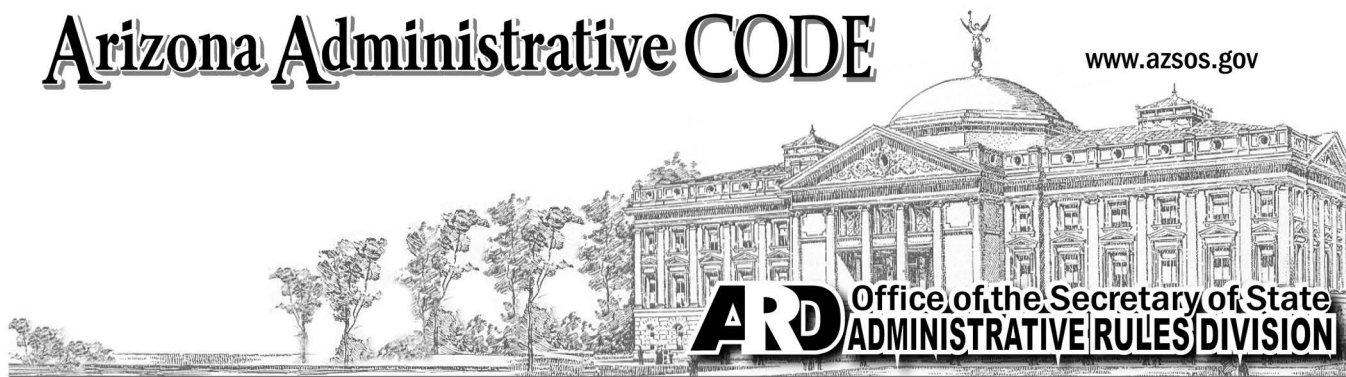




18 A.A.C. 6

Supp. 23-3

TITLE 18. ENVIRONMENTAL QUALITY

CHAPTER 6. DEPARTMENT OF ENVIRONMENTAL QUALITY - PESTICIDES AND WATER POLLUTION CONTROL

The table of contents on page one contains links to the referenced page numbers in this Chapter.
Refer to the notes at the end of a Section to learn about the history of a rule as it was published in the *Arizona Administrative Register*.

This Chapter contains rules that were filed to be codified in the *Arizona Administrative Code* between the dates of
July 1, 2023 through September 30, 2023

R18-6-106.	Informational Requirements for a Pesticide	R18-6-301.	Groundwater Protection List
	Formulator		
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Questions about these rules? Contact:

Department: Arizona Department of Environmental Quality
Address: 1110 W. Washington St.
Phoenix, AZ 85007
Website: www.azdeq.gov
Name: Jon Rezabek
Telephone: (602) 771-8219
Email: rezabek.jon@azdeq.gov

The release of this Chapter in Supp. 23-3 replaces Supp. 05-3, 1-4 pages.

Please note that the Chapter you are about to replace may have rules still in effect after the publication date of this supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.

PREFACE

Under Arizona law, the Department of State, Office of the Secretary of State (Office), Administrative Rules Division, accepts state agency rule notice and other legal filings and is the publisher of Arizona rules. The Office of the Secretary of State does not interpret or enforce rules in the *Administrative Code*. Questions about rules should be directed to the state agency responsible for the promulgation of the rule.

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION

RULES

The definition for a rule is provided for under A.R.S. § 41-1001. “Rule’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

THE ADMINISTRATIVE CODE

The *Arizona Administrative Code* is where the official rules of the state of Arizona are published. The *Code* is the official codification of rules that govern state agencies, boards, and commissions.

The *Code* is separated by subject into Titles. Titles are divided into Chapters. A Chapter includes state agency rules. Rules in Chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering outline separated into subsections.

Rules are codified quarterly in the *Code*. Supplement release dates are printed on the footers of each Chapter.

First Quarter: January 1 - March 31
Second Quarter: April 1 - June 30
Third Quarter: July 1 - September 30
Fourth Quarter: October 1 - December 31

For example, the first supplement for the first quarter of 2022 is cited as Supp. 22-1. Supplements are traditionally released three to four weeks after the end of the quarter because filings are accepted until the last day of the quarter.

Please note: The Office publishes by Chapter, not by individual rule Section. Therefore there might be only a few Sections codified in each Chapter released in a supplement. This is why the Office lists only updated codified Sections on the previous page.

RULE HISTORY

Refer to the HISTORICAL NOTE at the end of each Section for the effective date of a rule. The note also includes the *Register* volume and page number in which the notice was published (A.A.R.) and beginning in supplement 21-4, the date the notice was published in the *Register*.

AUTHENTICATION OF PDF CODE CHAPTERS

The Office began to authenticate Chapters of the *Code* in Supp. 18-1 to comply with A.R.S. §§ 41-1012(B) and A.R.S. § 41-5505.

A certification verifies the authenticity of each *Code* Chapter posted as it is released by the Office of the Secretary of State. The authenticated pdf of the *Code* includes an integrity mark with a certificate ID. Users should check the validity of the signature, especially if the pdf has been downloaded. If the digital signature is invalid it means the document’s content has been compromised.

HOW TO USE THE CODE

Rules may be in effect before a supplement is released by the Office. Therefore, the user should refer to issues of the *Arizona Administrative Register* for recent updates to rule Sections.

ARIZONA REVISED STATUTE REFERENCES

The Arizona Revised Statutes (A.R.S.) are available online at the Legislature’s website, www.azleg.gov. An agency’s authority note to make rules is often included at the beginning of a Chapter. Other Arizona statutes may be referenced in rule under the A.R.S. acronym.

SESSION LAW REFERENCES

Arizona Session Law references in a Chapter can be found at the Secretary of State’s website, www.azsos.gov under Services-> Legislative Filings.

EXEMPTIONS FROM THE APA

It is not uncommon for an agency to be exempt from the steps outlined in the rulemaking process as specified in the Arizona Administrative Procedures Act, also known as the APA (Arizona Revised Statutes, Title 41, Chapter 6, Articles 1 through 10). Other agencies may be given an exemption to certain provisions of the Act.

An agency’s exemption is written in law by the Arizona State Legislature or under a referendum or initiative passed into law by Arizona voters.

When an agency files an exempt rulemaking package with our Office it specifies the law exemption in what is called the preamble of rulemaking. The preamble is published in the *Register* online at www.azsos.gov/rules, click on the *Administrative Register* link.

Editor’s notes at the beginning of a Chapter provide information about rulemaking Sections made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

The Office makes a distinction to certain exemptions because some rules are made without receiving input from stakeholders or the public. Other exemptions may require an agency to propose exempt rules at a public hearing.

PERSONAL USE/COMMERCIAL USE

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Rhonda Paschal, rules managing editor, assisted with the editing of this Chapter.

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Administrative Rules Division
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TITLE 18. ENVIRONMENTAL QUALITY

CHAPTER 6. DEPARTMENT OF ENVIRONMENTAL QUALITY - PESTICIDES AND WATER POLLUTION CONTROL

Authority: A.R.S. § 49-104(A)(1) and (A)(10), A.R.S. § 49-202(A)

Supp. 23-3

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Article 2 heading removed and corrected to "Repealed" (Supp. 23-3).

Article 2 consisting of Section R18-6-201 repealed effective September 23, 1992 (Supp. 92-3).

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TITLE 18. ENVIRONMENTAL QUALITY

CHAPTER 6. DEPARTMENT OF ENVIRONMENTAL QUALITY - PESTICIDES AND WATER POLLUTION CONTROL

ARTICLE 1. NUMERIC VALUES AND INFORMATION SUBMITTAL**R18-6-101. Definitions**

In addition to the definitions established in A.R.S. § 49-301, the following terms apply to this Chapter:

1. "Agricultural use pesticide" means any pesticide intended for use directly on a crop. An agricultural use pesticide does not include animal pesticide cartags or pesticides intended solely for use within and around a confined structure.
2. "Crop" means any plant, animal, plant product, or animal product produced for commercial or research purposes.
3. "Data generator" means any person providing information to support the registration in this state of an agricultural use pesticide in accordance with A.R.S. § 49-302(A).
4. "EPA" means the United States Environmental Protection Agency.
5. "Formulator" means any person who purchases an EPA-registered pesticide to reformulate or repack and register the pesticide for sale in this state.
6. "Label" means the written, printed, or graphic matter on, or attached to, the pesticide container, and the outside container or wrapper of the retail package, if any, of the pesticide.
7. "Pest" means any weed, insect, vertebrate pest, nematode, fungus, virus, bacteria, or other pathogenic organism, or any other form of terrestrial or aquatic plant or animal life, except virus, bacteria, or other microorganism on or in living humans or other living animals, that is declared a pest by the Director of the Arizona Department of Agriculture.
8. "Soil-applied" means an agricultural use pesticide intended for application to or injection into the soil by ground-based application equipment or chemigation, or the label of the pesticide requires or recommends that the application is followed within 72 hours by flood or furrow irrigation.

Historical Note

Adopted effective May 10, 1988 (Supp. 88-2). Amended effective September 23, 1992 (Supp. 92-3). Amended by final rulemaking at 11 A.A.R. 3949, effective November 22, 2005 (Supp. 05-3).

R18-6-102. Agricultural Use Pesticide Submittal Requirements**A. Pre-registration data requirements for new agricultural use pesticides.**

1. Before registering a new agricultural use pesticide under A.R.S. § 3-351, an applicant shall submit information that enables the Department to determine whether the new agricultural use pesticide has the potential to pollute groundwater in the state. This information shall include:
 - a. A transmittal letter;
 - b. The following information on a Data Summary form obtained from the Department:
 - i. The company name and address;
 - ii. The name and contact information of the person making the submittal;
 - iii. The date of filing;
 - iv. The product information, including the brand name, EPA registration number, formulation category, and intended use; and

- v. The active ingredient technical name, Chemical Abstract Service (CAS) number, common name, molecular weight, and bulk density; and
- c. The following information for each active ingredient:
 - i. Water solubility;
 - ii. Vapor pressure;
 - iii. Octanol-water partition coefficient;
 - iv. Soil adsorption coefficient;
 - v. Henry's law constant;
 - vi. Dissipation studies, including hydrolysis, photolysis, aerobic and anaerobic soil metabolism, and field dissipation, performed under conditions in Arizona, or similar environmental and use conditions, if that information exists in studies and conclusions from other states or the United States government. The studies shall, at a minimum, meet EPA testing methods and reporting guidelines.

2. The applicant may submit the following alternate information:

- a. Upon Director approval, alternate information to satisfy one or more of the data requirements in subsection (A)(1)(c). The alternate information shall accurately describe the relevant data required for each new agricultural use pesticide active ingredient under conditions in Arizona or under similar environmental and use conditions;
- b. California registration.
 - i. Evidence that the California Department of Food and Agriculture registered the agricultural use pesticide following the data requirements under California Food and Agricultural Code Section 13143; and
 - ii. Documentation showing that required studies were performed under environmental and use conditions that are similar to those conditions in Arizona.

3. Waiver. The Director may waive some or all of the information required in subsection (A)(1)(c) if the applicant demonstrates that:

- a. Due to the nature of the active ingredient, it is not scientifically possible to obtain meaningful results for the specified tests; or
- b. Due to the application or cultural practices for the active ingredient, it is not necessary to obtain some or all of the information.

B. Pre-registration data submittal completeness.

1. The Department shall notify the Arizona Department of Agriculture when the applicant submits all the information on the active ingredient required under subsection (A) and the Director has concluded that the information is sufficient to determine whether the active ingredient has the potential to pollute groundwater of the state.
2. If the Director cannot determine that the data submittal requirements for agricultural use registration in Arizona have been met, the person may apply for a conditional registration under A.R.S. § 49-310.

C. Information submittal for the product chemistry and environmental fate assessment evaluation. After satisfying the data submittal required in subsection (A) and registering the pesticide with the Arizona Department of Agriculture:

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1. A registrant may prepare an assessment of the product chemistry and environmental fate parameters for the Department to evaluate the potential for a new agricultural use pesticide to pollute groundwater. The assessment shall include:
 - a. Patterns for using the agricultural use pesticide in Arizona;
 - b. Cultural practices for those areas within Arizona where the agricultural use pesticide is intended for use;
 - c. Geological and meteorological conditions of the regions within Arizona where the agricultural use pesticide is intended for use; and
 - d. Any other information the Director determines is necessary to support the assessment.
2. A registrant may submit any of the following information if it is directly relevant to the agricultural use pesticide active ingredient evaluation:
 - a. Relevant scientific data and summaries, including those submitted to or required by federal and state agencies that further support the studies required in R18-6-102(A)(1)(c);
 - b. Relevant evaluations and conclusions by federal and state agencies, including evaluations of the studies required in R18-6-102(A)(1)(c);
 - c. Documentation that addresses whether the studies required in R18-6-102(A)(1)(c) were performed under environmental and use conditions that are similar to those in Arizona.

- D. If new information is available about the active ingredient of an agricultural use pesticide currently registered by the Arizona Department of Agriculture, the Director may require the registrant to submit the new information to the Director to assess whether the information is relevant to the Director's determination under subsection (B)(1).

Historical Note

Adopted effective May 10, 1988 (Supp. 88-2). Amended effective September 23, 1992 (Supp. 92-3). Section repealed; new Section made by final rulemaking at 11 A.A.R. 3949, effective November 22, 2005 (Supp. 05-3).

R18-6-103. Agricultural Use Active Ingredient Evaluation

For each new or existing agricultural use pesticide registered in Arizona, the Director shall determine whether each active ingredient has the potential to pollute groundwater in the state. The Director shall either:

1. Base the evaluation on the information submitted in accordance with R18-6-102(A) to determine whether the active ingredient fails any of the following mobility factors and one or more of the following persistence factors; or

SPECIFIC NUMERIC VALUES**MOBILITY FACTORS PERSISTENCE FACTORS**

Water solubility	No greater than 30 ppm
Soil adsorption coefficient	K _d no less than 5
Hydrolysis	Half-life no greater than 25 weeks
Aerobic soil metabolism	Half-life no greater than 3 weeks
Anaerobic soil metabolism	Half-life no greater than 3 weeks
Field dissipation	Half-life no greater than 3 weeks

2. Base the evaluation on the product chemistry and environmental fate assessment submitted in accordance with R18-6-102(C).

Historical Note

Adopted effective May 10, 1988 (Supp. 88-2). Amended by final rulemaking at 11 A.A.R. 3949, effective November 22, 2005 (Supp. 05-3).

R18-6-104. Monitoring and Testing

- A. The Director shall conduct soil and groundwater monitoring for active ingredients contained in agricultural use pesticides placed upon the Groundwater Protection List as required under A.R.S. § 49-307(A). The Department may conduct soil and groundwater monitoring for other specified ingredients or degradation products based on active ingredient test results or other information about the pesticide.
- B. The Director shall use the results of soil and groundwater monitoring and testing after considering the factors in A.R.S. §§ 49-307(C) to make the determination in 49-308(A) and 49-309(A), (B), or (D).
- C. If the Director determines that an agricultural use pesticide meets the criteria or conditions specified in A.R.S. § 49-308(A), the Director shall notify the registrant in writing.

Historical Note

Adopted effective May 10, 1988 (Supp. 88-2). Amended by final rulemaking at 11 A.A.R. 3949, effective November 22, 2005 (Supp. 05-3).

R18-6-105. Repealed**Historical Note**

Adopted effective May 10, 1988 (Supp. 88-2). Section repealed by final rulemaking at 11 A.A.R. 3949, effective November 22, 2005 (Supp. 05-3).

R18-6-106. Informational Requirements for a Pesticide Formulator

- A. A pesticide formulator may rely upon the data generated by another person to meet the requirements in R18-6-102.
- B. The pesticide formulator shall submit to the Department the name of every third-party person who is a source of each agricultural use pesticide active ingredient, including evidence of the formulator's business relationship with each third party by way of:
 1. A signed contract, or
 2. Any other documentation of a business arrangement, endorsed by each party.
- C. If the pesticide formulator does not produce acceptable documentation of a business relationship under subsection (B) or if a person identified by the pesticide formulator is not a data generator for the active ingredient in question, the Director shall find that a groundwater protection data gap exists for the agricultural use pesticide, and the formulator is subject to the provisions in A.R.S. § 49-304.
- D. Any pesticide formulator who relies on data submitted by a person identified as a source under subsection (B) shall notify the Department of any change in the source within 60 days of a similar notification to the EPA.

Historical Note

Adopted effective September 23, 1992 (Supp. 92-3). Amended by final rulemaking at 11 A.A.R. 3949, effective November 22, 2005 (Supp. 05-3). Amended by final expedited rulemaking at 29 A.A.R. 2341 (October 6, 2023), with an immediate effective date of September 22, 2023 (Supp. 23-3).

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ARTICLE 2. REPEALED**R18-6-201. Repealed****Historical Note**

Adopted effective August 27, 1987 (Supp. 87-3).
Repealed effective September 23, 1992 (Supp. 92-3).

ARTICLE 3. GROUNDWATER PROTECTION LIST**R18-6-301. Groundwater Protection List**

- A.** Groundwater Protection List. The Director shall, using an evaluation process specified in R18-6-103 and the addition and deletion criteria specified in subsections (B) and (C), annually develop and maintain a list of agricultural use pesticides that have the potential to pollute groundwater.
1. The Department shall publish the proposed Groundwater Protection List in the Arizona Administrative Register and accept written comments from the public.
 2. The written public comment period begins on the publication date of the list and extends for 30 calendar days.
 3. The Department shall publish the final Groundwater Protection List each year in the Arizona Administrative Register on or before July 1. The list is effective on December 1 of the publication year.
- B.** Adding an agricultural use pesticide. The Director shall add an agricultural use pesticide to the Groundwater Protection List for any of the following reasons:
1. An agricultural use pesticide active ingredient is identified under R18-6-103 as having the potential to pollute groundwater;
 2. An agricultural use pesticide active ingredient is detected in Arizona consistent with the testing requirements of R18-6-104 and is found:
 - a. At or below the deepest of the following depths:
 - i. Eight feet below the soil surface, or
 - ii. Below the root zone of the crop where the active ingredient was found;
 - b. In the groundwater of this state;
 3. An agricultural use pesticide degradation product or other specified ingredient that poses a threat to public health has been found under the conditions described in subsection (B)(2).
- C.** Deleting an agricultural use pesticide. The Director shall delete an agricultural use pesticide from the Groundwater Protection List under any of the following circumstances:
1. The results of monitoring and testing conducted by the Department, a government agency, or other reliable source establish that the active ingredient has not been detected in Arizona under the conditions described in subsection (B)(2).
 2. The Director no longer considers the agricultural use pesticide to have the potential to pollute groundwater in Arizona based on:
 - a. A change in a specific numeric value established in R18-6-103(1),
 - b. A revision in the specific numeric values established by new research studies or new procedures, or
 - c. The results of the evaluation under R18-6-103(2).
 3. Agricultural use pesticide registration cancellation. The Arizona Department of Agriculture no longer registers the agricultural use pesticide under A.R.S. § 3-351(I).
- D.** Pesticide review. Any person may request that the Director add or delete an agricultural use pesticide from the Groundwater Protection List by submitting an explanation of the request to the Department with studies and conclusions of support.

1. The Director shall notify the registrant in writing after receiving a request to add or delete an agricultural use pesticide from the Groundwater Protection List and again upon making the determination.
2. The Director shall consider whether the supporting documentation:
 - a. Is based upon procedures consistent with those described in R18-6-104 and A.R.S. Title 49, Chapter 2, Article 6; and
 - b. Justifies the addition or deletion of the agricultural use pesticide from the Groundwater Protection List.
3. Director determination.
 - a. If the Director determines that the agricultural use pesticide has the potential to pollute groundwater, the Director shall add the pesticide to, or retain the pesticide on, the Groundwater Protection List.
 - b. If the Director determines that the agricultural use pesticide does not have the potential to pollute groundwater, the Director shall, if the pesticide is on the Groundwater Protection List, delete it from the list.

Historical Note

Adopted effective September 23, 1992 (Supp. 92-3).
Amended by final rulemaking at 11 A.A.R. 3949, effective November 22, 2005 (Supp. 05-3). Amended by final expedited rulemaking at 29 A.A.R. 2341 (October 6, 2023), with an immediate effective date of September 22, 2023 (Supp. 23-3).

R18-6-302. Findings and Determinations

- A.** If the Director discovers or becomes aware of the illegal sale or use of any agricultural use pesticide on the Groundwater Protection List, the Director shall report the sale or use to the appropriate regulatory agency and to the Office of the Attorney General.
- B.** If the Director finds that an active ingredient, degradation product, or other specified ingredient of an agricultural use pesticide has been detected under the conditions specified in R18-6-104, the Director shall refer these findings to the state or federal agency responsible for further investigation and enforcement.
- C.** If the Director discovers a site that demonstrates pesticide contamination, the Director shall determine whether remedial action is required under A.R.S. Title 49, Chapter 2, Article 5.

Historical Note

Adopted effective May 10, 1988 (Supp. 88-2). Amended effective September 23, 1992 (Supp. 92-3). Amended by final rulemaking at 11 A.A.R. 3949, effective November 22, 2005 (Supp. 05-3).

R18-6-303. Requirements for an Agricultural Use Pesticide on the Groundwater Protection List

- A.** Any person who causes another person to soil-apply an agricultural use pesticide on the Groundwater Protection List shall implement Best Management Practices to reduce or prevent the pollution of groundwater. In implementing the Best Management Practices, the person shall consider the following factors:
1. Application site characteristics, including soil texture, slope, organic matter, and depth to groundwater to determine site susceptibility. The person shall consider:
 - a. Selecting a pesticide based on the intended application site characteristics;

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- b. Minimizing or avoiding the use of any pesticide with high leaching or high runoff potential;
 - c. Incorporating erosion control practices to minimize runoff; and
 - d. Using an alternative pest control method, if practical.
2. Protection of water resources from potential contamination during mixing, loading, or application. The person shall consider:
 - a. Applying the correct amount of pesticide according to the label and employ methods that avoid overspray or drift;
 - b. Weather patterns, soil moisture, and crop needs before pesticide application; and
 - c. Maintaining buffer zones, where applicable.
- B. The Director shall annually obtain the following information from the Arizona Department of Agriculture for each

agricultural use pesticide on the Groundwater Protection List that is soil-applied:

1. The pest condition that the agricultural use pesticide will control;
2. The name of the crop and number of acres to which the agricultural use pesticide has been applied;
3. The location of use including the county, township, range, and section;
4. The name of the product used, including the EPA registration number; and
5. The amount of agricultural use pesticide applied per acre.

Historical Note

Adopted effective September 23, 1992 (Supp. 92-3).
Amended by final rulemaking at 11 A.A.R. 3949, effective November 22, 2005 (Supp. 05-3).