

# ARIZONA REVISED STATUTES

## Title 45 - Waters

### Chapter 1 – Administration and General Provisions

#### Article 11 - Exportation of Water From This State

##### 45-291. Definition of person

In this article, unless the context otherwise requires, "person" means an individual, public or private corporation, company, partnership, firm, association, society, estate, trust, any other private organization or enterprise, the United States, any state, territory or country or a governmental entity, political subdivision or municipal corporation organized under or subject to the constitution and laws of the United States, this state or any other state.

##### 45-292. Approval required to transport water out of state; application; fee; criteria; hearing

A. A person may withdraw, or divert, and transport water from this state for a reasonable and beneficial use in another state if approved by the director pursuant to this article. A person shall not transport water from this state unless approved by the director, but this article does not apply to or prohibit transporting water from this state as required by interstate compact, federal law or international treaty.

B. An application to transport water from this state for use in another state shall be filed with the director, including a fee established by the director by rule. In establishing a fee by rule, the director may consider factors including the amount of time likely to be expended in processing the application, the amount of preexisting hydrological information available, if any, and the complexity of the application. The application shall include:

1. The name and address of the applicant's statutory agent in this state for service of process and other legal notices.
2. The legal basis for acquiring the water to be transported.
3. The purpose for which the water will be used.
4. The annual amount of water in acre-feet for which the application is made.
5. The proposed duration of the permit, not to exceed fifty years with an option to renew.
6. Studies satisfactory to the director of the probable hydrologic impact on the area from which the water is proposed to be transported.

7. Any other information which the director may require.

C. The director shall approve or reject the application. If the director approves the application, the director may prescribe terms and conditions for the approval. In determining whether to approve the application the director shall consider:

1. Whether the proposed action would be consistent with conservation of water, including any applicable management goals and plans.
2. Potential harm to the public welfare of the citizens of this state.
3. The supply of water to this state and current and future water demands in this state in general and the proposed source area in particular.

4. The feasibility of intrastate transportation of the water that is the subject of the application to alleviate water shortages in this state.

5. The availability of alternative sources of water in the other state.

6. The demands placed on the applicant's supply in the other state.

7. Whether the proposed action is prohibited or affected by other law, including sections 45-165 and 45-172 and chapter 2 of this title.

D. This article does not authorize and the director shall not approve transporting from this state water allocated to this state by federal law or interstate compact.

E. An administrative hearing shall be held on the application, and the director shall give notice of the hearing by publication once a week for three consecutive weeks in a newspaper of general circulation in the county or counties from which the applicant proposes to transport the water. The hearing shall be conducted

in the area from which water is proposed to be transported. Any interested person, including the department, may appear and give oral or written testimony on all issues involved.

F. 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.

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

**45-293. Compliance monitoring, reports and notices; jurisdiction**

A. The director shall monitor compliance with the terms and conditions prescribed for transporting and using the water out of this state and shall revoke his approval for any material violation of the prescribed terms and conditions.

B. A person transporting water under this article shall provide:

1. Written continuing consent for the director or the director's agent to perform on-site inspections of the transportation facilities and the use of the water.

2. Written periodic reports as required by the director.

3. Written notification of any changes in use of water transported from this state.

C. By applying for approval to transport water from this state under this article, a person submits to the jurisdiction of this state for that purpose and shall comply with all relevant provisions of the law of this state.

**45-294. Limited nonapplicability**

Nothing in this article is intended to prescribe nor shall it be interpreted to prescribe the terms, conditions or rules for the transportation of water where the point of diversion or withdrawal and the point of use are both within the state of Arizona.