

May 22, 2013

REVISED SUBSTANTIVE POLICY STATEMENTS FOR THE UNDERGROUND WATER STORAGE, SAVINGS AND REPLENISHMENT PROGRAM

On May 20, 2013, the Department issued two substantive policy statements that revised previously issued substantive policy statements relating to the Underground Water Storage, Savings and Replenishment Program. The revised substantive policy statements are titled: (1) “Underground Water Storage Permit Application Guidance – Technical and Financial Capability and Unreasonable Harm and Hydrologic Feasibility” (R9), and (2) “Underground Storage Facility Permit Application Guide” (R10). The revised Substantive Policy Statements are available here: [R9 and R10](#). The revisions made to the previously issued substantive policy statements are described below.

Underground Water Storage Permit Application Guidance – Technical and Financial Capability and Unreasonable Harm and Hydrologic Feasibility (R9)

In 2002, the Department issued Substantive Policy Statement R5 titled “Underground Water Storage Permit Application Guidance – Technical and Financial Capability and Unreasonable Harm and Hydrologic Feasibility.” Substantive Policy Statement R5 consisted of the following two papers: (1) a paper titled “Technical and Financial Capability, A.R.S. § 45-811.01(C)(1),” and (2) a paper titled “Unreasonable Harm and Hydrologic Feasibility, A.R.S. § 45-811.01(C)(2), (3), and (5)” (collectively “USF Guidance Papers”). The purpose of the USF Guidance Papers was to assist applicants for Underground Storage Facility (“USF”) permits with the identification of appropriate evidence that may be submitted to establish that certain criteria in A.R.S. § 45-811.01(C) have been met.

Substantive Policy Statement R9 contains the following revisions to the USF Guidance Papers:

1. The paper titled “Technical and Financial Capability, A.R.S. § 45-811.01(C)(1)” has been revised by removing the language in Section IV(b) stating that an applicant may establish that it has access to the proposed USF site by submitting proof that it is in the process of obtaining a deed, easement, lease, license or other proof of access to the site. That language has been replaced with language stating that if the applicant does not have legal access to the site, the applicant must submit proof that it has the exclusive right to acquire legal access to the site, such as a purchase contract or other agreement with the site owner. Language has been added at the end of Section IV stating that if the applicant submits evidence that it has the exclusive right to acquire legal access to the site, the Director may issue the permit conditioned upon the applicant obtaining that access within a specified period of time. A conforming change has been made to Section I and the first sentence of Section IV of the paper.

2. The paper titled “Unreasonable Harm and Hydrologic Feasibility, A.R.S. § 45-811.01(C)(2), (3), and (5)” has been revised by adding language to Section I clarifying that the requirement to obtain an Aquifer Protection Permit from the Arizona Department of Environmental Quality applies if effluent will be stored at the proposed USF.

Underground Storage Facility Permit Application Guide (R10)

In 2004, the Department adopted Substantive Policy Statement R8, which consisted of three application guides for the Underground Water Storage Program. One of the application guides was an Underground Storage Facility Permit Application Guide (“USF Application Guide”) that provides information on the USF permit application process and assistance in completing the USF application form.

The Department has revised the USF Application Guide to reflect the changes described above to “Underground Water Storage Permit Application Guidance – Technical and Financial Capability and Unreasonable Harm and Hydrologic Feasibility” (R9). Additionally, revisions have been made to update the fee schedule description, application submittal instructions, as well as Department organizational and contact information.