetings.
- EE.** The term of a certification committee member is three years.
- FG.** A meeting quorum consists of the chairperson or the chairperson's designated representative, the executive secretary or the executive secretary's designated representative, and three other members of the committee.
- GH.** In the event of a vacancy caused by death, resignation, or removal for cause, the Director shall appoint a successor for the unexpired term.
- HI.** A certification committee member may be reappointed, but a member shall not serve more than three consecutive terms.