

REFERENCE TITLE: effluent; recharge; credits

State of Arizona
House of Representatives
Fifty-fourth Legislature
First Regular Session
2019

HB 2544

Introduced by
Representative Bowers

AN ACT

AMENDING SECTION 45-514, ARIZONA REVISED STATUTES; AMENDING SECTION 45-802.01, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2012, CHAPTER 312, SECTION 2; AMENDING SECTION 45-802.01, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2013, CHAPTER 168, SECTION 4; AMENDING SECTIONS 45-851.01, 45-852.01 AND 45-853.01, ARIZONA REVISED STATUTES; RELATING TO WATER.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 45-514, Arizona Revised Statutes, is amended to
3 read:

4 45-514. Mineral extraction and metallurgical processing
5 permit; conditions for issuance; duration of permit

6 A. Except as provided in subsection D of this section, a person who
7 is engaged in or proposes to engage in the extraction and processing of
8 minerals shall be issued a permit to withdraw groundwater in the required
9 amount, if all of the following apply:

10 1. The amount of groundwater available for mineral extraction,
11 metallurgical processing and compliance with applicable environmental
12 controls under a dewatering permit is insufficient.

13 2. Uncommitted municipal and industrial central Arizona project
14 water is not available at the point where the operator's wellhead or
15 distribution system would otherwise be, at a cost which does not exceed
16 the current municipal and industrial central Arizona project delivery
17 rates.

18 3. Other surface water of adequate quality or effluent of adequate
19 quality is not available at the point where the operator's wellhead or
20 distribution system would otherwise be, at a cost, including treatment
21 costs, which does not exceed by twenty-five ~~per cent~~ PERCENT the cost the
22 operator would otherwise incur in withdrawing groundwater.

23 4. The applicant does not own or lease type 2 non-irrigation
24 grandfathered rights originally based on withdrawals of groundwater for
25 the extraction or processing of minerals that the applicant is not using
26 or leasing and that can be used at the proposed location without imposing
27 an unreasonable economic burden on the applicant.

28 B. A permit issued pursuant to this section shall be granted for a
29 period of up to fifty years, subject to renewal under the same criteria
30 used in granting the original permit.

31 C. If, during the duration of a mineral extraction and
32 metallurgical processing permit, the director determines that uncommitted
33 municipal and industrial central Arizona project water is available or
34 surface water of adequate quality or effluent of adequate quality is
35 available to the permittee at a cost comparable to groundwater, the
36 director may require the permittee to use such water in lieu of
37 groundwater.

38 D. Beginning January 1 of the calendar year following the year in
39 which a groundwater replenishment district is required to submit its
40 preliminary plan pursuant to section 45-576.02, subsection A, paragraph 1,
41 and except for an application to renew a mineral extraction and
42 metallurgical processing permit, on receiving a permit application the
43 director shall not issue a permit for a well in the district unless at the
44 time the application is filed:

1 1. The director has determined that the district's plan for
2 operation is consistent with achieving the management goal, according to
3 section 45-576.03, subsection E, and the designation has not expired.

4 2. The master replenishment account, as established in section
5 45-858.01, does not have a debit balance in an amount in excess of the
6 amount allowed under section 45-576.01, subsection A, paragraph 3.

7 E. If, during the duration of a mineral extraction and
8 metallurgical processing permit issued after the effective date of this
9 amendment to this section, the permittee earns long-term storage credits
10 under section 45-852.01, subsection B for the storage of central Arizona
11 project water in the active management area in which the permittee has the
12 right to withdraw groundwater pursuant to the permit, and the central
13 Arizona project water qualified as water that cannot reasonably be used
14 directly due solely to the exclusion of groundwater withdrawn by the
15 permittee for mineral extraction or metallurgical processing pursuant to
16 section 45-802.01, paragraph ~~22~~ 23, subdivision (c), the director shall
17 establish a separate subaccount for those credits pursuant to section
18 45-852.01, subsection A. After each calendar year in which the permit is
19 in effect, the director shall debit the subaccount by the amount of
20 groundwater pumped by the permittee in the active management area during
21 that calendar year pursuant to the permit, not to exceed the amount of
22 long-term storage credits in the subaccount. This subsection shall not
23 apply to:

24 1. A mineral extraction and metallurgical processing permit issued
25 on or before the effective date of this amendment to this section,
26 including any renewal or modification of the permit.

27 2. A mineral extraction and metallurgical processing permit unless
28 the permittee was engaged in mineral extraction and metallurgical
29 processing within an initial active management area on or before January
30 1, 2011.

31 Sec. 2. Section 45-802.01, Arizona Revised Statutes, as amended by
32 Laws 2012, chapter 312, section 2, is amended to read:

33 45-802.01. Definitions

34 Unless the context otherwise requires, the terms defined in section
35 45-402 have the same meanings in this chapter and:

36 1. "Aquifer" means a geologic formation that contains sufficient
37 saturated material to be capable of storing water and transmitting water
38 in usable quantities to a well.

39 2. "Area of impact" means, as projected on the land surface, the
40 area where the stored water has migrated or is located.

41 3. "CERCLA" means the comprehensive environmental response,
42 compensation, and liability act of 1980, as amended (P.L. 96-510; 94 Stat.
43 2767; 42 United States Code sections 9601 through 9657), commonly known as
44 "superfund".

1 4. "Constructed underground storage facility" means a facility that
2 meets the requirements of section 45-811.01 and that is designed and
3 constructed to store water underground pursuant to permits issued under
4 this chapter.

5 5. "District" means a groundwater replenishment district
6 established under title 48, chapter 27.

7 6. "District member" means a member of the groundwater
8 replenishment district as provided by title 48, chapter 27.

9 7. "Electrical district" means a corporate body established
10 pursuant to title 48, chapter 12.

11 8. "EXISTING EFFLUENT MANAGED UNDERGROUND STORAGE FACILITY" MEANS A
12 MANAGED UNDERGROUND STORAGE FACILITY THAT MEETS ONE OF THE FOLLOWING
13 CONDITIONS:

14 (a) THE FACILITY IS OPERATED PURSUANT TO A STORAGE FACILITY PERMIT
15 THAT THE DIRECTOR ISSUED BEFORE JANUARY 1, 2019 AND THAT AUTHORIZES THE
16 STORAGE OF EFFLUENT AT THE FACILITY.

17 (b) THE FACILITY IS OPERATED PURSUANT TO A RENEWED OR MODIFIED
18 STORAGE FACILITY PERMIT THAT THE DIRECTOR ISSUED AFTER JANUARY 1, 2019 IF
19 THE ORIGINAL STORAGE FACILITY PERMIT WAS ISSUED BEFORE JANUARY 1, 2019 AND
20 AUTHORIZED THE STORAGE OF EFFLUENT AT THE FACILITY.

21 (c) THE FACILITY IS OPERATED PURSUANT TO A PERMIT THAT THE DIRECTOR
22 ISSUED AFTER JANUARY 1, 2019 AND THAT AUTHORIZES THE STORAGE OF EFFLUENT
23 AT A LOCATION WHERE THE PERMIT HOLDER WAS AUTHORIZED TO STORE EFFLUENT
24 PURSUANT TO A STORAGE FACILITY PERMIT THAT THE DIRECTOR ISSUED BEFORE
25 JANUARY 1, 2019.

26 (d) THE FACILITY IS OPERATED PURSUANT TO A PERMIT THAT THE DIRECTOR
27 ISSUED AFTER JANUARY 1, 2019 AND THAT AUTHORIZES THE STORAGE OF EFFLUENT
28 AT THE FACILITY, AND THE APPLICATION TO OPERATE THE FACILITY WAS ON FILE
29 WITH THE DIRECTOR AS OF JANUARY 1, 2019.

30 ~~8.~~ 9. "Groundwater savings facility" means a facility that meets
31 the requirements of section 45-812.01 in an active management area or an
32 irrigation non-expansion area at which groundwater withdrawals are
33 eliminated or reduced by recipients who use in lieu water on a
34 gallon-for-gallon substitute basis for groundwater that otherwise would
35 have been pumped from within that active management area or irrigation
36 non-expansion area.

37 ~~9.~~ 10. "In lieu water" means water that is delivered by a storer
38 to a groundwater savings facility pursuant to permits issued under this
39 chapter and that is used in an active management area or an irrigation
40 non-expansion area by the recipient on a gallon-for-gallon substitute
41 basis for groundwater that otherwise would have been pumped from within
42 that active management area or irrigation non-expansion area.

43 ~~10.~~ 11. "Long-term storage account" means an account established
44 pursuant to section 45-852.01.

1 ~~11~~. 12. "Long-term storage credit" means stored water that meets
2 the requirements of section 45-852.01 and that has been credited to a
3 long-term storage account.

4 ~~12~~. 13. "Managed underground storage facility" means a facility
5 that meets the requirements of section 45-811.01 and that is designed and
6 managed to utilize the natural channel of a stream to store water
7 underground pursuant to permits issued under this chapter through
8 artificial and controlled releases of water other than surface water
9 naturally present in the stream. Surface water flowing in its natural
10 channel is not a managed underground storage facility.

11 ~~13~~. 14. "Master replenishment account" means an account established
12 pursuant to section 45-858.01 for a groundwater replenishment district.

13 ~~14~~. 15. "Recipient" means a person who receives in lieu water for
14 use at a groundwater savings facility.

15 ~~15~~. 16. "Recoverable amount" means the amount of water, as
16 determined by the director, that will reach the aquifer through water
17 storage.

18 ~~16~~. 17. "Replenishment" means the storage of water or use of
19 long-term storage credits by a groundwater replenishment district to
20 fulfill its duties under title 48, chapter 27, article 3, by a
21 multi-county water conservation district to fulfill its duties under title
22 48, chapter 22, article 4 or by an active management area water district
23 to fulfill its duties under title 48, chapter 28, article 7.

24 ~~17~~. 18. "Reserve target" has the same meaning prescribed in section
25 48-3701.

26 ~~18~~. 19. "Storage facility" means a groundwater savings facility or
27 an underground storage facility.

28 ~~19~~. 20. "Stored water" means water that has been stored or saved
29 underground pursuant to a storage permit issued under this chapter.

30 ~~20~~. 21. "Storer" means the holder of a water storage permit issued
31 pursuant to section 45-831.01 or a person to whom a water storage permit
32 has been conveyed pursuant to section 45-831.01, subsection F.

33 ~~21~~. 22. "Underground storage facility" means a constructed
34 underground storage facility or a managed underground storage facility.

35 ~~22~~. 23. "Water that cannot reasonably be used directly" means water
36 that the storer cannot reasonably put to a direct use during the calendar
37 year, including:

38 (a) Except as provided in subdivision (b) or except for an
39 agricultural improvement district as provided in subdivision (d), if the
40 storer is a municipal provider, the amount of central Arizona project
41 water that exceeds the amount of mined groundwater withdrawn during the
42 calendar year by the storer in the active management area in which the
43 storer's service area is located. If the storer withdrew mined
44 groundwater during a calendar year in which the storer stored central
45 Arizona project water underground pursuant to the storage permit, the

1 amount of central Arizona project water stored underground during that
2 year equal to the amount of mined groundwater withdrawn from the active
3 management area in which the storer's service area is located shall not be
4 credited to the storer's long-term storage account but may be considered
5 as being available for recovery by the storer on an annual basis under
6 section 45-851.01. In calculating the amount of mined groundwater
7 withdrawn by the storer from the active management area, the director, at
8 the request of the storer, shall exclude any groundwater withdrawn,
9 treated and delivered for direct use as part of a remedial action
10 undertaken pursuant to CERCLA or title 49, chapter 2, article 5. For the
11 purposes of this subdivision, "mined groundwater" and "municipal provider"
12 have the same meanings prescribed in section 45-561.

13 (b) If the storer is a municipal provider that has been designated
14 as having an assured water supply pursuant to section 45-576, the amount
15 of central Arizona project water that exceeds the amount of deficit
16 groundwater withdrawn during the calendar year by the storer in the active
17 management area in which the storer's service area is located. If the
18 storer withdrew deficit groundwater during a calendar year in which the
19 storer stored central Arizona project water underground pursuant to the
20 storage permit, the amount of the central Arizona project water stored
21 underground during that year equal to the amount of deficit groundwater
22 withdrawn from the active management area in which the storer's service
23 area is located shall not be credited to the storer's long-term storage
24 account but may be considered as being available for recovery by the
25 storer on an annual basis pursuant to section 45-851.01. In calculating
26 the amount of deficit groundwater withdrawn by the storer from the active
27 management area, the director, at the request of the storer, shall exclude
28 any groundwater withdrawn, treated and delivered for direct use as part of
29 a remedial action undertaken pursuant to CERCLA or title 49, chapter 2,
30 article 5. For the purposes of this subdivision, "municipal provider" has
31 the same meaning prescribed in section 45-561 and "deficit groundwater"
32 means that amount of groundwater withdrawn within an active management
33 area for delivery and use within a service area by a municipal provider in
34 excess of the amount of groundwater that may be withdrawn by the municipal
35 provider consistent with the achievement of the active management area's
36 management goals as prescribed by rules adopted by the director pursuant
37 to section 45-576.

38 (c) Except as provided in subdivision (d), if the storer is not a
39 municipal provider, the amount of central Arizona project water stored in
40 an active management area that exceeds the amount of groundwater withdrawn
41 during the calendar year by the storer in that active management area. If
42 the storer withdrew groundwater in an active management area during a
43 calendar year in which the storer stored central Arizona project water
44 underground in that active management area pursuant to the storage permit,
45 the amount of central Arizona project water stored underground during that

1 year equal to the amount of groundwater withdrawn from the active
2 management area shall not be credited to the storer's long-term storage
3 account but may be considered as being available for recovery by the
4 storer on an annual basis under section 45-851.01. For the purposes of
5 this subdivision, "municipal provider" has the same meaning prescribed in
6 section 45-561. In calculating the amount of groundwater withdrawn by the
7 storer from the active management area, the director, at the request of
8 the storer, shall exclude:

9 (i) The amount of groundwater withdrawn, treated and delivered for
10 direct use as part of a remedial action undertaken pursuant to CERCLA or
11 title 49, chapter 2, article 5.

12 (ii) The amount of groundwater withdrawn by the storer during the
13 year for mineral extraction and metallurgical processing and delivered
14 during that year for direct use to an irrigation district that is
15 established pursuant to title 48, chapter 19 and that is located in the
16 same active management area from which the amount of groundwater was
17 withdrawn to the extent that the irrigation district or its customers
18 demonstrate a reduction in the amount of groundwater that they otherwise
19 would have withdrawn during that year within the irrigation district.

20 (iii) The amount of groundwater withdrawn by the storer during the
21 year for mineral extraction or metallurgical processing if the storer was
22 engaged in mineral extraction and metallurgical processing within an
23 initial active management area on or before January 1, 2011.

24 (d) The amount of central Arizona project water stored in an active
25 management area in any year after 1994 by an agricultural improvement
26 district established pursuant to title 48, chapter 17 for use at those
27 portions of electrical generating facilities that are constructed or
28 expanded after June 12, 1980, subject to both of the following:

29 (i) If groundwater was used during a year in an active management
30 area at those portions of the electrical generating facilities that were
31 owned and operated by the agricultural improvement district and that were
32 constructed or expanded after June 12, 1980, the amount of the central
33 Arizona project water stored during that year equal to the amount of the
34 groundwater withdrawn during the year for use at those portions of the
35 facilities that were owned and operated by the agricultural improvement
36 district and that were constructed or expanded after June 12, 1980 shall
37 not be credited to the agricultural improvement district's long-term
38 storage account but may be considered as being available for recovery by
39 the agricultural improvement district on an annual basis under section
40 45-851.01.

41 (ii) Long-term storage credits accrued as a result of the storage
42 of the central Arizona project water may be recovered within the active
43 management area by the agricultural improvement district only for the
44 purpose of providing central Arizona project water to electrical
45 generating facilities that were owned and operated by the agricultural

1 improvement district and only pursuant to any water requirement included
2 in a facility's certificate of environmental compatibility. Subject to
3 section 45-854.01, the long-term storage credits may be assigned by the
4 agricultural improvement district only to the owner of an electrical
5 generating facility for use pursuant to any water requirement included in
6 that facility's certificate of environmental compatibility.

7 (e) Surface water made available by dams constructed or modified
8 after August 13, 1986.

9 (f) **EFFLUENT.**

10 ~~(f)~~ (g) Until the year 2025:

11 ~~(i) Effluent.~~

12 ~~(ii)~~ (i) If the storage facility is in an active management area,
13 water from outside the active management area that would not have reached
14 the active management area without the efforts of the storer.

15 ~~(iii)~~ (ii) If the storage facility is outside of an active
16 management area, water from outside the groundwater basin in which the
17 storage facility is located that would not have reached the groundwater
18 basin without the efforts of the storer.

19 ~~(g)~~ (h) Water that is delivered through the central Arizona
20 project and that is acquired by the Arizona water banking authority.

21 ~~23.~~ 24. "Water storage" means adding water to an aquifer or saving
22 water in an aquifer pursuant to permits issued under this chapter.

23 ~~24.~~ 25. "Water storage permit" means a permit issued pursuant to
24 section 45-831.01 to store water at a storage facility.

25 Sec. 3. Section 45-802.01, Arizona Revised Statutes, as amended by
26 Laws 2013, chapter 168, section 4, is amended effective from and after
27 December 31, 2024, to read:

28 45-802.01. Definitions

29 Unless the context otherwise requires, the terms defined in section
30 45-402 have the same meanings in this chapter and:

31 1. "Aquifer" means a geologic formation that contains sufficient
32 saturated material to be capable of storing water and transmitting water
33 in usable quantities to a well.

34 2. "Area of impact" means, as projected on the land surface, the
35 area where the stored water has migrated or is located.

36 3. "CERCLA" means the comprehensive environmental response,
37 compensation, and liability act of 1980, as amended (P.L. 96-510; 94 Stat.
38 2767; 42 United States Code sections 9601 through 9657), commonly known as
39 "superfund".

40 4. "Constructed underground storage facility" means a facility that
41 meets the requirements of section 45-811.01 and that is designed and
42 constructed to store water underground pursuant to permits issued under
43 this chapter.

44 5. "District" means a groundwater replenishment district
45 established under title 48, chapter 27.

1 6. "District member" means a member of the groundwater
2 replenishment district as provided by title 48, chapter 27.

3 7. "Electrical district" means a corporate body established
4 pursuant to title 48, chapter 12.

5 8. "EXISTING EFFLUENT MANAGED UNDERGROUND STORAGE FACILITY" MEANS A
6 MANAGED UNDERGROUND STORAGE FACILITY THAT MEETS ONE OF THE FOLLOWING
7 CONDITIONS:

8 (a) THE FACILITY IS OPERATED PURSUANT TO A STORAGE FACILITY PERMIT
9 THAT THE DIRECTOR ISSUED BEFORE JANUARY 1, 2019 AND THAT AUTHORIZES THE
10 STORAGE OF EFFLUENT AT THE FACILITY.

11 (b) THE FACILITY IS OPERATED PURSUANT TO A RENEWED OR MODIFIED
12 STORAGE FACILITY PERMIT THAT THE DIRECTOR ISSUED AFTER JANUARY 1, 2019 IF
13 THE ORIGINAL STORAGE FACILITY PERMIT WAS ISSUED BEFORE JANUARY 1, 2019 AND
14 AUTHORIZED THE STORAGE OF EFFLUENT AT THE FACILITY.

15 (c) THE FACILITY IS OPERATED PURSUANT TO A PERMIT THAT THE DIRECTOR
16 ISSUED AFTER JANUARY 1, 2019 AND THAT AUTHORIZES THE STORAGE OF EFFLUENT
17 AT A LOCATION WHERE THE PERMIT HOLDER WAS AUTHORIZED TO STORE EFFLUENT
18 PURSUANT TO A STORAGE FACILITY PERMIT THAT THE DIRECTOR ISSUED BEFORE
19 JANUARY 1, 2019.

20 (d) THE FACILITY IS OPERATED PURSUANT TO A PERMIT THAT THE DIRECTOR
21 ISSUED AFTER JANUARY 1, 2019 AND THAT AUTHORIZES THE STORAGE OF EFFLUENT
22 AT THE FACILITY, AND THE APPLICATION TO OPERATE THE FACILITY WAS ON FILE
23 WITH THE DIRECTOR AS OF JANUARY 1, 2019.

24 ~~8.~~ 9. "Groundwater savings facility" means a facility that meets
25 the requirements of section 45-812.01 in an active management area or an
26 irrigation non-expansion area at which groundwater withdrawals are
27 eliminated or reduced by recipients who use in lieu water on a
28 gallon-for-gallon substitute basis for groundwater that otherwise would
29 have been pumped from within that active management area or irrigation
30 non-expansion area.

31 ~~9.~~ 10. "In lieu water" means water that is delivered by a storer
32 to a groundwater savings facility pursuant to permits issued under this
33 chapter and that is used in an active management area or an irrigation
34 non-expansion area by the recipient on a gallon-for-gallon substitute
35 basis for groundwater that otherwise would have been pumped from within
36 that active management area or irrigation non-expansion area.

37 ~~10.~~ 11. "Long-term storage account" means an account established
38 pursuant to section 45-852.01.

39 ~~11.~~ 12. "Long-term storage credit" means stored water that meets
40 the requirements of section 45-852.01 and that has been credited to a
41 long-term storage account.

42 ~~12.~~ 13. "Managed underground storage facility" means a facility
43 that meets the requirements of section 45-811.01 and that is designed and
44 managed to utilize the natural channel of a stream to store water
45 underground pursuant to permits issued under this chapter through

1 artificial and controlled releases of water other than surface water
2 naturally present in the stream. Surface water flowing in its natural
3 channel is not a managed underground storage facility.

4 ~~13.~~ 14. "Master replenishment account" means an account established
5 pursuant to section 45-858.01 for a groundwater replenishment district.

6 ~~14.~~ 15. "Recipient" means a person who receives in lieu water for
7 use at a groundwater savings facility.

8 ~~15.~~ 16. "Recoverable amount" means the amount of water, as
9 determined by the director, that will reach the aquifer through water
10 storage.

11 ~~16.~~ 17. "Replenishment" means the storage of water or use of
12 long-term storage credits by a groundwater replenishment district to
13 fulfill its duties under title 48, chapter 27, article 3, by a
14 multi-county water conservation district to fulfill its duties under title
15 48, chapter 22, article 4 or by an active management area water district
16 to fulfill its duties under title 48, chapter 28, article 7.

17 ~~17.~~ 18. "Reserve target" has the same meaning prescribed in section
18 48-3701.

19 ~~18.~~ 19. "Storage facility" means a groundwater savings facility or
20 an underground storage facility.

21 ~~19.~~ 20. "Stored water" means water that has been stored or saved
22 underground pursuant to a storage permit issued under this chapter.

23 ~~20.~~ 21. "Storer" means the holder of a water storage permit issued
24 pursuant to section 45-831.01 or a person to whom a water storage permit
25 has been conveyed pursuant to section 45-831.01, subsection F.

26 ~~21.~~ 22. "Underground storage facility" means a constructed
27 underground storage facility or a managed underground storage facility.

28 ~~22.~~ 23. "Water that cannot reasonably be used directly" means water
29 that the storer cannot reasonably put to a direct use during the calendar
30 year, including:

31 (a) Except as provided in subdivision (b) or except for an
32 agricultural improvement district as provided in subdivision (d), if the
33 storer is a municipal provider, the amount of central Arizona project
34 water that exceeds the amount of mined groundwater withdrawn during the
35 calendar year by the storer in the active management area in which the
36 storer's service area is located. If the storer withdrew mined
37 groundwater during a calendar year in which the storer stored central
38 Arizona project water underground pursuant to the storage permit, the
39 amount of central Arizona project water stored underground during that
40 year equal to the amount of mined groundwater withdrawn from the active
41 management area in which the storer's service area is located shall not be
42 credited to the storer's long-term storage account but may be considered
43 as being available for recovery by the storer on an annual basis under
44 section 45-851.01. In calculating the amount of mined groundwater
45 withdrawn by the storer from the active management area, the director, at

1 the request of the storer, shall exclude any groundwater withdrawn,
2 treated and delivered for direct use as part of a remedial action
3 undertaken pursuant to CERCLA or title 49, chapter 2, article 5. For the
4 purposes of this subdivision, "mined groundwater" and "municipal provider"
5 have the same meanings prescribed in section 45-561.

6 (b) If the storer is a municipal provider that has been designated
7 as having an assured water supply pursuant to section 45-576, the amount
8 of central Arizona project water that exceeds the amount of deficit
9 groundwater withdrawn during the calendar year by the storer in the active
10 management area in which the storer's service area is located. If the
11 storer withdrew deficit groundwater during a calendar year in which the
12 storer stored central Arizona project water underground pursuant to the
13 storage permit, the amount of the central Arizona project water stored
14 underground during that year equal to the amount of deficit groundwater
15 withdrawn from the active management area in which the storer's service
16 area is located shall not be credited to the storer's long-term storage
17 account but may be considered as being available for recovery by the
18 storer on an annual basis pursuant to section 45-851.01. In calculating
19 the amount of deficit groundwater withdrawn by the storer from the active
20 management area, the director, at the request of the storer, shall exclude
21 any groundwater withdrawn, treated and delivered for direct use as part of
22 a remedial action undertaken pursuant to CERCLA or title 49, chapter 2,
23 article 5. For the purposes of this subdivision, "municipal provider" has
24 the same meaning prescribed in section 45-561 and "deficit groundwater"
25 means that amount of groundwater withdrawn within an active management
26 area for delivery and use within a service area by a municipal provider in
27 excess of the amount of groundwater that may be withdrawn by the municipal
28 provider consistent with the achievement of the active management area's
29 management goals as prescribed by rules adopted by the director pursuant
30 to section 45-576.

31 (c) Except as provided in subdivision (d), if the storer is not a
32 municipal provider, the amount of central Arizona project water stored in
33 an active management area that exceeds the amount of groundwater withdrawn
34 during the calendar year by the storer in that active management area. If
35 the storer withdrew groundwater in an active management area during a
36 calendar year in which the storer stored central Arizona project water
37 underground in that active management area pursuant to the storage permit,
38 the amount of central Arizona project water stored underground during that
39 year equal to the amount of groundwater withdrawn from the active
40 management area shall not be credited to the storer's long-term storage
41 account but may be considered as being available for recovery by the
42 storer on an annual basis under section 45-851.01. For the purposes of
43 this subdivision, "municipal provider" has the same meaning prescribed in
44 section 45-561. In calculating the amount of groundwater withdrawn by the

1 storer from the active management area, the director, at the request of
2 the storer, shall exclude:

3 (i) The amount of any groundwater withdrawn, treated and delivered
4 for direct use as part of a remedial action undertaken pursuant to CERCLA
5 or title 49, chapter 2, article 5.

6 (ii) The amount of groundwater withdrawn by the storer during the
7 year for mineral extraction or metallurgical processing if the storer was
8 engaged in mineral extraction and metallurgical processing within an
9 initial active management area on or before January 1, 2011.

10 (d) The amount of central Arizona project water stored in an active
11 management area in any year after 1994 by an agricultural improvement
12 district established pursuant to title 48, chapter 17 for use at those
13 portions of electrical generating facilities that are constructed or
14 expanded after June 12, 1980, subject to both of the following:

15 (i) If groundwater was used during a year in an active management
16 area at those portions of the electrical generating facilities that were
17 owned and operated by the agricultural improvement district and that were
18 constructed or expanded after June 12, 1980, the amount of the central
19 Arizona project water stored during that year equal to the amount of the
20 groundwater withdrawn during the year for use at those portions of the
21 facilities that were owned and operated by the agricultural improvement
22 district and that were constructed or expanded after June 12, 1980 shall
23 not be credited to the agricultural improvement district's long-term
24 storage account but may be considered as being available for recovery by
25 the agricultural improvement district on an annual basis under section
26 45-851.01.

27 (ii) Long-term storage credits accrued as a result of the storage
28 of the central Arizona project water may be recovered within the active
29 management area by the agricultural improvement district only for the
30 purpose of providing central Arizona project water to electrical
31 generating facilities that were owned and operated by the agricultural
32 improvement district and only pursuant to any water requirement included
33 in a facility's certificate of environmental compatibility. Subject to
34 section 45-854.01, the long-term storage credits may be assigned by the
35 agricultural improvement district only to the owner of an electrical
36 generating facility for use pursuant to any water requirement included in
37 that facility's certificate of environmental compatibility.

38 (e) Surface water made available by dams constructed or modified
39 after August 13, 1986.

40 (f) **EFFLUENT.**

41 ~~(f)~~ (g) Until the year 2025:

42 ~~(i) Effluent.~~

43 ~~(ii)~~ (i) If the storage facility is in an active management area,
44 water from outside the active management area that would not have reached
45 the active management area without the efforts of the storer.

1 ~~(iii)~~ (ii) If the storage facility is outside of an active
2 management area, water from outside the groundwater basin in which the
3 storage facility is located that would not have reached the groundwater
4 basin without the efforts of the storer.

5 ~~(g)~~ (h) Water that is delivered through the central Arizona
6 project and that is acquired by the Arizona water banking authority.

7 ~~23.~~ 24. "Water storage" means adding water to an aquifer or saving
8 water in an aquifer pursuant to permits issued under this chapter.

9 ~~24.~~ 25. "Water storage permit" means a permit issued pursuant to
10 section 45-831.01 to store water at a storage facility.

11 Sec. 4. Section 45-851.01, Arizona Revised Statutes, is amended to
12 read:

13 45-851.01. Recovery of stored water on an annual basis

14 A. Except as provided in subsections B, ~~and~~ E AND F of this
15 section, a storer may recover the recoverable amount of water stored after
16 January 1 of a calendar year on or before December 31 of the same calendar
17 year.

18 B. If water is stored pursuant to a water storage permit and its
19 use is based on a decreed or appropriative water right, the approximate
20 recoverable amount of water stored in a month shall be recovered on or
21 before the last day of the following month or within the same calendar
22 year, whichever is earlier, unless the water is credited to a long-term
23 storage account as prescribed by section 45-852.01.

24 C. Water stored after January 1 of a calendar year and not
25 recovered on or before December 31 of the same calendar year may be
26 credited to the storer's long-term storage account to the extent that the
27 stored water is eligible for long-term storage credits as prescribed by
28 section 45-852.01.

29 D. Water that is stored after January 1 of a calendar year, that is
30 not recovered on or before December 31 of the same calendar year and that
31 is not eligible to be credited to the storer's long-term storage account
32 may not be recovered at any other time.

33 E. If the water stored was effluent stored at a managed underground
34 storage facility that DOES NOT QUALIFY AS AN EXISTING EFFLUENT MANAGED
35 UNDERGROUND STORAGE FACILITY AND THAT has not been designated as a
36 facility that could add value to a national park, national monument or
37 state park, the storer may recover during a year only fifty ~~per cent~~
38 PERCENT of the recoverable amount of water stored between January 1 and
39 December 31 of that year. If the storer recovers during the year less
40 than fifty ~~per cent~~ PERCENT of the recoverable amount of the water stored
41 during that year, the difference between fifty ~~per cent~~ PERCENT of the
42 recoverable amount and the amount of stored water recovered during the
43 year may be credited to the storer's long-term storage account to the
44 extent that the stored water is eligible for long-term storage credits as
45 prescribed by section 45-852.01.

1 F. IF THE WATER STORED WAS EFFLUENT STORED AT A MANAGED UNDERGROUND
2 STORAGE FACILITY THAT QUALIFIES AS AN EXISTING EFFLUENT MANAGED
3 UNDERGROUND STORAGE FACILITY AND THAT HAS NOT BEEN DESIGNATED AS A
4 FACILITY THAT COULD ADD VALUE TO A NATIONAL PARK, NATIONAL MONUMENT OR
5 STATE PARK, THE STORER MAY RECOVER DURING A YEAR ONLY NINETY-FIVE PERCENT
6 OF THE RECOVERABLE AMOUNT OF THE WATER STORED BETWEEN JANUARY 1 AND
7 DECEMBER 31 OF THAT YEAR. IF THE STORER RECOVERS DURING THE YEAR LESS
8 THAN NINETY-FIVE PERCENT OF THE RECOVERABLE AMOUNT OF THE WATER STORED
9 DURING THAT YEAR, THE DIFFERENCE BETWEEN NINETY-FIVE PERCENT OF THE
10 RECOVERABLE AMOUNT AND THE AMOUNT OF STORED WATER RECOVERED DURING THE
11 YEAR MAY BE CREDITED TO THE STORER'S LONG-TERM STORAGE ACCOUNT TO THE
12 EXTENT THAT THE STORED WATER IS ELIGIBLE FOR LONG-TERM STORAGE CREDITS AS
13 PRESCRIBED BY SECTION 45-852.01.

14 Sec. 5. Section 45-852.01, Arizona Revised Statutes, is amended to
15 read:

16 45-852.01. Long-term storage accounts

17 A. The director shall establish one long-term storage account for
18 each person holding long-term storage credits. The director shall
19 establish subaccounts within the long-term storage account according to
20 each active management area, irrigation non-expansion area, groundwater
21 basin or groundwater subbasin in which the person's stored water is
22 located. The long-term storage account shall be further subdivided by
23 type of water, if the person holds long-term storage credits for more than
24 one type of water.

25 B. Water stored pursuant to a water storage permit at a storage
26 facility may be credited to a long-term storage account if the director
27 determines that all of the following apply:

28 1. The water that was stored was water that cannot reasonably be
29 used directly.

30 2. If the stored water was stored at a storage facility within an
31 active management area, either:

32 (a) The water would not have been naturally recharged within the
33 active management area.

34 (b) If the water was stored at a managed underground storage
35 facility that has been designated as a facility that could add value to a
36 national park, national monument or state park and the water stored is
37 effluent, the water stored is water that could have been used or disposed
38 of by the storer by means other than discharging the effluent into the
39 stream.

40 3. The stored water was not recovered on an annual basis pursuant
41 to section 45-851.01.

42 C. The director shall credit ninety-five ~~per cent~~ PERCENT of the
43 recoverable amount of stored water that meets the requirements of
44 subsection B of this section to the storer's long-term storage account,
45 except that:

1 1. If the water was stored at a managed underground storage
2 facility that **DOES NOT QUALIFY AS AN EXISTING EFFLUENT MANAGED UNDERGROUND**
3 **STORAGE FACILITY AND THAT** had not been designated at the time of storage
4 as a facility that could add value to a national park, national monument
5 or state park and the water stored is effluent, the director shall credit
6 to the storer's long-term storage account fifty ~~per cent~~ **PERCENT** of the
7 recoverable amount of water that meets the requirements of subsection B of
8 this section. For storage of effluent in a managed underground storage
9 facility that is located in a recreational corridor channelization
10 district established pursuant to title 48, chapter 35, the director may
11 increase the storage credits earned from fifty ~~per cent~~ **PERCENT** to
12 ninety-five ~~per cent~~ **PERCENT** if both of the following apply:

13 (a) The effluent was not discharged into the stream where the
14 facility is located before the permit application for that facility was
15 filed.

16 (b) The director determines that the storage of effluent in the
17 facility will provide a greater benefit to aquifer conditions in the
18 active management area or, if outside an active management area, to the
19 groundwater basin than would accrue to the active management area or
20 groundwater basin if the effluent is used or disposed of in another
21 manner.

22 2. If the water was stored at a groundwater savings facility and
23 the storer has not met the burden of proving that one hundred ~~per cent~~
24 **PERCENT** of the in lieu water was used on a gallon-for-gallon substitute
25 basis for groundwater, the director shall credit to the storer's long-term
26 storage account only the percentage of the in lieu water that meets the
27 requirements of subsection B of this section and that was proven to the
28 director's satisfaction as being used on a gallon-for-gallon substitute
29 basis for groundwater.

30 3. The director shall credit to the storer's long-term storage
31 account ninety ~~per cent~~ **PERCENT** of the recoverable amount of the water
32 that meets the requirements of subsection B of this section if all of the
33 following apply:

34 (a) The stored water was central Arizona project water that
35 qualifies as water that cannot reasonably be used directly due solely to
36 the exclusion of groundwater withdrawn by the storer for mineral
37 extraction or metallurgical processing under section 45-802.01, paragraph
38 ~~22~~ **23**, subdivision (c).

39 (b) The storer was engaged in mineral extraction and metallurgical
40 processing within an initial active management area on or before January
41 1, 2011.

42 (c) All exterior boundaries of the storage facility that is used to
43 store the stored water are more than twenty miles from a well owned by the
44 storer on January 1, 2012 and that well is not an exempt well and any one
45 or more of the following apply:

1 (i) The well is an existing well as defined in section 45-591,
2 paragraph 1.

3 (ii) The department has issued a permit for the well under section
4 45-599, subsection C.

5 (iii) The well was drilled pursuant to a mineral extraction and
6 metallurgical processing permit issued by the department under section
7 45-514.

8 4. Except as otherwise provided in ~~paragraphs 1, PARAGRAPH 2 and 3~~
9 of this subsection, the director shall credit to the storer's long-term
10 storage account or conservation district account one hundred ~~per cent~~
11 PERCENT of the recoverable amount of water that meets the requirements of
12 subsection B of this section if any of the following applies:

13 (a) The water stored was effluent ~~THAT WAS STORED AT A CONSTRUCTED~~
14 ~~UNDERGROUND STORAGE FACILITY, A GROUNDWATER SAVINGS FACILITY OR A MANAGED~~
15 ~~UNDERGROUND STORAGE FACILITY THAT WAS DESIGNATED AT THE TIME OF STORAGE AS~~
16 ~~A FACILITY THAT COULD ADD VALUE TO A NATIONAL PARK, NATIONAL MONUMENT OR~~
17 ~~STATE PARK.~~

18 (b) The water was stored in an active management area and the
19 stored water is water from outside the active management area that would
20 not have reached the active management area without the efforts of the
21 holder of the long-term storage credits.

22 (c) The water was stored outside an active management area and the
23 stored water is water from outside the groundwater basin in which the
24 water was stored that would not have reached the groundwater basin without
25 the efforts of the holder of the long-term storage credits.

26 (d) The water was stored for purposes of establishing and
27 maintaining a replenishment reserve pursuant to section 48-3772,
28 subsection E.

29 (e) The water was stored for replenishment purposes pursuant to
30 section 48-3771 and credited directly to a conservation district account
31 pursuant to section 45-859.01, subsection E.

32 D. The director shall credit a person's long-term storage account
33 by the amount of long-term storage credits assigned to that person by
34 another holder of long-term storage credits pursuant to section 45-854.01.

35 E. The director shall debit the appropriate subaccount of a
36 person's long-term storage account:

37 1. One hundred ~~per cent~~ PERCENT of the amount of stored water that
38 the holder of the long-term storage credits has recovered during the
39 calendar year pursuant to the permit.

40 2. The amount of long-term storage credits that the person has
41 assigned to another person or transferred to a master replenishment
42 account, conservation district account or water district account.

43 3. If the water was stored in an active management area, the amount
44 of water during the calendar year that migrates to a location outside the
45 active management area or to a location within the active management area

1 where it cannot be beneficially used within a reasonable period of time by
2 persons other than the storer with rights to withdraw and use groundwater.

3 4. If the water was stored outside of an active management area,
4 the amount of water during the calendar year that migrates to a location
5 outside the groundwater basin in which the storage facility is located or
6 to a location in the groundwater basin where it cannot be beneficially
7 used within a reasonable period of time by persons other than the storer
8 with rights to withdraw and use groundwater.

9 5. The amount of long-term storage credits that the storer,
10 pursuant to section 45-853.01, subsection B, has applied to offset
11 groundwater withdrawn or used in excess of the storer's per capita
12 municipal conservation requirements under the second management plan.

13 6. The amount of long-term storage credits that are held by the
14 Arizona water banking authority and that the authority has chosen to
15 extinguish.

16 F. To the extent the total amount of water withdrawn by a person
17 from wells designated as recovery wells pursuant to section 45-834.01
18 during a calendar year exceeds the amount of stored water recovered by the
19 person on an annual basis pursuant to section 45-851.01 and the amount of
20 long-term storage credits recovered by the person, the excess amount of
21 water recovered shall be considered groundwater withdrawn pursuant to
22 chapter 2 of this title.

23 Sec. 6. Section 45-853.01, Arizona Revised Statutes, is amended to
24 read:

25 45-853.01. Restricted uses of long-term storage credits

26 A. If the director has included an amount of long-term storage
27 credits under section 45-855.01:

28 1. In determining whether to issue a certificate of assured water
29 supply to the holder of the long-term storage credits, that amount of
30 long-term storage credits shall be recovered only for a use that, as
31 determined by the director, supplies water to the subdivision to which the
32 certificate of assured water supply applies.

33 2. In designating or redesignating a city, town or private water
34 company as having an assured water supply, that amount of long-term
35 storage credits shall be recovered only for a use that, as determined by
36 the director, supplies water to that city, town or private water company.

37 3. In determining whether to issue a report of adequate water
38 supply for a subdivision to the holder of long-term storage credits, that
39 amount of long-term storage credits shall be recovered only for a use
40 that, as determined by the director, supplies water to the subdivision to
41 which the report of adequate water supply applies.

42 4. In designating a city, town or private water company as having
43 an adequate water supply, that amount of long-term storage credits shall
44 be recovered only for a use that, as determined by the director, supplies
45 water to that city, town or private water company.

1 B. The storer of long-term storage credits may apply those
2 long-term storage credits to offset any amount of groundwater that the
3 storer withdraws or uses before 2000 in excess of the storer's per capita
4 municipal conservation requirement in violation of the second management
5 plan if the storer proves to the satisfaction of the director that the
6 following conditions are met:

7 1. The storer stored the water at a storage facility that is
8 located in the same active management area as the storer's service area.

9 2. The long-term storage credits used to offset the storer's per
10 capita municipal conservation requirements violation were earned before
11 2000.

12 3. The water stored was effluent or central Arizona project water.

13 C. Long-term storage credits ~~may not be used to demonstrate an~~
14 ~~assured water supply or an adequate water supply if the long-term storage~~
15 ~~credits were~~ accrued by storing effluent at a managed underground storage
16 facility that has not been designated as a facility that could add value
17 to a national park, national monument or state park **MAY BE USED TO**
18 **DEMONSTRATE AN ASSURED WATER SUPPLY OR AN ADEQUATE WATER SUPPLY ONLY IF**
19 **BOTH OF THE FOLLOWING APPLY:**

20 1. **THE MANAGED UNDERGROUND STORAGE FACILITY QUALIFIES AS AN**
21 **EXISTING EFFLUENT MANAGED UNDERGROUND STORAGE FACILITY.**

22 2. **THE LONG-TERM STORAGE CREDITS WERE ACCRUED AFTER THE EFFECTIVE**
23 **DATE OF THIS AMENDMENT TO THIS SECTION.**

24 Sec. 7. Emergency

25 This act is an emergency measure that is necessary to preserve the
26 public peace, health or safety and is operative immediately as provided by
27 law.