

Senate Engrossed

water quality; testing; on-site

State of Arizona  
Senate  
Fifty-seventh Legislature  
Second Regular Session  
2026

# SENATE BILL 1445

AN ACT

AMENDING SECTIONS 49-241 AND 49-255.01, ARIZONA REVISED STATUTES; RELATING TO WATER QUALITY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 49-241, Arizona Revised Statutes, is amended to  
3 read:

4 49-241. Permit required to discharge

5 A. Unless otherwise provided by this article, any person who  
6 discharges or who owns or operates a facility that discharges shall obtain  
7 an aquifer protection permit from the director.

8 B. Unless exempted under section 49-250, or unless the director  
9 determines that the facility will be designed, constructed and operated so  
10 that there will be no migration of pollutants directly to the aquifer or  
11 to the vadose zone, the following are considered to be discharging  
12 facilities and shall be operated pursuant to either an individual permit  
13 or a general permit, including agricultural general permits, under this  
14 article:

15 1. Surface impoundments, including holding, storage settling,  
16 treatment or disposal pits, ponds and lagoons.

17 2. Solid waste disposal facilities except for mining overburden and  
18 wall rock that has not been and will not be subject to mine leaching  
19 operations.

20 3. Injection wells.

21 4. Land treatment facilities.

22 5. Facilities that add a pollutant to a salt dome formation, salt  
23 bed formation, dry well or underground cave or mine.

24 6. Mine tailings piles and ponds.

25 7. Mine leaching operations.

26 8. Underground water storage facilities.

27 9. Sewage treatment facilities, including on-site wastewater  
28 treatment facilities.

29 10. Wetlands designed and constructed to treat municipal and  
30 domestic wastewater for underground storage.

31 C. The director shall provide public notice and an opportunity for  
32 public comment on any request for a determination from the director under  
33 subsection B of this section that there will be no migration of pollutants  
34 from a facility. A public hearing may be held at the discretion of the  
35 director if sufficient public comment warrants a hearing. The director  
36 may inspect and may require reasonable conditions and appropriate  
37 monitoring and reporting requirements for a facility managing pollutants  
38 that are determined not to migrate under subsection B of this section.  
39 The director may identify types of facilities, available technologies and  
40 technical criteria for facilities that will qualify for a  
41 determination. The director's determination may be revoked on evidence  
42 that pollutants have migrated from the facility. The director may impose  
43 a review fee for a determination under subsection B of this section. Any  
44 issuance, denial or revocation of a determination may be appealed pursuant  
45 to section 49-323.

1 D. The director shall annually make the fee schedule for aquifer  
2 protection permit applications available to the public on request and on  
3 the department's website, and a list of the names and locations of the  
4 facilities that have filed applications for aquifer protection permits,  
5 with a description of the status of each application, is available to the  
6 public on request.

7 E. The director shall prescribe the procedures for aquifer  
8 protection permit applications and fee collection under this section. The  
9 director shall deposit, pursuant to sections 35-146 and 35-147, all monies  
10 collected under this section in the water quality fee fund established by  
11 section 49-210 and may authorize expenditures from the fund, subject to  
12 legislative appropriation, to pay reasonable and necessary costs of  
13 processing and issuing permits and administering the registration program.

14 F. FOR AQUIFER PROTECTION PERMITS ISSUED TO A CITY OR A TOWN WITH A  
15 POPULATION OF ONE THOUSAND PERSONS OR MORE BUT LESS THAN TEN THOUSAND  
16 PERSONS, THE DIRECTOR MAY REQUIRE BACTERIOLOGICAL SAMPLING NOT MORE  
17 FREQUENTLY THAN FOUR TIMES PER MONTH. A CITY OR TOWN WITH A POPULATION OF  
18 ONE THOUSAND PERSONS OR MORE BUT LESS THAN TEN THOUSAND PERSONS MAY TEST  
19 BACTERIOLOGICAL SAMPLES ON-SITE WITH TESTING EQUIPMENT THAT IS APPROVED BY  
20 THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY.

21 Sec. 2. Section 49-255.01, Arizona Revised Statutes, is amended to  
22 read:

23 49-255.01. Arizona pollutant discharge elimination system  
24 program; rules and standards; affirmative  
25 defense; fees; general permit

26 A. A person shall not discharge except under either of the  
27 following conditions:

28 1. In conformance with a permit that is issued or authorized under  
29 this article or rules authorized under section 49-203, subsection A,  
30 paragraph 2.

31 2. Pursuant to a permit that is issued or authorized by the United  
32 States environmental protection agency until a permit that is issued or  
33 authorized under this article takes effect.

34 B. The director shall adopt rules to establish an AZPDES permit  
35 program for discharges to WOTUS consistent with the requirements of  
36 sections 402(b) and 402(p) of the clean water act. This program shall  
37 include requirements to ensure compliance with section 307 and  
38 requirements for the control of discharges consistent with sections 318  
39 and 405(a) of the clean water act. The director shall not adopt any  
40 requirement for WOTUS that is more stringent than any requirement of the  
41 clean water act. The director shall not adopt any requirement that  
42 conflicts with any requirement of the clean water act. The director may  
43 adopt federal rules pursuant to section 41-1028 or may adopt rules to  
44 reflect local environmental conditions to the extent that the rules are

1 consistent with and not more stringent than the clean water act and this  
2 article.

3 C. The rules adopted by the director under subsection B of this  
4 section shall provide for:

5 1. Issuing, authorizing, denying, modifying, suspending or revoking  
6 individual or general permits.

7 2. Establishing permit conditions, discharge limitations and  
8 standards of performance as prescribed by section 49-203, subsection A,  
9 paragraph 8, including case-by-case effluent limitations that are  
10 developed in a manner consistent with 40 Code of Federal Regulations  
11 section 125.3(c).

12 3. Modifications and variances as allowed by the clean water act.

13 4. Other provisions necessary for maintaining state program  
14 authority under section 402(b) of the clean water act.

15 5. FOR A CITY OR TOWN WITH A POPULATION OF ONE THOUSAND PERSONS OR  
16 MORE BUT LESS THAN TEN THOUSAND PERSONS, USING ON-SITE TESTING EQUIPMENT  
17 THAT IS APPROVED BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY TO  
18 DETECT BACTERIOLOGICAL MATERIAL.

19 D. This article does not affect the validity of any existing rules  
20 that are adopted by the director and that are equivalent to and consistent  
21 with the national pollutant discharge elimination system program  
22 authorized under section 402 of the clean water act until new rules for  
23 AZPDES discharges are adopted pursuant to this article.

24 E. An upset constitutes an affirmative defense to any  
25 administrative, civil or criminal enforcement action brought for  
26 noncompliance with technology-based permit discharge limitations if the  
27 permittee complies with all of the following:

28 1. The permittee demonstrates through properly signed  
29 contemporaneous operating logs or other relevant evidence that:

30 (a) An upset occurred and that the permittee can identify the  
31 specific cause of the upset.

32 (b) The permitted facility was being properly operated at the time  
33 of the upset.

34 (c) If the upset causes the discharge to exceed any discharge  
35 limitation in the permit, the permittee submitted notice to the department  
36 within twenty-four hours after the upset.

37 (d) The permittee has taken appropriate remedial measures including  
38 all reasonable steps to minimize or prevent any discharge or sewage sludge  
39 use or disposal that is in violation of the permit and that has a  
40 reasonable likelihood of adversely affecting human health or the  
41 environment.

42 2. In any administrative, civil or criminal enforcement action, the  
43 permittee shall prove, by a preponderance of the evidence, the occurrence  
44 of an upset condition.

1 F. Compliance with a permit issued pursuant to this article shall  
2 be deemed compliance with both of the following:

3 1. All requirements in this article or rules adopted pursuant to  
4 this article relating to state implementation of sections 301, 302, 306  
5 and 307 of the clean water act, except for any standard that is imposed  
6 under section 307 of the clean water act for a toxic pollutant that is  
7 injurious to human health.

8 2. Limitations for pollutants in WOTUS adopted pursuant to sections  
9 49-221 and 49-222, if the discharge of the pollutant is specifically  
10 limited in a permit issued pursuant to this article or the pollutant was  
11 specifically identified as present or potentially present in facility  
12 discharges during the application process for the permit.

13 G. Notwithstanding section 49-203, subsection D, permits that are  
14 issued under this article shall not be combined with permits issued under  
15 article 3 of this chapter.

16 H. The decision of the director to issue or modify a permit takes  
17 effect on issuance if there were no changes requested in comments that  
18 were submitted on the draft permit unless a later effective date is  
19 specified in the decision. In all other cases, the decision of the  
20 director to issue, deny, modify, suspend or revoke a permit takes effect  
21 thirty days after the decision is served on the permit applicant, unless  
22 either of the following applies:

23 1. Within the thirty-day period, an appeal is filed with the water  
24 quality appeals board pursuant to section 49-323.

25 2. A later effective date is specified in the decision.

26 I. In addition to other reservations of rights provided by this  
27 chapter, this article does not impair or affect rights or the exercise of  
28 rights to water claimed, recognized, permitted, certificated, adjudicated  
29 or decreed pursuant to state or other law.

30 J. The director shall establish by rule fees, including maximum  
31 fees, to pay expenses incurred in implementing the AZPDES PERMIT  
32 program. Monies collected pursuant to this section shall be deposited,  
33 pursuant to sections 35-146 and 35-147, in the water quality fee fund  
34 established by section 49-210.

35 K. Any permit conditions concerning threatened or endangered  
36 species shall be limited to those required by the endangered species act.

37 L. When developing a general permit for discharges of storm water  
38 from construction activity, the director shall provide for reduced control  
39 measures at sites that retain storm water in a manner that eliminates  
40 discharges from the site, except for the occurrence of an extreme event.  
41 Reduced control measures shall be available if all of the following  
42 conditions are met:

43 1. The nearest downstream receiving water is ephemeral and the  
44 construction site is a sufficient distance from a water warranting  
45 additional protection as described in the general permit.

1           2. The construction activity occurs on a site designed so that all  
2 storm water generated by disturbed areas of the site exclusive of public  
3 rights-of-way is directed to one or more retention basins that are  
4 designed to retain the runoff from an extreme event. For the purposes of  
5 this subsection, "extreme event" means a rainfall event that meets or  
6 exceeds the local one hundred-year, two-hour storm event as calculated by  
7 an Arizona registered professional engineer using industry practices.  
8           3. The owner or operator complies with good housekeeping measures  
9 included in the general permit.  
10          4. The owner or operator maintains the capacity of the retention  
11 basins.  
12          5. Construction conforms to the standards prescribed by this  
13 section.  
14          M. If the director commences proceedings for the renewal of a  
15 general permit issued pursuant to this article, the existing general  
16 permit shall not expire and coverage may continue to be obtained by new  
17 dischargers until the proceedings have resulted in a final determination  
18 by the director. If the proceedings result in a decision not to renew the  
19 general permit, the existing general permit shall continue in effect until  
20 the last day for filing for review of the decision of the director not to  
21 renew the permit or until any later date that is fixed by court order.