



AQUIFER PROTECTION PERMIT DETERMINATION OF APPLICABILITY (DOA)

INSTRUCTIONS

This form enables the staff of the ADEQ Groundwater Protection Value Stream to determine the applicability of A.R.S. §§ 49-241 through 49-252 to an operation or an activity that may result in a discharge regulated under Articles 1, 2, and 3 of the Arizona Administrative Code (A.A.C.). Please answer all questions and where applicable, provide sufficient detail for the conceptual or existing facility or activity to explain your answers. Attach additional reference sheets along with any design plans, site plans, maps, etc., that may assist us in this review.

GENERAL APPLICATION PROCESS

- 1) Applicant submits the DOA application including any attachments.
- 2) Applicant satisfies any deficiencies identified during the review process.
- 3) ADEQ makes a Determination of Applicability.
- 4) ADEQ sends the final bill.
- 5) Applicant pays the bill.
- 6) The project manager signs the Determination of Applicability.
- 7) ADEQ mails the Determination of Applicability.

FEES

The Department shall assess and collect an hourly rate fee for the number of review hours required to provide a water quality protection service, billed monthly and up to the maximum fee. A.A.C. R18-14-102 & 103. Fee rates and maximum fees are available at: <https://azdeq.gov/GroundwaterIndPermitsFees>

APPLICANT

The DOA application form must be signed by the applicant; i.e. a “person who is engaging or who proposes to engage in the operation or activity” (A.A.C. R18-9-106(B)(2)). ADEQ will not accept a DOA application form signed by a third party, such as the client’s representative or consultant.

HOW LONG DOES THE APPLICATION PROCESS TAKE?

The time frame specified by A.A.C. R18-9-106 is 45 days.

WITHDRAWING YOUR APPLICATION

An application may be withdrawn by the applicant at any time during the application process in accordance with A.A.C. R18-1-517. You may withdraw your application by submitting a written request to the reviewer assigned to your project. A final bill will be assessed at the time of withdrawal.

WHERE DO I SUBMIT MY APPLICATION?

Submit your DOA application to:

Arizona Department of Environmental Quality
Water Quality Division
Groundwater Protection and Reuse Section
1110 West Washington Street
Phoenix, AZ 85007

WHERE DO I GET HELP?

Program guidance can be found on our website at: <http://www.azdeq.gov/environ/water/permits/app.html>. A copy of the rules and statutes relating to the DOA can also be found on this website. It is strongly recommended that you review the applicable rules and statutes to ensure that you provide a complete and accurate application. ADEQ recommends scheduling a pre-application meeting to go over the various details of the program (The Project Manager’s first hour of the pre-application meeting is free). During the application process, you are encouraged to communicate with the project team to resolve any issues that may arise during the process.



**AQUIFER PROTECTION PERMIT
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GENERAL INFORMATION

1 Applicant – Person signing the application [A.A.C. R18-9-106.B.2]

(Check One) Owner Operator Owner and Operator Email _____
 Name _____ Phone _____
 Title _____ Business _____
 Mailing Address _____ City _____ State _____ Zip _____

2 Facility Name [A.A.C. R18-9-106.B.1]

Facility Name _____
 New Currently Operating

3 Facility Address and Location Information [A.A.C. R18-9-106.B.1]

Address _____

 City _____ State _____ Zip _____
 County _____
 Township _____ Range _____ Section _____ Qtr1 _____ Qtr2 _____ Qtr3 _____
 Latitude _____ ° ' "N Longitude _____ ° ' "W NAD27 NAD83

4 Certification Statement [A.A.C. R18-9-A201(B)(7)]

I certify under penalty of law that this Aquifer Protection Permit application and all attachments were prepared under my direction or authorization and all information is, to the best of my knowledge, true, accurate and complete. I also certify that the APP discharging facilities described in this form is or will be designed, constructed, operated, and/or closed in accordance with the terms and conditions the Aquifer Protection Permit and applicable requirements of Arizona Revised Statutes Title 49, Chapter 2, and Arizona Administrative Code Title 18, Chapter 9 regarding aquifer protection permits. I am aware that there are significant penalties for submitting false information, including permit revocation as well as the possibility of fine and imprisonment for knowing violations.

Print Name _____

Signature _____ Date _____

Pursuant to A.R.S. § 41-1030:

- (1) ADEQ shall not base a licensing decision, in whole or in part, on a requirement or condition not specifically authorized by statute or rule. General authority in a statute does not authorize a requirement or condition unless a rule is made pursuant to it that specifically authorizes the requirement or condition.
- (2) Prohibited licensing decisions may be challenged in a private civil action. Relief may be awarded to the prevailing party against ADEQ, including reasonable attorney fees, damages, and all fees associated with the license application.
- (3) ADEQ employees may not intentionally or knowingly violate the requirement for specific licensing authority. Violation is cause for disciplinary action or dismissal, pursuant to ADEQ’s adopted personnel policy. ADEQ employees are still afforded the immunity in A.R.S. §§ 12-821.01 and 12-820.02.

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The purpose of a Determination of Applicability application review is to evaluate if there are discharging facilities or any discharging activities regulated by the Aquifer Protection Permit requirements. The evaluation of the conceptual or existing facility/activity includes whether there are exemptions from the APP requirements or if there is a General APP that may be applicable. Please provide the following information:

1. List any potential categorical discharging facilities (see definition provided in the attachment to this form). Categorical facilities include surface impoundments, solid waste disposal facilities, sewage treatment facilities, and others.
 - a. For each facility listed, indicate whether it has operated in the past, is currently operating, is not yet constructed, or is constructed but not yet operating.
2. List any activity that could potentially be considered a discharge (see definition provided in the attachment to this form). Examples of discharge include wastewater disposal on the ground surface, placement of non-inert material on the ground surface, or other activities that place pollutants on the ground surface in a manner that there is a reasonable probability that the pollutant will reach an aquifer.
 - a. For each activity listed, indicate whether it has occurred in the past, is currently occurring, or has not yet occurred.
3. Describe the potential categorical discharging facility and/or discharging activity.
4. Provide a site diagram that includes the potential categorical discharging facility and/or discharging activity. Include a North arrow and scale, and label all potential discharging facilities and discharge locations.
5. Provide a process flow diagram that shows the process that produces the potential discharge or materials that go to a discharging facility and/or discharging activity.
6. Provide a description of any exemption or general permit that you think may apply to the potential categorical discharging facility and/or activity. Include any documentation to support this conclusion, for example, laboratory data showing a material is inert, design documentation showing that a structure meets the tank exemption (see Additional Information Related to Tanks and Sumps), closure documentation (see Additional Information Related to Closed Facilities), etc. "Exemptions" and "General Permits" sections at the end of this document may be helpful in providing documentation that an exemption or general permit criteria are met.
7. List any environmental permits held for the operation, facility or activity. Provide the permit number and the name of the issuing entity.

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ADDITIONAL INFORMATION RELATED TO TANKS AND SUMPS

- a. Is the structure stationary?
- b. Is the structure constructed of material compatible with the anticipated materials to be contained?
- c. Is the structure constructed of concrete, steel, plastic, fiberglass or other non-earthen material?
- d. Is the structure constructed of material that is resistant to wear caused by any equipment that will be placed in or enter the structure for purposes of repair or cleanout?
- e. Does the structure provide substantial structural support?
- f. Are all joints sealed and maintained so as not to leak?
- g. Is the structure capable of fully containing the material that is to be held without overflow?

ADDITIONAL INFORMATION RELATED TO CLOSED FACILITIES

List each closed facility in the format provided (Attachment 1) and provide the following information in the “Justification/Documentation” section:

- all inflows and outflows to the facility
- the source of inflows and outflows (include a process flow diagram)
- dates discharge started and ended
- discharge description, characterization
- discharge location, volumes, frequency
- method of transfer into and out of facility
- date ADEQ approved clean closure of the facility
- description of any remedial or reclamation activity/action

For each closed facility listed in Attachment 1, indicate in the “Statute/Rule/Policy” section, which of the following criteria apply. Attach additional sheets and references as needed.

- Facility ceased operation before Jan. 1, 1986 (A.R.S. 49-201.7)
- As of August 13, 1986, facility was not engaged in any activity for which the facility was designed and that was previously operated with no intent to resume operation (A.R.S. 49-201.7)
- Facility’s post-closure monitoring and maintenance plan, notifications and approvals required in a permit have been completed (A.R.S. 49-201.7)
- Facility had new installations or modifications after January 1, 1986 to include liners, treatment systems, pump-back systems, storm water management systems, impoundments, sump and diversions (Substantive Policy Statement 3013.000)
- Facility’s new installations or modifications primary purpose is to manage, treat, or contain surface or subsurface flows (Substantive Policy Statement 3013.000)
- Facility’s new installations or modifications are NOT used to produce a marketed commodity (Substantive Policy Statement 3013.000)

ATTACHMENT 1

SUMMARY OF CLOSED FACILITIES AND JUSTIFICATION

ATTACHMENT 1			
SUMMARY OF CLOSED FACILITIES AND JUSTIFICATION			
Closed Facility	Date Closed	Statute/Rule/Policy	Justification/Documentation

AQUIFER PROTECTION PERMIT DOA APPLICATION

DEFINITIONS

AQUIFER – (A.R.S. §49-201) means a geologic unit that contains sufficient saturated permeable material to yield usable quantities of water to a well or spring.

AQUIFER PROTECTION PERMIT - means an individual or general permit issued under A.R.S. §§ 49-203, 49-241 through 252, and A.A.C. Title 18 Chapter 9, Articles 1, 2 and 3.

CATEGORICAL DISCHARGING FACILITY – means (A.R.S. §49-241.B)

1. Surface impoundments, including holding, storage settling, treatment or disposal pits, ponds and lagoons.
2. Solid waste disposal facilities except for mining overburden and wall rock that has not been and will not be subject to mine leaching operations.
3. Injection wells.
4. Land treatment facilities.
5. Facilities that add a pollutant to a salt dome formation, salt bed formation, dry well or underground cave or mine.
6. Mine tailings piles and ponds.
7. Mine leaching operations.
8. Underground water storage facilities.
9. Sewage treatment facilities, including on-site wastewater treatment facilities.
10. Wetlands designed and constructed to treat municipal and domestic wastewater for underground storage.

CLOSED FACILITY – means (A.R.S. §49-201.7):

- (a) A facility that ceased operation before January 1, 1986, that is not, on August 13, 1986, engaged in the activity for which the facility was designed and that was previously operated and for which there is no intent to resume operation as provided by A.R.S. § 49-201.
- (b) A facility that has been approved as a clean closure by the director as provided by A.R.S. § 49-201.
- (c) A facility at which any post-closure monitoring and maintenance plan, notifications and approvals required in a permit have been completed as provided by A.R.S. § 49-201.
- (d) Any facility designed and operated to manage, treat or contain surface or subsurface flows at or from a closed facility (as defined in A.R.S. 49-201(7)(a)-(c)), to include liners, treatment systems, pump-back systems, storm water management systems, impoundments, sumps and diversions, even if such facilities were installed or modified after January 1, 1986, so long as the facility's primary purpose is to manage, treat, or contain surface or subsurface or subsurface flows and not for the production of a marketed commodity.

DISCHARGE – (A.R.S. §49-201) means the direct or indirect addition of any pollutant to the waters of the state from a facility. For purposes of the Aquifer Protection Permit program prescribed by Title 49, Article 3, Chapter 2 of the Arizona Revised Statutes, discharge means the addition of a pollutant from a facility either directly to an aquifer or to the land surface or the vadose zone in such a manner that there is a reasonable probability that the pollutant will reach an aquifer.

DRYWELL - A.R.S. §49-331) means a well which is a bored, drilled or driven shaft or hole whose depth is greater than its width and is designed and constructed specifically for the disposal of storm water. Drywells do not include class 1, class 2, class 3 or class 4 injection wells as defined by the Federal Underground Injection Control Program (P.L. 93-523, part C), as amended.

FACILITY – (A.R.S. §49-201) means any land, building, installation, structure, equipment, device, conveyance, area, source, activity or practice from which there is, or with reasonable probability may be, a discharge.

INERT MATERIAL – (A.R.S. §49-201) means broken concrete, asphaltic pavement, manufactured asbestos-containing products, brick, rock, gravel, sand and soil. Inert material also includes material that when subjected to a water leach test that is designed to approximate natural infiltrating waters will not leach substances in concentrations that exceed numeric aquifer water quality standards established pursuant to section 49-223, including overburden and wall rock that is not acid generating, taking into consideration acid neutralization potential, and that has not and will not be subject to mine leaching operations.

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POLLUTANT - (A.R.S. §49-201) means fluids, contaminants, toxic wastes, toxic pollutants, dredged spoil, solid waste, substances and chemicals, pesticides, herbicides, fertilizers and other agricultural chemicals, incinerator residue, sewage, garbage, sewage sludge, munitions, petroleum products, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and mining, industrial, municipal and agricultural wastes or any other liquid, solid, gaseous or hazardous substances.

SEWAGE TREATMENT FACILITY – (A.A.C. R18-9-101) means a plant or system for sewage treatment and disposal, except an on-site wastewater treatment facility, that consists of treatment works, disposal works, and appurtenant pipelines, conduits, pumping stations, and related subsystems and devices.

SURFACE IMPOUNDMENT - (A.A.C. R18-9-101) means a pit, pond or lagoon, having a surface dimension that is equal to or greater than its depth, which is used for the storage, holding, settling, treatment or discharge of liquid pollutants or pollutants containing free liquids.

TANK – (A.R.S. §49-201) means a stationary device, including a sump, that is constructed of concrete, steel, plastic, fiberglass, or other non-earthen material that provides substantial structural support, and that is designed to contain an accumulation of solid, liquid or gaseous materials.

EXEMPTIONS

EXEMPTIONS – A.R.S. §49-250B. The following are exempt from the aquifer protection permit requirement of this article:

1. Household and domestic activities.
2. Household gardening, lawn watering, lawn care, landscape maintenance and related activities.
3. The noncommercial use of consumer products generally available to and used by the public.
4. Ponds used for watering livestock and wildlife.
5. Mining overburden returned to the excavation site including any common material which has been excavated and removed from the excavation site and has not been subjected to any chemical or leaching agent or process of any kind.
6. Facilities used solely for surface transportation or storage of groundwater, surface water for beneficial use or reclaimed water that is regulated pursuant to section 49-203, subsection A, paragraph 6 for beneficial use.
7. Discharge to a community sewer system.
8. Facilities that are required to obtain a permit for the direct reuse of reclaimed water.
9. Leachate resulting from the direct, natural infiltration of precipitation through undisturbed regolith or bedrock if pollutants are not added to the leachate as a result of any material or activity placed or conducted by man on the ground surface.
10. Surface impoundments used solely to contain storm runoff, except for surface impoundments regulated by the federal clean water act.
11. Closed facilities. However, if the facility ever resumes operation the facility shall obtain an aquifer protection permit and the facility shall be treated as a new facility for purposes of section 49-243.
12. Facilities for the storage of water pursuant to title 45, chapter 3.1 unless reclaimed water is added.
13. Facilities using central Arizona project water for underground storage and recovery projects under title 45, chapter 3.1, article 6.
14. Water storage at a groundwater saving facility that has been permitted under title 45, chapter 3.1.
15. Application of water from any source, including groundwater, surface water or wastewater, to grow agricultural crops or for landscaping purposes, except as provided in section 49-247.
16. Discharges to a facility that is exempt pursuant to paragraph 6 if those discharges are regulated pursuant to 33 United States Code section 1342.
17. Solid waste and special waste facilities when rules addressing aquifer protection are adopted by the director pursuant to section 49-761 or 49-855 and those facilities obtain plan approval pursuant to those rules. This exemption shall only apply if the director determines that aquifer water quality standards will be maintained and protected because the discharges from those facilities are regulated under rules adopted pursuant to section 49-761 or 49-855 that provide aquifer water quality protection that is equal to or greater than aquifer water quality protection provided pursuant to this article.
18. Facilities used in:
 - (a) Corrective actions taken pursuant to chapter 6, article 1 of this title in response to a release of a regulated substance as defined in section 49-1001 except for those off-site facilities that receive for treatment or disposal materials that are contaminated with a regulated substance and that are received as part of a corrective action.
 - (b) Response or remedial actions undertaken pursuant to article 5 of this chapter or pursuant to CERCLA.
 - (c) Corrective actions taken pursuant to chapter 5, article 1 of this title or the resource conservation and recovery act of 1976, as amended (42 United States Code sections 6901 through 6992).

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- (d) Other remedial actions which have been reviewed and approved by the appropriate governmental authority and taken pursuant to applicable federal or state laws.
19. Municipal solid waste landfills as defined in section 49-701 that have solid waste facility plan approval pursuant to section 49-762.
 20. Storage, treatment or disposal of inert material.
 21. Structures that are designed and constructed not to discharge and that are built on an impermeable barrier that can be visually inspected for leakage.
 22. Pipelines and tanks designed, constructed, operated and regularly maintained so as not to discharge.
 23. Surface impoundments and dry wells that are used to contain storm water in combination with discharges from one or more of the following activities or sources:
 - (a) Fire fighting system testing and maintenance.
 - (b) Potable water sources, including waterline flushings.
 - (c) Irrigation drainage and lawn watering.
 - (d) Routine external building wash down without detergents.
 - (e) Pavement wash water where no spills or leaks of toxic or hazardous material have occurred unless all spilled material has first been removed and no detergents have been used.
 - (f) Air conditioning, compressor and steam equipment condensate that has not contacted a hazardous or toxic material.
 - (g) Foundation or footing drains in which flows are not contaminated with process materials.
 - (h) Occupational safety and health administration or mining safety and health administration safety equipment.
 24. Industrial wastewater treatment facilities designed, constructed and operated as required by section 49-243, subsection B, paragraph 1 and using a treatment system approved by the director to treat wastewater to meet aquifer water quality standards prior to discharge, if that water is stored at a groundwater storage facility pursuant to title 45, chapter 3.1.
 25. Any point source discharge caused by a storm event and authorized in a permit issued pursuant to section 402 of the clean water act.

R18-9-102. Facilities to which Articles 1, 2, and 3 Do Not Apply

Articles 1, 2, and 3 do not apply to:

1. A drywell used solely to receive storm runoff and located so that no use, storage, loading, or treating of hazardous substances occurs in the drainage area;
2. A direct pesticide application in the commercial production of plants and animals subject to the Federal Insecticide, Fungicide, and Rodenticide Act (P.L. 92-516; 86 Stat. 975; 7 United States Code 135 et seq., as amended), or A.R.S. §§ 49-301 through 49-309 and applicable rules, or A.R.S. Title 3, Chapter 2, Article 6 and applicable rules.

R18-9-103. Class Exemptions

Class exemptions. In addition to the classes or categories of facilities listed in A.R.S. § 49-250(B), the following classes or categories of facilities are exempt from the Aquifer Protection Permit requirements in Articles 1, 2, and 3 of this Chapter:

1. Facilities that treat, store, or dispose of hazardous waste and have been issued a permit or have interim status, under the Resource Conservation and Recovery Act (P.L. 94-580; 90 Stat. 2796; 42 U.S.C. 6901 et seq., as amended), or have been issued a permit according to the hazardous waste management rules adopted under 18 A.A.C. 8, Article 2;
2. Underground storage tanks that contain a regulated substance as defined in A.R.S. § 49-1001;
3. Facilities for the disposal of solid waste, as defined in A.R.S. § 49-701.01, that are located in unincorporated areas and receive solid waste from four or fewer households;
4. Land application of biosolids in compliance with 18 A.A.C. 9, Articles 9 and 10.

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GENERAL PERMITS

General Aquifer Protection Permits (GPs) are permits by rule or statute. The rules are extensive and can be accessed on the Secretary of State's website at: http://www.azsos.gov/public_services/Title_18/18-09.htm Specific citations for general permits by rule are: Type 1: A.A.C. R18-9-B301, Type 2: A.A.C. R18-9-C301, Type 3: A.A.C. R18-9-D301, Type 4: A.A.C. R18-9-E301

The statutory general permits are:

49-245.01. Storm water general permit

A. A general permit is issued for facilities used solely for the management of storm water and that are regulated by the clean water act, including catchments, impoundments and sumps, provided the following conditions are met:

1. The owner or operator of the facility has obtained a national pollutant discharge elimination system permit issued pursuant to the clean water act for any storm water discharges at the facility, or that the facility has applied, and not been denied coverage, for this type of permit for any storm water discharges at the facility.
2. The owner or operator notifies the director that the facility has met the requirements of paragraph 1 of this subsection.
3. The owner or operator of the facility has in place any required storm water pollution prevention plan.

B. If the director determines that discharges of storm water from a facility or facilities covered by this general permit are causing a violation of aquifer water quality standards at the applicable point of compliance, the director may revoke the general permit of the facility or facilities or may require that an individual permit be obtained pursuant to section 49-243. If the director determines that discharges of storm water from a facility or facilities covered by this general permit, with reasonable probability, may cause a violation of aquifer water quality standards at the applicable point of compliance, the director may require a facility or facilities covered by the general permit to obtain an individual permit pursuant to section 49-243.

49-245.02. General permit for certain discharges associated with man-made bodies of water

A. A general permit is issued for the following discharges:

1. Disposal in vadose zone injection wells of storm water mixed with reclaimed wastewater or groundwater, or both, from man-made bodies of water associated with golf courses, parks and residential common areas, provided that:

- (a) The vadose zone injection wells are registered pursuant to section 49-332.
- (b) The discharge occurs only in response to storm events.
- (c) With the exception of the aquifer water quality standard for microbiological contaminants, the reclaimed wastewater meets aquifer water quality standards before being placed into the body of water, as documented by a water quality analysis submitted with the vadose zone injection well registration. The owner or operator of the vadose zone injection wells shall demonstrate continued compliance with this subdivision by submitting to the department the results of any monitoring required as part of an aquifer protection permit or wastewater reuse permit for any facility providing reclaimed wastewater to the man-made body of water. For purposes of this general permit, monitoring shall be conducted at least semiannually. The monitoring results shall be submitted to the department semiannually beginning six months after registration made to subdivision (a) of this paragraph.
- (d) The vadose zone injection wells shall be located at least one hundred feet from any water supply well.
- (e) A vertical separation of forty feet shall be provided between the bottom of the vadose zone injection wells and the water table to allow the aquifer water quality standard for microbiological contaminants to be met in the uppermost aquifer.
- (f) The vadose zone injection wells are not used for any other purpose.

2. Subsurface discharges from man-made bodies of water associated with golf courses, parks and residential common areas, provided that:

- (a) The body of water contains only groundwater, storm water or reclaimed wastewater, or a combination thereof.
- (b) The reclaimed wastewater complies with the terms of a wastewater reuse permit before being placed into the body of water.
- (c) The body of water is lined and maintained to achieve a hydraulic conductivity of 10⁻⁷ cm/sec or less.

3. Point source discharges to waters of the United States from man-made bodies of water associated with golf courses, parks and residential common areas that contain only groundwater, storm water or reclaimed wastewater, or a combination thereof, provided that:

- (a) The discharges are subject to a valid national pollutant discharge elimination system permit.
- (b) The discharges occur only in response to storm events.
- (c) With the exception of the aquifer water quality standard for microbiological contaminants, the reclaimed wastewater meets aquifer water quality standards before being placed into the body of water.

B. If the director determines that discharges from a facility covered by this general permit are causing a violation of aquifer water quality standards, the director may revoke the general permit of the facility or may require that an individual permit be obtained pursuant to section 49-243. If the director determines that discharges from a facility covered by this general permit may cause, with reasonable probability, a violation of aquifer water quality standards, the director may require the facility to obtain an individual permit pursuant to section 49-243.