



# ARIZONA HOUSE OF REPRESENTATIVES

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## **HB 2042: aquifer protection permits; injection wells ([Substituted for SB 1364](#))**

**Sponsor: Representative Griffin, LD 14**

**Transmitted to the Governor**

### **Overview**

Clarifies that class V wells that have permits under the Arizona Department of Environmental Quality's (ADEQ) or U.S. Environmental Protection Agency's (EPA) Underground Injection Control (UIC) permit programs are not exempt from aquifer protection permit requirements.

### **History**

#### ***Underground Injection Control***

The federal Safe Drinking Water Act (SDWA) contains a framework UIC program, which regulates the injection of wastes into groundwater. (Underground injection of natural gas for storage and fluids or propping agents for hydraulic fracturing are excluded from this framework.) The EPA and state governments implement this program ([42 U.S.C. § 300f et seq.](#)). To that end, statute directs the ADEQ Director to adopt a UIC permit program outlined in the SDWA ([A.R.S. § 49-203](#)).

As part of its UIC program, the EPA has adopted regulations for different types of injection wells. Class V wells, such as dry wells and septic system leach fields, inject non-hazardous fluids underground, usually to dispose of wastes into or above underground drinking water sources (40 Code of Federal Regulations sections [144.6](#), [144.80](#), and [144.81](#)). The EPA requires permits for certain kinds of class V wells, such as those that may endanger an underground source of drinking water ([40 Code of Federal Regulations section 144.84](#)). Additionally, a class V well is exempt from ADEQ's UIC permit program if it has an aquifer protection permit and that permit satisfies the EPA's UIC control requirements (A.R.S. §§ [49-250](#) and [49-257.01](#)). Statute requires anyone who discharges underground to obtain an aquifer protection permit from ADEQ unless the activities qualify for an exemption or do not create a migration of pollutants directly to the aquifer or the vadose zone ([A.R.S. § 49-241](#)).

#### ***Aquifer Protection Permits***

Aquifer protection permits are generally required for facilities such as mine leaching operations, sewage treatment facilities and underground water storage facilities that discharge pollutants into groundwater ([A.R.S. § 49-241](#)). These permits require a discharger to comply with aquifer water quality standards and employ best available demonstrated control technologies (A.R.S. §§ [49-243\(B\)](#) and [49-245](#)). However, certain facilities are exempt from these requirements, including UIC wells covered by a permit that is either issued by ADEQ or the EPA. However, class V wells are not covered by this exemption ([A.R.S. § 49-250](#)).

#### ***Arizona Pollutant Discharge Elimination System Program***

The Clean Water Act generally prohibits discharges of pollutants to surface waters into "waters of the United States." One of this act's primary programs is the National Discharge Pollution Elimination System, which regulates point source discharges of pollutants from municipal, domestic, and industrial sources into these waters. The EPA has delegated to ADEQ the authority to administer a permit program to regulate discharges into navigable waters within its jurisdiction

([33 U.S.C. §1342\(b\)](#)). This program is called the Arizona Pollutant Discharge Elimination System Program ([A.R.S. § 49-255 et seq.](#)).

Someone can appeal the ADEQ Director's decision as it relates to this program's permit to the Water Quality Appeals Board. This board, which is within the Arizona Department of Administration, consists of three members who are appointed by the Governor and have technical knowledge the in areas under the board's jurisdiction. The board holds hearings to review evidence and issue a decision which can be appealed to the appropriate superior court (A.R.S. §§ [49-322](#) and [49-323](#)). If the ADEQ Director's decision is appealed to the Water Quality Appeals Board, those permit provisions that are contested, as well as those that cannot be severed from these provisions, are automatically stayed while the appeal is pending, including during any court proceedings ([A.R.S. § 49-324\(E\)](#)).

### **Provisions**

1. Clarifies that class V wells that have permits under ADEQ's or EPA's UIC permit programs are not exempt from the aquifer protection permit requirements. (Sec. 1 and 2)
2. Stipulates that when an appeal is filed for Arizona Pollutant Discharge Elimination System Program permit, any contested provisions or provisions that cannot be severed from the contested provisions are automatically stayed only while the appeal is pending before the Water Quality Appeals Board. (Sec. 3)
3. Makes technical and conforming changes. (Sec. 1 and 2)

<input type="checkbox"/> Prop 105 (45 votes)	<input type="checkbox"/> Prop 108 (40 votes)	<input type="checkbox"/> Emergency (40 votes)	<input type="checkbox"/> Fiscal Note
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