



ENVIRONMENTAL PROTECTION AGENCY

[FRL-10003-59-Region 9]

Public Water System Supervision Program Revision for the State of Arizona

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of tentative approval.

SUMMARY: Notice is hereby given that the State of Arizona revised its approved Public Water System Supervision (PWSS) Program under the federal Safe Drinking Water Act (SDWA) by adopting the Public Notice (PN) Rule, Consumer Confidence Report (CCR) Rule, Public Water System (PWS) Definition and Administrative Penalty Authority. The Environmental Protection Agency (EPA) has determined that these revisions by the State of Arizona are no less stringent than the corresponding Federal regulations and otherwise meet applicable SDWA primacy requirements. Therefore, the EPA intends to approve these revisions as part of the State of Arizona's PWSS Program.

DATES: Request for a public hearing must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: All documents relating to this determination are available for inspection between the hours of 9:00 a.m. and 4:30 p.m., Monday through Thursday, except official State holidays and official Federal holidays, at the following offices: Arizona Department of Environmental Quality, Records Center, 1110 West Washington Street, Phoenix, AZ 85007; United States Environmental Protection Agency, Region 9, Drinking Water Management Section, 75 Hawthorne Street (WTR-4-1), San Francisco, California 94105.

Documents relating to this determination are also available online at <http://azdeq.gov/notices> for inspection. **FOR FURTHER INFORMATION CONTACT:** Daria Evans-Walker, EPA Region 9, Drinking Water Management Section, at the Region 9 address provided above; via telephone at (415) 972-3451; or via email address at evans-walker.daria@epa.gov.

SUPPLEMENTARY INFORMATION: Background. The EPA approved the State of Arizona's original application for PWSS Program primary enforcement authority on August 25, 1978 (43 FR 38083). Primacy States such as Arizona must adopt and submit for approval to EPA all new and revised national primary drinking water regulations. Since that initial approval, EPA has approved various revisions to Arizona's PWSS Program. For the revisions covered by this action, the EPA promulgated the Public Notice (PN) Rule on May 4, 2000 (65 FR 25982), the Consumer Confidence Report (CCR) Rule on August 19, 1998 (63 FR 44512), and the Public Water System (PWS) Definition and Administrative Penalty Authority on April 28, 1998 (63 FR 23362); and EPA issued guidance on the PWS definition on August 5, 1998 (63 FR 41940). Arizona has incorporated by reference directly into the Arizona Administrative Code (AAC) in Title 18 Chapter 4 R18-4-103, R18-4-117 and R18-4-119 the definition of PWS found at 40 CFR §141.2, the requirements of the federal CCR Rule, 40 CFR Part 141 Subpart O, and the PN Rule, 40 CFR Part 141 Subpart Q through a rulemaking made effective on April 2, 2016. Arizona has also revised its statutes related to Administrative Penalty Authority, Arizona Revised Statute (ARS) §49-354, and PWS definition, ARS §49-352, with language sufficient to meet the federal requirements. These are the primacy revisions that the EPA Region 9 intends to approve as part of Arizona's PWSS Program.

In 2012, Arizona enacted an environmental audit law which had to be evaluated as part of EPA's approval of these revisions. In order to properly evaluate a request for approval, EPA

requires a State Attorney General to certify that the State's environmental audit law does not affect its ability to implement the SDWA program. EPA applies the criteria outlined in its "Statement of Principles Effect of State Audit Immunity/Privilege Laws on Enforcement Authority for Federal Programs" memo issued on February 14, 1997 in determining whether states with audit laws have retained adequate enforcement authority. This Statement of Principles memo provides that, if provisions of state law are ambiguous, it is important for EPA to obtain an opinion from the State Attorney General interpreting the law as meeting specific federal requirements and, if the law cannot be so interpreted, changes to state law may be necessary to obtain federal program approval. In this case, the Arizona Attorney General's office submitted a legal opinion to EPA analyzing the audit law and concluding that it does not impede Arizona's ability to implement and enforce its PWSS Program. EPA finds this legal opinion sufficient to approve the PWSS Program revisions.

Public Process. Any interested party may request a public hearing on this determination. A request for a public hearing must be submitted by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, to the Regional Administrator of EPA Region 9, to the address shown above. The Regional Administrator may deny frivolous or insubstantial requests for a hearing. If a substantial request for a public hearing is made by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, EPA Region 9 will hold a public hearing. Any request for a public hearing shall include the following information: 1. The name, address, and telephone number of the individual, organization, or other entity requesting a hearing; 2. A brief statement of the requesting person's or organization's interest in the Regional Administrator's determination and a brief statement of the information that the requesting person intends to submit at such hearing;

and 3. The signature of the individual making the request, or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

If EPA Region 9 does not receive a timely and substantive request for a hearing and the Regional Administrator does not elect to hold a hearing on his own motion on the determination at issue in this notice, the EPA's approval shall become final and effective on **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, and no further public notice will be issued.

Authority: Section 1413 of the Safe Drinking Water Act, 42 U.S.C. §300g-2 (1996), and 40 CFR Part 142 of the National Primary Drinking Water Regulations.

Dated: December 9, 2019.

Deborah Jordan,
Acting Regional Administrator,
EPA Region 9.

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