

**REPORT
 HIGHLIGHTS**
 PERFORMANCE AUDIT

Subject

The Water Quality Division enforces water quality standards in Arizona. The Division assesses the quality of the State's waters, ensures cleanup of contaminated water, regulates drinking and wastewater systems, and provides assistance and education.

Our Conclusion

Some of Arizona's drinking water systems, mostly small systems, continue to be significantly out of compliance with standards. The Division can help them comply by expanding its testing program for small companies. The Division is also not charging water systems for plan reviews, as required by law. The Department has made progress in eliminating the backlog of applications for aquifer protection permits but needs to recalculate its fees.



2004

**The Division Should
 Increase Its Enforcement
 of Drinking Water
 Standards**

The Division is the primary agency for enforcing state and federal water quality standards under an agreement with the U.S. Environmental Protection Agency (EPA). The drinking water standards prescribe the maximum levels of contaminants, measured in parts per million, that can be in the water and still be safe. Some of these contaminants include such things as fecal coliform—bacteria found in human and animal waste—and unhealthy minerals, such as nitrates.

The State has about 1,650 drinking water systems, each serving from 25 to at least 1.2 million businesses and people.

Companies in noncompliance—To ensure safe water, drinking water systems are required to test their water for contaminants every month and report the results to the Division. Not doing so is a violation. The Division submits the reports to the EPA, which determines those systems that are significantly noncompliant (SNC).

EPA provides a “SNC list” to the Division and the Division develops a Drinking Water Priority Log for taking enforcement action. However, because the Division



has only three drinking water enforcement officers, it does not take action against all systems on the log. As of March 2004, only 53 (47 percent) of the 111 systems on the log were assigned to enforcement staff.

Key Facts

Drinking Water Priority Log

| | |
|-----|---|
| 111 | Number of companies on log |
| 100 | Small companies (fewer than 10,000 people or businesses or homes) |
| 68 | Companies with nitrate violations |
| 53 | Companies receiving enforcement |
| 3 | Enforcement officers |

Enforcement focused on nitrates—Currently, the Division is focusing its enforcement actions on violations involving nitrates—either failure to test for nitrates or having unallowably high levels of them. However, systems on the log with other violations may continue in noncompliance for years. These other

systems—which the EPA also considers significantly noncompliant—have been out of compliance for between 1 and 8 years.

More use of letters—The Division is trying to encourage more compliance by using letters. It has sent a mass mailing to all systems on the log that have nitrate violations, listing the requirements and asking them to return to compliance. It has also increased the number of reminder letters it sends to systems that do not report test results.

Expanding Monitoring Assistance Program (MAP)—All Arizona public water systems serving fewer than 10,000 businesses or homes are required to participate in MAP. Under MAP, the systems pay a fee to the Division and it hires a private contractor to conduct

some of their required tests. The Division should review whether MAP could be expanded to include the other required tests. Although this would require a fee increase, in theory the fees should not be any higher than the amount the systems are already supposed to be paying to conduct the tests themselves.

Evaluate need for more staff—Staff reductions have limited enforcement. Since July 2000, the Division lost two of its five enforcement officer positions, and placed its hiring priorities on addressing a backlog in another area. With the backlog apparently under control, the enforcement staffing could possibly be reevaluated. Additionally, expanding the MAP program could help reduce enforcement needs. The Division should evaluate expanding MAP and then review enforcement staffing needs.

Recommendations

The Division should:

- Consider the costs and benefits of expanding MAP.
- Review its enforcement staff levels and needs.

Division Should Charge for Plan Reviews

Statute requires the Division to conduct pre- and post-construction plan reviews of drinking water facilities. These facilities include complex water treatment plants, wells, and public swimming pools and spas. The Division may delegate and has delegated these plan reviews to counties and cities. For example, four counties—Maricopa, Pima, Yavapai, and Yuma—currently are authorized to conduct drinking water plan reviews. Statute also

requires the Division to charge for these reviews. Although the four counties charge for their reviews, the Division does not because of past industry opposition. While some in the industry agree that the Division should charge fees, they also believe it is a burden on small water systems. However, 79 percent of the State's small water systems are reviewed by the counties and do pay fees.

Rather than charging fees, the Division pays for its reviews with General Fund and other monies. These monies could be allocated to other uses if the Division charged fees as required by law.

Funding sources for division reviews:

| | |
|------------------|------------------------|
| \$346,300 | General Fund |
| 271,500 | Federal grants |
| 58,400 | Water Quality Fee Fund |
| <u>\$676,200</u> | Total |

Recommendations

The Division should:

- Establish fees to cover the cost of drinking water plan reviews, thereby reducing reliance on the General Fund.

The Division Makes Progress on APP Applications

The Aquifer Protection Permit (APP) program was developed to ensure that contamination from wastewater treatment plants, industrial facilities, and mines did not reach an aquifer. Aquifers are underground areas of sand and gravel where water flows, supplying wells and springs.

When the Division learns of a facility that discharges or may discharge into an aquifer, the Division notifies the facility that it must apply for an APP. If the facility does not respond, it is investigated, and, if it is not in compliance, the Division can impose sanctions.

The Division issues four types of individual APPs—industrial, mining, wastewater, and drywell. Forty percent of APPs are for industrial and mining facilities.

The Division has historically had a substantial backlog of APP applications. As a result, the Legislature has, on two different occasions, established statutory deadlines for eliminating the backlogs.

The most recent deadlines were January 1, 2004, for nonmining (including industrial) APP applications and January 1, 2006, for mining APP applications.

The Division processed all nonmining APP applications but one, as of December 2003. It did this by creating its OPERA (Operation Permit Arizona) program, which:

- Streamlined the application process
- Provided additional help to applicants in completing data
- Reassigned staff from other areas to help process the APPs

The Division is now working on an OPERA2 program to address the deadline for mining APPs.

Types of Facilities

- Industrial**—manufacturing, car washes
- Mining**—mining, milling, leaching
- Wastewater**—sewage and wastewater treatment
- Drywell**—a well that receives stormwater.

Status of APPs December 2003

Nonmining APPs

| | |
|-----|--|
| 524 | Individual APPs Issued |
| 61 | Denied or withdrawn |
| 23 | Referred to compliance unit for action |
| 1 | Pending |

Mining APPs

| | |
|----|--|
| 13 | In process |
| 11 | Referred to compliance unit for action |
| 10 | Application past due |

The Division Should Adjust Its APP Processing Fees

Because the APP program is a state and not a federal program, it is operated using state General Fund money and user fees. Statutes require the Division to use fees to recover its direct costs. These may include compensation for employee time spent on applications and travel expenses, although it cannot recover indirect costs, such as utility expenses.

While the Division should use fees to recover its direct costs, it actually uses General Fund monies first, then supplements with fees. The Division estimates how much General Fund money it will receive and then subtracts this amount from its total APP costs. It then sets its fees to recover the difference.

\$ Total estimated APP costs
— Estimated General Fund money
= Total amount from fees

Instead, the Division should determine its direct costs and calculate fees based on those costs without regard to the General Fund money. In addition, the Division has not charged fees for travel time to permit sites, which is a direct cost. Once the Division has adjusted its fees to recover its indirect costs, it should also adjust its future General Fund appropriations requests to cover its true indirect costs.

TO OBTAIN MORE INFORMATION

A copy of the full report can be obtained by calling
(602) 553-0333



or by visiting our Web site at:
www.auditorgen.state.az.us

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Recommendations

The Division should:

- Regularly recalculate fees based on actual direct costs and current estimates of direct costs and billable hours.
- Include travel in direct costs.
- Base future General Fund appropriation requests on true indirect costs.