

ARIZONA REVISED STATUTES

Title 45 - Waters

Chapter 1 – Administration and General Provisions

Article 13 - Colorado River Water Use Fee

45-331. Definitions

In this article, unless the context otherwise requires:

1. "Consumptive use" means, for any water user for any program year, the consumptive use as recorded in the final accounting for the most recent calendar year for which a final accounting is available, or if none is recorded, the amount of diversions so recorded.

2. "Final accounting" means, for any calendar year, the United States bureau of reclamation's final compilation of records of Colorado river diversions, return flows and consumptive uses for the year, compiled pursuant to article V(b) of the decree of the United States supreme court in *Arizona v. California*, 376 U.S. 340 (1964).

3. "Lower Colorado river multispecies conservation program" or "program" means the cooperative effort among agencies of the federal government and agencies and political subdivisions of the states of Arizona, California and Nevada and other local public and private parties with a common interest in the water and related resources of the lower Colorado river, including the historic floodplain and reservoirs to the full pool elevations, to provide the basis for compliance with sections 7 and 10(a)(1)(B) of the endangered species act of 1973 (P.L. 93-205; 87 Stat. 884; 16 United States Code sections 1536 and 1539).

4. "Program year" means the twelve month period beginning October 1 of any calendar year and ending September 30 of the following calendar year.

45-332. Cooperation in lower Colorado river multispecies conservation program

On behalf of the department, the director may enter into one or more agreements with a multi-county water conservation district and other parties for participation in the lower Colorado river multispecies conservation program, including the collection of one or more fees under this article for purposes of the lower Colorado river multispecies conservation program.

45-333. Colorado river water use fee: purpose

A. The director may assess and collect annual Colorado river water use fees from each person who diverts and consumptively uses water in this state from the mainstream of the Colorado river as recorded in the final accounting. This fee does not apply to persons who are paying fees and are current in their payments under agreements with a multi-county water conservation district and other parties for participation in the lower Colorado river multispecies conservation program with respect to the use of Colorado river water.

B. The director shall set the amount of a fee under this section each year according to the guidelines in section 45-334.

C. Any monies collected pursuant to this section shall be segregated from other revenues and deposited, pursuant to sections 35-146 and 35-147, in a fund designated as the Colorado river water use fee clearing account. Each month, on notification by the director, the state treasurer shall pay all of the monies in the clearing account to an account designated by a multi-county water conservation district established under title 48, chapter 22 to be used solely for the lower Colorado river multispecies conservation program and for no other purpose.

45-334. Setting Colorado river water use fee

A. In setting colorado river water use fees under this article:

1. Not later than July 1 of each year, the director shall set the colorado river water use fees for the following program year. The director shall consider the following in setting the amount of the fees:

(a) The consumptive use for that program year by the persons to whom the fee will be assessed.

(b) The payment obligations that apply to similar water users under agreements to fund the lower Colorado river multispecies conservation program.

(c) The amount of monies necessary to fund the lower Colorado river multispecies conservation program for that program year.

(d) The amount of monies expected to be available to fund the lower Colorado river multispecies conservation program during the program year from other sources.

2. The director may establish classes of water users for the purpose of assigning graduated fee rates to the respective classes.

3. The director shall consider the date of any contract or other right to use colorado river water and the type of water use when assigning fee rates.

4. The director shall enter in the department's records a statement of the fees for the following program year and transmit a copy of the statement to the state treasurer.

5. Before setting the fees, the director shall consult with representatives of the water users which will be assessed for the fees. The director shall publish notice of the fees and provide a comment period of at least thirty days before setting the final fee amounts.

6. Within thirty days after the director sets fees for a program year, the director shall give written notice of the fees to each person with consumptive use.

7. The director shall calculate the total amount of the fee that a person must pay for the consumptive use of Colorado river water for a program year by multiplying the applicable annual fee for that program year by the consumptive use for the person for the program year. The director may reduce the amount of a person's fee by the value of any services or tangible assets, including land or water, contributed by the person to, and accepted by, the federal government for use in the lower Colorado river multispecies conservation program.

B. The director shall give written notice of the total amount of the fee that a person must pay under this section no later than August 15 before the beginning of the program year.

45-335. Payment of fee: penalty for delinquency

A. If the director assesses a fee pursuant to this article in any year, a person to whom the fee is assessed must pay the fee within forty-five days after the person receives written notice of the total amount of the fee from the director.

B. If a person fails to pay the fee when due, the director may assess and collect a penalty of ten per cent of the unpaid fee, without compounding, for each month or portion of a month that the fee is delinquent. The total penalty assessed shall not exceed sixty per cent of the unpaid fee. An action to recover penalties under this subsection shall be brought in the superior court in Maricopa county. Any penalties collected shall be deposited, pursuant to sections 35-146 and 35-147, in the Colorado river water use fee clearing account established pursuant to section 45-333.