

Arizona

State Agency

The Arizona Department of Environmental Quality (DEQ), Water Quality Division is responsible for the State's water quality.¹

Delegated Permit Authority

Arizona has been delegated permit authority for the NPDES permit program including stormwater permits for all areas except Indian lands. Issuing section 404 dredge and fill permits remains the responsibility of the Army Corps of Engineers (COE), but the State actively uses its section 401 certification authority to ensure section 404 permits protect State water quality standards.

State Definition of Covered Waters

Under Arizona State law, "water of the state" means "all waters within the jurisdiction of this state including all perennial or intermittent streams, lakes, ponds, impounding reservoirs, marshes, watercourses, waterways, wells, aquifers, springs, irrigation systems, drainage systems and other bodies or accumulations of surface, underground, natural, artificial, public or private water situated wholly or partly in or bordering on the state."²

State water quality standards have not been explicitly extended to apply to isolated wetlands by operation of State law; however, the DEQ regulates isolated wetlands and intermittent waters under the Clean Water Act (CWA). The DEQ extends State water quality standards to isolated wetlands. The DEQ also interprets its surface water quality standards to apply to "intermittent, non-navigable tributaries." The DEQ interprets the definition of "surface water" to include tributaries ("the tributary rule").³ The State tributary rule assigns water quality standards to intermittent surface waters that are not specifically listed by name in Arizona's surface water quality standards rules. The DEQ feels it is necessary to regulate these types of waters as "waters of the United States" because it is estimated that approximately 95% of the surface waters in Arizona are either intermittent or ephemeral.

Surface water quality standards do not apply to groundwater. The DEQ has independent statutory authority to develop aquifer water quality standards,⁴ and has adopted Aquifer Water Quality Standards.⁵ Groundwater standards in Arizona are the Safe Drinking Water standards established for public water systems and surface water standards for the Domestic Water Source designated use.

Point Sources and NPDES Permits

BLM does not hold any NPDES permits in Arizona.

¹ Information on the Department of Environmental Quality, Water Quality Division is available at: <http://azdeq.gov/enviro/water/index.html>.

² A.R.S. § 49-201.40.

³ A.A.C. § R18-11-101(43)(e) and R18-11-105.

⁴ A.R.S. § 49-223.

⁵ A.A.C. § R18-11-400.

Water Quality Standards

Designated Uses

Arizona's designated uses are outlined in Figure One. All surface waters, except canals, have at least one of the "aquatic and wildlife" designated uses.

Figure One: Arizona State-Designated Use Descriptions

State-Designated Use Code	State-Designated Use	State-Designated Use Description
AGI	Agricultural Irrigation	The use of a surface water for the irrigation of crops.
AGL	Agricultural Livestock Watering	The use of a surface water as a supply of water for consumption by livestock.
FC	Fish Consumption	The use of a surface water by humans for harvesting aquatic organisms for consumption. Harvestable aquatic organisms include, but are not limited to, fish, clams, turtles, crayfish, and frogs.
AWC	Aquatic and Wildlife (Coldwater Fishery)	The use of a surface water by animals, plants, or other organisms, including salmonids, for habitation, growth, or propagation.
AWE	Aquatic and Wildlife (Ephemeral)	The use of an ephemeral water by animals, plants, or other organisms, excluding fish, for habitation, growth, or propagation. Ephemeral water means a surface water that has a channel that is at all times above the water table, that flows only in direct response to precipitation, and that does not support a self-sustaining fish population.
AWEDW	Aquatic and Wildlife (Effluent Dependent Water)	The use of an effluent dependent water by animals, plants, or other organisms for habitation, growth, or propagation. Effluent dependent water means a surface water that consists primarily of discharges of treated wastewater which have been classified as an effluent dependent water by the Director under R18-11-113. Currently there are 38 Effluent Dependent Waters in Arizona.
AWW	Aquatic and Wildlife (Warmwater Fishery)	The use of a surface water by animals, plants, or other organisms, excluding salmonids, for habitation, growth, or propagation.
DWS	Domestic Water Source	The use of a surface water as a potable water supply. Coagulation, sedimentation, filtration, disinfection, or other treatments may be necessary to yield a finished water suitable for human consumption.
FBC	Full Body Contact	The use of a surface water which causes the human body to come into direct contact with the water to the point of complete submergence. The use is such that ingestion of the water is likely to occur and certain sensitive body organs, such as the eyes, ears, or nose may be exposed to direct contact with the water.
PBC	Partial Body Contact	The use of a surface water which may cause the human body to come into direct contact with the water, but normally not to the point of complete submergence. The use is such that ingestion of the water is not likely to occur, nor will sensitive body organs such as the eyes, ears, or nose normally be exposed to direct contact with the water.

TRIB	Tributary Rule	Surface water that is tributary to a listed surface water: 1. For an ephemeral water (EW), aquatic and wildlife [ephemeral] and partial body contact standards apply. 2. For an effluent dependent water (EDW), the aquatic and wildlife standards and partial body contact standards apply. 3. For a water that is not an EW/EDW and which has salmonids present, aquatic and wildlife [cold water fishery] and fish consumption standards apply and WQS for nearest downstream surface water not an EW/EDW. 4. For an unlisted tributary not an EW/EDW and that does not have salmonids present, aquatic and wildlife warm water fishery and fish consumption standards apply and water quality for nearest downstream surface water not an EW/EDW apply.
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Source: EPA WQSDB available at: http://oaspub.epa.gov/wqsdatabase/wqsi_water_body.rep_parameter

Water Quality Criteria

Both narrative and numeric criteria are included in Arizona’s water quality standards. Most of Arizona’s water quality criteria are based on numeric water chemistry data. Narrative standards (A.A.C § R18-11-108) are established to protect water quality when a numeric standard is not available or is insufficient. The new 303(d) and TMDL statute (discussed below) requires development of narrative implementation procedures before narrative standards can be applied to 303(d) listing decisions. These procedures are under development.

There is currently no information regarding streamflow criteria for Arizona.

Arizona does not currently have narrative or numeric biological criteria or guidance. The State is working on a bioassessment implementation guidance document. The DEQ began research to develop a State biocriteria program in 1992, focusing on using macroinvertebrate communities to assess the biological health of the aquatic system. A warmwater and coldwater Index of Biological Integrity has been developed for Arizona. Currently, the Biocriteria Program monitoring effort is to test existing indexes over a range of impaired conditions and sources of stressors.

Sediment

Arizona repealed its turbidity standard in March 2002 and adopted a suspended sediment concentration (SSC) standard of 80 mg/L, expressed as a geometric mean with a four-sample minimum to protect Aquatic and Wildlife designated uses. More than one exceedance of this geometric mean standard would result in an assessment of “impaired.”⁶ Due to difficulties implementing and assessing this standard, the DEQ will be considering changes in its 2006 triennial review of standards.

Antidegradation

Arizona’s antidegradation policy is found in the State’s Surface Water Quality Standards rules at A.A.C. § R18-11-107. This rule states that a determination “whether there is any degradation of water quality in a surface water [will be made] on a pollutant by pollutant basis.” The rule goes on to define allowable degradation to Tier 1, Tier 2, and Tier 3 waters. In Tier 1 waters “no degradation of existing water quality is permitted in surface water where the existing

⁶ These new suspended sediment concentration (SSC) standards only apply to samples collected at or near base flow, which the USGS defines as “flow sustained largely by groundwater discharge.” Precipitation events and most run-off must be excluded. To apply this standard for assessment purposes, it is necessary to calculate base flow for each site, which requires a large amount of flow data. Therefore, an assessment of SSC is usually possible only at or near USGS gaging stations.

water quality does not meet the applicable water quality standards.” In Tier 2 waters, “limited degradation of existing water quality” is allowed provided four conditions are met.⁷ In Tier 3 waters “existing water quality shall be maintained and protected in a surface water that is classified as a unique water ...” and limited degradation of a unique water shall not be allowed. The State is finalizing an antidegradation implementation guidance document called “Implementation Guidelines for the State of Arizona Antidegradation Standards.”⁸

Arizona’s Outstanding Natural Resource Waters (ONRWs) are called “unique waters.” The rules governing unique waters are outlined in the Arizona Administrative Code at section R18-11-112. Unique waters are designated only by administrative rulemaking in the triennial review. Members of the public may nominate surface waters for unique waters classification or the DEQ may initiate the rulemaking. The director of the DEQ may classify a surface water as a unique water by making a finding that a surface water is an “outstanding state resource water” because it meets decision criteria set out at R18-11-112(D). In general, a surface water has to be perennial, in a free-flowing condition, have water quality that meets or is better than applicable water quality standards, and meet one or both of the following: 1) The surface water is of “exceptional recreational or ecological significance,” or 2) threatened or endangered (T&E) species are known to be associated with the water body and maintenance and protection of existing water quality is essential to the maintenance of the threatened or endangered species or the surface water provides critical habitat. Currently there are 18 unique waters in the state. These are:

1. The West Fork of the Little Colorado River, above Government Springs;
2. Oak Creek, including the West Fork of Oak Creek;
3. Peoples Canyon Creek, tributary to Santa Maria River;
4. Burro Creek, above its confluence with Boulder Creek;
5. Francis Creek, Mohave and Yavapai Counties;
6. Bonita Creek, tributary to the upper Gila River;
7. Aravaipa Creek, from confluence of Stowe Gulch to the downstream boundary of the Aravaipa Canyon Wilderness Area;
8. Cave Creek and South Fork of Cave Creek [Chiricahua Mountains], from headwaters to the Coronado National Forest boundary;
9. Buehman Canyon Creek, from headwaters to approximately 9.8 miles downstream;
10. Lee Valley, from its headwaters to Lee Valley Reservoir;
11. Bear Wallow Creek, from its headwaters to the boundary of the San Carlos Indian Reservation;
12. North Fork of Bear Wallow Creek, from its headwaters to Bear Wallow Creek;
13. South Fork of Bear Wallow Creek, from its headwaters to Bear Wallow Creek;
14. Snake Creek, from its headwaters to its confluence with the Black River;
15. Hay Creek, from its headwaters to its confluence with the West Fork of the Black River;

⁷ These four requirements are: “1) the level of water quality necessary to protect existing uses is fully protected; 2) the highest statutory and regulatory requirements for all new and existing point sources as set forth in the Clean Water Act are achieved; 3) all cost-effective and reasonable best management practices for nonpoint source control are implemented; 4) allowing lower water quality is necessary to accommodate important economic or social development in the area in which surface water is located.” A.A.C. § R18-11-107C.

⁸ Available at <http://www.azdeq.gov/environ/water/assessment/anti.html>.

16. Stinky Creek, from the Fort Apache Indian Reservation boundary to its confluence with the West Fork of the Black River;
17. KP Creek, from its headwaters to its confluence with the Blue River; and
18. Cienega Creek, from confluence with Gardner Canyon and Spring Water Canyon at R18E T17S to USGS gaging station at 32 02' 9" / 110 40' 34" in Pima County.

Arizona does not make use of the Tier II _ classification, and surface waters are not formally designated as Tier I or II. However, Tier I waters are understood to be the water bodies listed on the state's 303(d) List.

ONRWs on BLM land

5 of Arizona's 18 unique waters cross BLM land. These are Peoples Canyon Creek, Burro Creek, Bonita Creek, Cienega Creek, and Aravaipa Creek.

State 305(b) Reporting

The National Assessment Database (NAD) contains information on the attainment of water quality standards. Assessed waters are classified as Fully Supporting, Threatened, or Not Supporting their designated uses. This information is reported in the National Water Quality Inventory Report to Congress under Section 305(b) of the CWA.⁹

State 303(d) List and TMDLs

The EPA TMDL Tracking System contains information on all impaired waters under section 303(d) of the CWA. The database also has information on EPA-approved TMDLs.¹⁰ As of 1998, the date of the most recent data in the EPA's tracking system, Arizona reported 103 water bodies on its 303(d) List and had 7 TMDLs approved. By 2002, after adoption of the credible data statute and companion rules, Arizona reported 32 water bodies on its 303(d) List and the EPA added an additional 19 water bodies. On December 5, 2002, EPA partially approved and partially disapproved Arizona's 303(d) listing submission. The EPA identified additional waters and pollutants which need to be included on Arizona's final 303(d) List. Following a comment period, the EPA transmitted the final Section 303(d) List to Arizona on February 27, 2003.¹¹

Arizona has recently completed its 2004 Integrated Report which contains 53 waters listed by the State. On November 16, 2004, the EPA partially approved and partially disapproved Arizona's 303(d) List and added an additional 19 water bodies and additional pollutants to 8 water bodies already listed. The EPA's final list was approved on March 17, 2005 and forwarded to the agency.

Arizona maintains GIS coverage of water bodies on its 303(d) List and posts maps of impaired waters online. The 2004 map will be available after the 303(d) List is finalized by the EPA. The 2002 map can currently be viewed online.¹² GIS data is available upon request from the DEQ.

⁹ Information about Arizona's attainment of water quality standards can be found at: http://oaspub.epa.gov/waters/w305b_report.state?p_state=AZ.

¹⁰ Arizona's 1998 303(d) Lists and approved TMDLs are available at: http://oaspub.epa.gov/waters/state_rept.control?p_state=AZ.

¹¹ The documents announcing EPA's December 5, 2002 and February 27, 2003 decisions can be found at: <http://www.epa.gov/region09/water/tmdl/303d.html>.

¹² Maps by watershed and by county are available at: <http://www.azdeq.gov/environ/water/assessment/305-02.html>.

303(d) List

In 2000, Arizona adopted new State statutes and regulations which significantly changed the State's 303(d) process. Arizona Revised Statute Title 49, sections 231-238 established procedures for identifying impaired waters which required TMDL analyses. For 303(d) listing decisions, the statute requires that the DEQ:

- Adopt, by rule, the methods used to identify “impaired” waters;
- Use only reasonably current, credible, and scientifically defensible data;
- Consider the nature of the water (e.g., ephemeral, intermittent, or perennial) in assessing whether a surface water is impaired;
- Determine whether pollutant loadings solely from naturally occurring conditions are sufficient to exceed a water quality standard, and if so, not list as “impaired”; and
- Adopt narrative implementation procedures before using narrative standards to identify impaired waters. These procedures must identify the objective basis for determining a narrative or biological standard violation.

The DEQ developed the Impaired Water Identification Rule as required by the new statute.¹³ These rules established criteria for listing and de-listing waters, criteria for prioritizing the 303(d) listed waters for TMDL development, and “credible data” criteria.

Listing and Credible Data Standards

Arizona has extensive credible data requirements, data interpretation procedures, and listing methods established in State rules. The Impaired Water Identification Rule guides this process.¹⁴ Adopted in July 2002, these rules have been used for two assessment and listing cycles. The agency currently has an ongoing stakeholder process to discuss possible revisions to the rule.

When evaluating a water body for placement on the 303(d) List, when assessing conventional pollutants, Arizona requires at least 20 spatially or temporally independent samples collected over 3 or more sampling events.¹⁵ A water is placed on the 303(d) List when a water quality standard is exceeded 10 percent of the time with a minimum of a 90 percent confidence level.¹⁶ For toxic pollutants the criteria is greater than one exceedance in 3 years for acute criteria and greater than one exceedance in five years for chronic criteria. Lastly, waters may be listed based on more than one exceedance of statistically based standards such as an annual mean nutrient standard or a geometric mean bacteria standard. Currently the rules provide that a water body will be placed on the 303(d) *Planning* List (discussed below) if narrative water quality standards are exceeded based on narrative implementation procedures which the State is currently developing.

In the 2002 rule, in addition to its 303(d) List, Arizona maintains a Planning List. Surface waters with any designated uses assessed as “inconclusive” or “not attaining” are placed on the Planning List for further monitoring. The Impaired Water Identification Rule (A.A.C. §

¹³ A.A.C. § R18-11-601 through 605.

¹⁴ A.A.C. § R18-11-600.

¹⁵ A.A.C. § R18-11-605(D)(1)(a).

¹⁶ A.A.C. § R18-11-605(D)(1)(b). Table 2 in A.A.C. § R18-11-605(D) provides the number of exceedances that indicate a minimum of a 10 percent exceedance frequency with a minimum of a 90 percent confidence level using a binomial distribution for a given sample size.

R18-11-605) provides a list of specific criteria for why a surface water must be placed on the Planning List. These include exceedance of standards; data availability does not meet credible data requirements; indications of narrative water quality standard violations; or a TMDL has been completed.

In order to support a listing or de-listing, the data must be credible and relevant.¹⁷ Arizona's credible data standard requires all water quality data to be collected using a suitable Quality Assurance Plan (QAP) and a site-specific Sampling and Analysis Plan (SAP). QAPs and SAPs must specify the use of accepted field and laboratory methods by adequately trained staff. The elements that must be included in a QAP are outlined in A.A.C. § R18-11-602(A)(1)(a) through (A)(1)(f), and the elements that must be included in a SAP are discussed in R18-11-602(A)(2).

De-Listing

Arizona will remove a surface water or segment from the 303(d) List when one or more of the following criteria are met:

- A TMDL is developed and approved by the EPA;
- The data used for listing is superseded by more credible data (meeting credible data requirements described above) showing that the water body meets the water quality standards;
- The water body no longer meets the criteria for impairment for the specific narrative water quality standard based on changes in the water quality standard implementation procedures;
- A re-evaluation of the data indicates that there was a deficiency in the original analysis; or
- Pollutant loadings from naturally occurring conditions alone are sufficient to cause a violation of applicable water quality standards.¹⁸

To remove a surface water from the 303(d) List due to improvement in water quality, State statute requires that the criteria used be no more stringent than those used for listing. At this time, those procedures for delisting from the 303(d) List are not explicitly established. The DEQ is currently revising its Impaired Water Identification Rule to include those procedures.

A surface water is removed from the Planning List if the surface water is assessed as impaired and added to the 303(d) List; there are sufficient credible data to determine that the surface water is attaining all of its designated uses; or all pollutants for the surface water or segment are delisted.¹⁹

TMDLs

In Arizona, TMDLs are generally apportioned proportionally based on contribution and flow. A number of TMDLs have been completed in Arizona and are in varying stages of implementation. In particular, the Oak Creek Pathogen TMDL; the Nutrioso Creek turbidity TMDL; the Boulder Creek TMDLs for cadmium, copper and zinc; and portions of the Hassayampa River metals TMDLs are currently being implemented. The US Forest Service is

¹⁷ A.A.C. § R18-11-602(A).

¹⁸ A.A.C. § R18-11-605(E)(2)(a).

¹⁹ A.A.C. § R18-11-605(E)(1).

investigating the feasibility of implementing TMDL cleanups in both the Turkey Creek and the Alum Gulch watersheds.

Currently, the major TMDL issues in Arizona revolve around metals, sediment, and mercury.

Water Quality Monitoring

Arizona's water quality monitoring program includes a network of fixed monitoring stations, watershed characterization monitoring, and targeted monitoring. One core of the ambient water quality monitoring program is the Fixed Station Network (FSN). The purpose of the FSN is to characterize baseline water quality of perennial, wadeable streams and to provide data to determine long-term water quality trends. This program incorporates longer monitoring time frames (more than 20 years) and lower site densities than the Watershed Characterization Monitoring Program (discussed below). The fixed sampling sites in the FSN are sampled quarterly each year. Currently, there are 28 DEQ fixed station sites.²⁰ Arizona also works with the USGS to operate the Cooperative Fixed Station Network monitoring program (USGS Co-op Program). The USGS conducts water quality monitoring at 16 USGS Co-op Program sites located on Arizona's larger rivers.²¹

Under Arizona's Watershed Characterization Monitoring Program, the DEQ has identified 10 major surface watersheds in Arizona. In 1998, the DEQ adopted a rotational watershed framework in which staff conducts water quality monitoring in wadeable, perennial streams located in two watersheds each year. All 10 watersheds are monitored over a 5-year cycle.²² As part of this monitoring program, staff collects analytical samples,²³ and conducts annual bioassessments and habitat assessments each spring at those wadeable, perennial sites with suitable characteristics.²⁴

Arizona also collects data on the its "Unique Waters" in the target watersheds as part of the Watershed Characterization Monitoring. These Unique Waters are monitored to determine whether the State antidegradation requirements are being met. The State also identifies monitoring data gaps on the 303(d) Planning List. Waters on the Planning List with an overall ranking of high would be scheduled for monitoring in the two years following the assessment report. Medium and low priority waters would be addressed in the subsequent three years.

²⁰ A map and description of these DEQ operated sites is available in Figure 43 in Arizona's Integrated 305(b) Assessment and 303(d) Listing Report, Draft, February 2004. Available at: <http://www.azdeq.gov/environ/water/assessment/2004.html>.

²¹ A map and description of these USGS sites is shown in Figure 43 in Arizona's Integrated 305(b) Assessment and 303(d) Listing Report, Draft, February 2004. Available at: <http://www.azdeq.gov/environ/water/assessment/2004.html>.

²² The following watersheds are included in this monitoring program: Bill Williams, Colorado – Lower Gila, Colorado Grand Canyon, Little Colorado – San Juan, Middle Gila, Salt, San Pedro – Willcox Playa to Rio Yaqui, Santa Cruz – Rio Magdalena to Rio Sonoyta, Upper Gila, and Verde. The watershed schedule is shown in Table 42 in Arizona's Integrated 305(b) Assessment and 303(d) Listing Report, Draft, February 2004. Available at: <http://www.azdeq.gov/environ/water/assessment/2004.html>.

²³ Analytical samples include field data, general chemistry, nutrients, metals, bacteria, and suspended sediment concentration.

²⁴ Bioassessment data are used to assess the health of the aquatic communities and is being collected to support the development of Arizona's biocriteria program.

Nonpoint Source Pollution Program

Arizona's Nonpoint Source Program applies to the following land use activities: Agriculture, Forestry, Urban runoff, Hydromodification, Septic waste treatment systems, Mining, and Recreation. The Nonpoint Source Program aims to address water quality issues, educate the public, and encourage public involvement and support for watershed protection programs.

Arizona uses a combination of tools in its Nonpoint Source Program including: surface and groundwater monitoring (discussed above); TMDL studies and implementation plans; and watershed management.

Following the Federal framework Arizona's TMDL Program includes point source (waste load) allocations and nonpoint source (load) allocations. However, there are no regulatory programs for nonpoint source pollution, so load reductions from nonpoint sources are strictly voluntary. In Arizona, most surface water impairment is a result of nonpoint source pollution. The state encourages stakeholders to participate in the TMDL process, but recognizes that the achievement of water quality standards will occur through voluntary efforts such as participation in watershed management groups, volunteer monitoring, pursuit of funding for cleanup measures, and education.

Arizona's watershed management program focuses on six activities. These include: development of watershed-based water quality management plans; development of TMDL implementation plans; coordination with local watershed groups; grants and outreach for available Water Quality Improvement Grants; volunteer monitoring; and regional 208 water quality planning. More information about these programs can be obtained at the DEQ's website,²⁵ and each of these activities is discussed in detail in Arizona's draft integrated report.²⁶

BMPs

Arizona does not have established best management practices (BMPs). However, the State recommends BMPs in Arizona's 5-Year Nonpoint Source Management Plan²⁷ and in the 2004-2007 Water Quality Improvement Grant Manual.²⁸

Federal Consistency

The Federal consistency provisions of section 319 of the CWA authorize Arizona to review Federal financial assistance programs and development projects for their effect on water quality. If the State determines that an application or project is not consistent with the State Nonpoint Source Management Program and notifies the Federal agency of its concerns, the agency must make efforts to accommodate the State's concerns, or explain its decision to not make accommodations, in accordance with Executive Order 12372. Additionally, section 313 of the CWA requires Federal agencies having jurisdiction over property or facilities, or engaged in activities which may result in water pollution, to comply with State and local water pollution control regulations and authorities to the same extent as any non-governmental entity.

²⁵ <http://www.azdeq.gov>.

²⁶ Arizona's Integrated 305(b) Assessment and 303(d) Listing Report, Draft, February 2004. Available at: <http://www.azdeq.gov/environ/water/assessment/2004.html>.

²⁷ Available at: <http://www.azdeq.gov/environ/water/watershed/nonpoint.html>.

²⁸ Available at: <http://www.azdeq.gov/environ/water/watershed/download/2005/att3.pdf>.

Enforceable State Laws/Policies/Programs to Limit NPS Pollution

Water Pollution Control Laws

Arizona's water pollution law has three provisions applicable to nonpoint source water pollution. First, Arizona law requires the DEQ to adopt not only permit requirements for point sources, but also to adopt a "program to control nonpoint source discharges of any pollutant or combination of pollutants into navigable waters."²⁹ Under this statute, enforceable mechanisms could be created by regulation. Second, Arizona's general discharge prohibition makes it a criminal offense to violate a water quality standard.³⁰ Third, Arizona has a regulatory program for aquifer protection permits. Facilities that may produce discharges to groundwater require an aquifer protection permit.³¹ Some of these include nonpoint source activities, such as mines. The DEQ is also authorized to issue general permits under the aquifer protection program requiring the use of BMPs and addressing silviculture and certain other activities.³²

Fish and Fisheries Laws

The Arizona Game and Fish Commission may bring an action against "any person, corporation, or government agency, to restrain or enjoin the person, corporation, or government agency from discharging or dumping into a stream or body of water in the State any deleterious substance which is injurious to wildlife."³³ It is also unlawful to take a fish by any means other than angling unless otherwise provided by the Commission.³⁴ Because there is no intent requirement, this may provide some recourse for fish kills.

Operational Requirements

Forestry Requirements

State law does not specify operational requirements related to nonpoint source water pollution from forestry activities.

Agriculture and Grazing Requirements

Under Arizona law, the DEQ must adopt rules for agricultural general permits consisting of BMPs for "regulated agricultural activities" including concentrated animal feeding operations.³⁵ Agricultural BMPs are those that the DEQ has determined "to be the most practical and effective means of reducing or preventing the discharge of pollutants by regulated agricultural activities."³⁶ Advisory committees were established to develop appropriate BMPs and recommend them to the DEQ. The use of BMPs may be waived in a specific region if the DEQ determines that existing regulated agricultural activities will not cause or contribute to violations of water quality standards.³⁷

²⁹ Ariz. Rev. Stat. Ann. § 49-203.A.

³⁰ Ariz. Rev. Stat. Ann. § 49-263.A.

³¹ Ariz. Rev. Stat. Ann. § 49-241.A.

³² Ariz. Rev. Stat. Ann. § 49-246.

³³ Ariz. Rev. Stat. Ann. § 17-237.

³⁴ Ariz. Rev. Stat. Ann. §§ 17-301, 17-309, 17-314.

³⁵ Ariz. Rev. Stat. Ann. § 49-247.

³⁶ Ariz. Rev. Stat. Ann. § 49-247.B.

³⁷ Ariz. Rev. Stat. Ann. § 49-247.B.

Arizona law also has specific requirements regarding grazing. ADEQ has adopted a “surface water quality general grazing permit consisting of *voluntary* best management practices for grazing activities.”³⁸ Although the DEQ must require the application of economically feasible voluntary BMPs that are “the most practical and effective means” of reducing or preventing discharge of pollutants by grazing activities, the DEQ “shall not require application of more stringent practices if such a requirement would result in cessation of significant reduction of grazing activity.”³⁹ The law requires the development and issuance of a permit, but because the BMPs are voluntary, there may be little enforceable action beyond simply requiring the permit.

Earth-Disturbing Activities

Arizona provides no statewide operating requirements for earth-disturbing activities. General land use regulations, such as zoning rules, may apply. Also, county boards of supervisors may adopt and enforce standards for excavation, landfill, and grading to prevent unnecessary loss from erosion, flooding, and landslides.⁴⁰

Stormwater Provisions

The State of Arizona is the stormwater permitting authority for all lands in Arizona, including BLM land, except for Indian country. In Indian country within the state, EPA is the permitting authority and requires submission of permit number AZR10000I.

³⁸ Ariz. Rev. Stat. Ann. § 49-202.01.A (emphasis added).

³⁹ Ariz. Rev. Stat. Ann. § 49-202.01.B.

⁴⁰ Ariz. Rev. Stat. Ann. § 11-251.36.