

# ARIZONA REVISED STATUTES

## Title 45 - Waters

### Chapter 1 – Administration and General Provisions

#### Article 10 - Registration of Stockponds

##### 45-271. Definition of stockpond

In this article, unless the context otherwise requires, "stockpond" means a pond having a capacity of not more than fifteen acre feet that is used solely for watering livestock or wildlife. "Stockpond" shall not include a pond of any capacity used primarily for fishing or for the culturing of fish.

##### 45-272. Water rights in stockponds; priority

A. The owner of any stockpond constructed after June 12, 1919 and prior to August 27, 1977, the capacity of which is not in excess of fifteen acre-feet and concerning which water rights litigation or protest to the state land department was not a matter of record prior to August 27, 1977, shall have a valid water right in such stockpond with priority as of the date of construction and shall be eligible for such evidence of validity as the director may prescribe.

B. All water rights issued pursuant to a permit or certificate issued prior to August 27, 1977 by the state land department or its predecessors or pursuant to an application to appropriate filed with the state land department or its predecessors prior to August 27, 1977, rights to the use of the mainstream waters of the Colorado river, rights previously acquired or validated by contract with the United States, court decree or other adjudication or rights acquired prior to June 12, 1919 and registered pursuant to article 7 of this chapter shall have priority over any water right claimed pursuant to this article.

C. Any person who is claiming a water right pursuant to this article and who fails to file a claim of water right prior to one year after the effective date of this amendment to this section shall have a water right priority as of the date of filing. An existing claim of water right under this article may be amended at any time before the completion of hearings on the claimed right pursuant to section 45-257, subsection A.

D. Subsequent to August 27, 1977, no person may construct or cause to be constructed a stockpond of any size unless the director of water resources or his predecessors have approved an application for a permit to appropriate such water filed pursuant to section 45-152.

##### 45-273. Claim of water right; penalty; fee

A. A claim of water right for a stockpond and application for certification of such right shall be typewritten or legibly written in ink and filed in duplicate with the director upon a printed form furnished by the director. Each blank in the form shall be completed with the required information pursuant to instructions furnished by the director.

B. A claim which does not contain the required information or which is not accompanied by the required filing fee shall not be accepted, but shall be returned to the sender.

C. A separate claim shall be filed for each stockpond.

D. All claims shall be certified as true under penalty of perjury.

E. Each claim shall be accompanied by a filing fee of ten dollars.

F. The director shall deposit, pursuant to sections 35-146 and 35-147, all fees received pursuant to this section in the water resources fund established by section 45-117.

##### 45-274. Notice of claims; protest; grounds; contents

A. The director shall issue and deliver a notice of each claim to water users who, in the judgment of the director, might be affected by the use of water as set forth in the claim.

B. Any person affected may, within the time allowed in the notice or such further time as the director may allow, file a written protest to the claim. The protesting party shall send a copy of the protest to the claimant.

C. A protest shall state:

1. The name and address of the protesting party.
  2. The location of the protesting party's point of diversion of water with respect to the claimant's stockpond.
  3. The grounds for protest.
  4. That a copy of the protest has been mailed or delivered to the claimant.
- D. The grounds for protest are that the claim contains a misstatement of one or more of the following material facts:
1. The date of construction of the stockpond.
  2. The capacity of the stockpond on August 27, 1977.
  3. The sole purpose for which the stockpond was constructed and is used is watering livestock or wildlife, except fish.
  4. The pond is not used primarily for fishing or culturing of fish.
  5. That the stockpond was not the subject of water rights litigation or protest to the state land department prior to August 27, 1977.

**45-275. Investigation, hearing and certification of claims**

- A. Upon receipt of a claim, the director shall conduct such investigation as in the director's judgment is necessary to certify the water right. Such investigation may include an inspection of the stockpond.
- B. When requested by a claimant or the protesting party, an administrative hearing shall be held to determine any material fact which is in dispute. A hearing may be held on the director's own motion.
- C. The director shall issue a certification of the water right if it appears that the material facts stated in the claim are true and entitle the claimant to a water right for the stockpond. The water right shall be subject to all prior rights, and the certification shall so state.
- D. Section 45-114, subsections A and B govern administrative proceedings, rehearing or review and judicial review of final decisions of the director under this section.

**45-276. Statement of continuing use; revocation of certification**

- A. Once every five years, and at such other times as the director deems appropriate, the director shall require certificate holders to furnish a statement, under penalty of perjury, that the stockpond water is continuing to be used solely for watering livestock or wildlife, that the pond is not used primarily for fishing or the culturing of fish and that the stockpond has not been increased in capacity.
- B. The director shall, after notice to the certificate holder and an opportunity for an administrative hearing, revoke any certification upon a finding that the water has ceased to be used solely for watering livestock or wildlife, that the pond is used primarily for fishing or the culturing of fish or that the stockpond has been increased in capacity.
- C. Section 45-114, subsections A and B govern administrative proceedings, rehearing or review and judicial review of final decisions of the director under this section.