

State of Arizona
Senate
Forty-eighth Legislature
First Regular Session
2007

SENATE BILL 1312

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 to
3 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 the
7 permits prescribed by articles 2 and 3 of this chapter. The application
8 forms shall require the applicant to submit the information needed by the
9 director to determine whether the permit may be issued. The director shall
10 establish and collect a reasonable fee from the applicant to cover the cost
11 of administrative services and other expenses associated with evaluating and
12 issuing each permit. All fees collected pursuant to this subsection shall be
13 remitted pursuant to section 45-615, paragraph 1.

14 B. On receipt of an application for a permit pursuant to this chapter,
15 the director shall endorse on the application the date of its receipt and
16 shall keep a record of the application. **WITHIN FIFTEEN DAYS AFTER RECEIPT OF
17 AN APPLICATION FOR AN UNDERGROUND STORAGE FACILITY PERMIT, THE DIRECTOR SHALL
18 POST NOTICE OF THE APPLICATION ON THE DEPARTMENT'S WEBSITE UNTIL THE DIRECTOR
19 ISSUES A DECISION ON THE APPLICATION. THE NOTICE SHALL STATE THE NAME OF THE
20 APPLICANT, THE LOCATION OF THE PROPOSED UNDERGROUND STORAGE FACILITY, THE
21 DATE THE APPLICATION WAS FILED AND THE APPLICATION NUMBER. THE NOTICE
22 REQUIRED BY THIS SUBSECTION IS IN ADDITION TO THE NOTICE REQUIREMENT IN
23 SUBSECTION D OF THIS SECTION.** The director shall conduct a review of the
24 application within one hundred days of receipt of the application. If the
25 director determines in the review that the application is incomplete or
26 incorrect, the director shall notify the applicant and the review period is
27 extended by fifteen days. The application is incomplete or incorrect until
28 the applicant files the information requested in the application. The
29 director may conduct independent investigations as necessary to determine
30 whether the application should be approved or rejected.

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

39 D. Except as provided in subsection E of this section, if the
40 application is determined to be complete and correct and the application is
41 for a storage facility permit or a water storage permit, the director, within
42 fifteen days of that determination or a longer period if requested by the
43 applicant, shall give notice of the application once each week for two
44 consecutive weeks in a newspaper of general circulation in the county or
45 counties in which persons reside who could reasonably be expected to be

1 affected by the water storage. The director shall also give notice by first
2 class mail to each city, town, private water company, conservation district,
3 irrigation district and electrical district that serves land within the area
4 of impact of the stored water. The notice shall state that persons who may
5 be adversely affected by the water storage may file written objections to the
6 issuance of the permit with the director for fifteen days after the last
7 publication of notice. An objection shall state the name and mailing address
8 of the objector, shall be signed by the objector or the objector's agent or
9 attorney and shall clearly set forth the reasons why the permit should not be
10 issued. The grounds for objection are limited to whether the application
11 meets the criteria for issuing the permit being requested as prescribed by
12 articles 2 and 3 of this chapter.

13 E. If the application is determined to be complete and correct and the
14 application is for a water storage permit to store Colorado river water at a
15 storage facility where storage of Colorado river water has previously been
16 permitted, the director may issue the permit within twenty days of that
17 determination if all of the following apply:

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

20 2. The water storage permit will not require a modification of an
21 affiliated water storage facility permit.

22 3. Colorado river water will be the only type of water stored under
23 the water storage permit.

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

25 F. Except as provided in section 45-834.01, subsection D, if the
26 application is determined to be complete and correct and the application is
27 for a recovery well permit, the director, within fifteen days of the
28 determination or a longer period if requested by the applicant, shall give
29 notice of the application once each week for two consecutive weeks in a
30 newspaper of general circulation in the county in which the applicant
31 proposes to recover stored water. If the application is for a well located
32 inside of or within three miles of the exterior boundaries of the service
33 area of a city, town, private water company or irrigation district, the
34 applicant shall give notice of the application by first class mail to each
35 city, town, private water company or irrigation district within that
36 distance. The applicant shall file proof of the notice with the director.
37 The notice shall state that persons who may be adversely affected by the
38 recovery well may file written objections to the issuance of the permit with
39 the director for fifteen days after the last publication of notice. An
40 objection shall state the name and mailing address of the objector, shall be
41 signed by the objector or the objector's agent or attorney and shall clearly
42 set forth reasons why the permit should not be issued. The grounds for
43 objection are limited to whether the application meets the criteria for
44 issuing a recovery well permit as set forth in section 45-834.01,
45 subsection B. For the purposes of this subsection, if the proposed recovery

1 well is located within three miles outside of the exterior boundaries of the
2 service area of a city, town, private water company or irrigation district, a
3 city, town, private water company or irrigation district within that distance
4 shall be considered a person who may be adversely affected by the recovery
5 well.

6 G. In appropriate cases, including cases in which a proper objection
7 to the permit application has been filed, an administrative hearing may be
8 held before the director's decision on the application if the director deems
9 a hearing necessary. At least thirty days before the hearing, the director
10 shall notify the applicant and any person who filed a proper objection to the
11 issuance of the permit. The hearing shall be scheduled for at least sixty
12 days but not more than ninety days after the expiration of the time in which
13 to file objections.

14 H. If a hearing is not held, the director shall issue a decision and
15 order within six months of the date notice of the application is first given
16 pursuant to subsection D or F of this section, or within ninety days in the
17 case of an application under article 6 of this chapter. The director shall
18 record and endorse the approval or rejection of the application on the
19 application. If the permit is denied, the director shall return a copy of
20 the application to the applicant specifically stating the reasons for denial.

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

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

30 K. On receipt of an application for a permit pursuant to this section,
31 the director shall provide written notice of the proposed permit to the city,
32 town or county that has land use jurisdiction over the site that is the
33 subject of the permit. The notice shall be given at the same time and in the
34 same manner as the notices prescribed by subsections D and F of this section
35 in order to provide the city, town or county with the opportunity to comment
36 on the proposed facility's or well's compliance with site planning and
37 operational requirements of the city, town or county. This subsection shall
38 not be construed to limit the exclusive authority of the director to
39 determine the issuance of the permit or the site of the facility or well or
40 to reduce the authority of the city, town or county to enforce its applicable
41 ordinances governing site planning and operational requirements.