

REFERENCE TITLE: **underground water storage; permitting**

State of Arizona
House of Representatives
Fifty-sixth Legislature
Second Regular Session
2024

HB 2055

Introduced by
Representative Dunn

AN ACT

AMENDING SECTION 45-871.01, ARIZONA REVISED STATUTES; RELATING TO UNDERGROUND WATER STORAGE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 45-871.01, Arizona Revised Statutes, is amended
3 to read:

4 45-871.01. Permit application; fee; notice of application;
5 objections; hearing; appeal

6 A. The director shall prescribe and furnish application forms for
7 the permits prescribed by articles 2 and 3 of this chapter. The
8 application forms shall require the applicant to submit the information
9 needed by the director to determine whether the permit may be issued. The
10 director shall establish and collect a reasonable fee from the applicant
11 to cover the cost of administrative services and other expenses associated
12 with evaluating and issuing each permit. The director shall deposit,
13 pursuant to sections 35-146 and 35-147, all fees received under this
14 subsection in the water resources fund established by section 45-117.

15 B. On receipt of an application for a permit pursuant to this
16 chapter, the director shall endorse on the application the date of its
17 receipt and shall keep a record of the application. Within fifteen days
18 after receipt of an application for an underground storage facility
19 permit, the director shall post notice of the application on the
20 department's website until the director issues a decision on the
21 application. The notice shall state the name of the applicant, the
22 location of the proposed underground storage facility, the date the
23 application was filed and the application number. The notice required by
24 this subsection is in addition to the notice requirement in subsection D
25 of this section. The director shall conduct a review of the application
26 within one hundred ~~EIGHTY~~ days ~~of receipt of~~ AFTER RECEIVING the
27 application. If the director determines in the review that the
28 application is incomplete or incorrect, the director shall notify the
29 applicant and the review period is extended by fifteen days. The
30 application is incomplete or incorrect until the applicant files the
31 information requested in the application. The director may conduct
32 independent investigations as necessary to determine whether the
33 application should be approved or rejected.

34 C. If the application is for water storage at an underground
35 storage facility that is exempt from the requirement for an aquifer
36 protection permit under section 49-250, subsection B, paragraph 12, 13 or
37 24, the director of water resources shall consult with the director of
38 environmental quality and shall develop a coordinated and unified permit
39 review process, ~~that~~ WHICH conforms to the time schedule prescribed by
40 this section, to determine whether the permit application is correct and
41 whether the development of a plan of action for monitoring and data
42 analysis shall be required.

1 D. Except as provided in subsection E of this section, if the
2 application is determined to be complete and correct and the application
3 is for a storage facility permit or a water storage permit, the director,
4 within fifteen days ~~of~~ AFTER that determination or a longer period if
5 requested by the applicant, shall give notice of the application once each
6 week for two consecutive weeks in a newspaper of general circulation in
7 the county or counties in which persons reside who could reasonably be
8 expected to be affected by the water storage. The director shall also
9 give notice by first class mail to each city, town, private water company,
10 conservation district, irrigation district and electrical district that
11 serves land within the area of impact of the stored water. The notice
12 shall state that persons who may be adversely affected by the water
13 storage may file written objections to the issuance of the permit with the
14 director for fifteen days after the last publication of notice. An
15 objection shall state the name and mailing address of the objector, shall
16 be signed by the objector or the objector's agent or attorney and shall
17 clearly set forth the reasons why the permit should not be issued. The
18 grounds for objection are limited to whether the application meets the
19 criteria for issuing the permit being requested as prescribed by articles
20 2 and 3 of this chapter.

21 E. If the application is determined to be complete and correct and
22 the application is for a water storage permit to store Colorado river
23 water at a storage facility where storage of Colorado river water has
24 previously been permitted, the director may issue the permit within twenty
25 days ~~of~~ AFTER that determination if all of the following apply:

26 1. The holder of the storage facility permit with which the water
27 storage permit will be affiliated has consented to the water storage.

28 2. The water storage permit will not require a modification of an
29 affiliated water storage facility permit.

30 3. Colorado river water will be the only type of water stored under
31 the water storage permit.

32 4. The applicant has the right to use the Colorado river water.

33 F. Except as provided in section 45-834.01, subsection D, if the
34 application is determined to be complete and correct and the application
35 is for a recovery well permit, the director, within fifteen days ~~of~~ AFTER
36 the determination or a longer period if requested by the applicant, shall
37 give notice of the application once each week for two consecutive weeks in
38 a newspaper of general circulation in the county in which the applicant
39 proposes to recover stored water. If the application is for a well
40 located inside of or within three miles of the exterior boundaries of the
41 service area of a city, town, private water company or irrigation
42 district, the applicant shall give notice of the application by first
43 class mail to each city, town, private water company or irrigation
44 district within that distance. The applicant shall file proof of the
45 notice with the director. The notice shall state that persons who may be

1 adversely affected by the recovery well may file written objections to the
2 issuance of the permit with the director for fifteen days after the last
3 publication of notice. An objection shall state the name and mailing
4 address of the objector, shall be signed by the objector or the objector's
5 agent or attorney and shall clearly set forth reasons why the permit
6 should not be issued. The grounds for objection are limited to whether
7 the application meets the criteria for issuing a recovery well permit as
8 set forth in section 45-834.01, subsection B. For the purposes of this
9 subsection, if the proposed recovery well is located within three miles
10 outside of the exterior boundaries of the service area of a city, town,
11 private water company or irrigation district, a city, town, private water
12 company or irrigation district within that distance shall be considered a
13 person who may be adversely affected by the recovery well.

14 G. In appropriate cases, including cases in which a proper
15 objection to the permit application has been filed, an administrative
16 hearing may be held before the director's decision on the application if
17 the director deems a hearing necessary. At least thirty days before the
18 hearing, the director shall notify the applicant and any person who filed
19 a proper objection to the issuance of the permit. The hearing shall be
20 scheduled for at least sixty days but not more than ninety days after the
21 expiration of the time in which to file objections.

22 H. If a hearing is not held, the director shall issue a decision
23 and order within ~~six months of~~ ONE HUNDRED DAYS AFTER the date notice of
24 the application is first given pursuant to subsection D or F of this
25 section, or within ninety days in the case of an application under article
26 6 of this chapter. The director shall record and endorse the approval or
27 rejection of the application on the application. If the permit is denied,
28 the director shall return a copy of the application to the applicant
29 specifically stating the reasons for denial.

30 I. The applicant or any person who filed a proper objection to the
31 application may seek judicial review of the final decision of the director
32 as provided in section 45-114, subsection B in superior court as provided
33 in section 45-405.

34 J. Section 45-114, subsections A and B govern administrative
35 proceedings, rehearings or review and judicial review of final decisions
36 of the director under this section. If an administrative hearing is held,
37 it shall be conducted in the active management area in which the storage
38 or recovery is located.

39 K. On receipt of an application for a permit pursuant to this
40 section, the director shall provide written notice of the proposed permit
41 to the city, town or county that has land use jurisdiction over the site
42 that is the subject of the permit. The notice shall be given at the same
43 time and in the same manner as the notices prescribed by subsections D and
44 F of this section in order to provide the city, town or county with the
45 opportunity to comment on the proposed facility's or well's compliance

1 with site planning and operational requirements of the city, town or
2 county. This subsection ~~shall~~ DOES not ~~be construed to~~ limit the
3 exclusive authority of the director to determine the issuance of the
4 permit or the site of the facility or well or to reduce the authority of
5 the city, town or county to enforce its applicable ordinances governing
6 site planning and operational requirements.