

**§ 49-371. Local stormwater quality programs; authority; limitations; fee; civil penalty; definition**

A. A county that is required by the clean water act to obtain coverage under a national or state pollutant discharge elimination system stormwater program may do all of the following:

1. Develop and implement stormwater pollution prevention plans and stormwater management programs as prescribed by the clean water act.
2. Adopt, amend, repeal and implement any ordinances, rules or regulations necessary to comply with the minimum requirements of the clean water act, including the imposition and collection of fees for issuing and administering permits, reviewing plans and conducting inspections. Any fees imposed pursuant to this section shall not exceed the reasonable costs of the county to issue and administer permits, review plans and conduct inspections. Fees collected pursuant to this section may not be used to fund stormwater infrastructure costs.
3. Adopt rules, regulations or ordinances regulating the use of lands or rights-of-way owned or leased by the county as may be necessary to implement and enforce its national or state pollutant discharge elimination system stormwater management program. Rules, regulations or ordinances adopted pursuant to this paragraph may include provisions for both of the following:
  - (a) Establishment and enforcement of a county permit program, including conditions for the review, issuance, revision, renewal, revocation, administration and enforcement of a permit.
  - (b) Establishment of fees for the use of lands or rights-of-way and the discharge of stormwater or other waters onto or across those lands or rights-of-way pursuant to a permit.
4. Enforce the ordinances, rules or regulations adopted pursuant to this section consistent with section 49-372.
5. Seek a civil penalty of not more than two thousand five hundred dollars for each violation. Each day of a violation constitutes a separate offense.

B. An ordinance, rule or regulation adopted pursuant to this section, or a stormwater management program developed and implemented by a county pursuant to this section, shall not be more stringent than or conflict with any requirement of the clean water act.

C. A county that operates a regulated small municipal separate storm sewer system shall conduct its pollutant discharge elimination system stormwater management program and shall limit the application of any ordinance, rule or regulation as follows:

1. In urbanized areas as described in 40 Code of Federal Regulations section 122.32 as necessary to meet the requirements of 40 Code of Federal Regulations section 122.34(b)(3).

2. As necessary to meet the requirements of public education and outreach, public involvement and participation as provided by the clean water act.

D. For the purposes of this section and except as required by the clean water act, a county may not require a permit from any person with a federal or state pollutant discharge elimination system permit regulating the same activity at the same location.

E. For the purposes of this section and except as required by 40 Code of Federal Regulations section 122.34, a county may not regulate any person or activity exempt under 33 United States Code section 1342(l), 40 Code of Federal Regulations section 122.3 or Arizona administrative code 18-9-A902(G).

F. For the purposes of adopting an ordinance, rule or regulation pursuant to this section, a county shall use the definitions prescribed in section 49-255.

G. Fees received by a county pursuant to an ordinance or rule adopted pursuant to this article shall be deposited with the county for use in administering the programs or plans developed and implemented pursuant to this section.

H. Before adopting any ordinance, rule or regulation pursuant to this section, a county shall file with the secretary of state a written statement including a summary of the proposed rule, ordinance or other regulation. The summary shall provide the name of the person with the county to contact with questions or comments. The secretary of state shall publish the written statement in the next issue of the Arizona administrative register at no cost to the county. The county shall make the text of the rule, ordinance or other regulation available to the public at the same time it files the written summary of the rule, ordinance or other regulation with the secretary of state as provided in this subsection. The county shall also comply with the requirements of section 49-112, subsection D, paragraphs 2, 3 and 4.

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I. For the purposes of this article, "county" means a county that operates a regulated small municipal separate stormwater system pursuant to 40 Code of Federal Regulations section 122.32.

**§ 49-372. Administrative director; enforcement**

A. A county may designate and authorize an administrative director for the program or plan prescribed by section 49-371 to perform enforcement duties. If the administrative director determines that a person is in violation of an ordinance, rule or regulation adopted pursuant to section 49-371 or a permit authorized pursuant to that section, the administrative director may take actions consistent with this article and section 49-261.

B. A county that adopts ordinances, rules or regulations pursuant to section 49-371 may enforce those ordinances, rules or regulations as prescribed by sections 49-261, 49-262 and 49-263 for violations of this article as if this article were referenced in sections 49-261, 49-262 and 49-263 except for the following:

1. Appeals under section 49-261, subsection D shall be filed in the superior court.
2. Section 49-262, subsections F, G, H, I and J do not apply.
3. Any other section of statute prescribed in section 49-261, 49-262 or 49-263 does not apply.

C. The county's attorney and the county's designated administrative director have the authority prescribed for the attorney general and the director of environmental quality, respectively, pursuant to sections 49-261, 49-262 and 49-263.

D. Notwithstanding sections 49-262 and 49-263, penalties obtained pursuant to this article by a county shall be deposited into the county general fund.

E. A county shall not receive civil penalties under this section if an interested person, the United States, this state or another political subdivision or agency of this state has received civil penalties or is diligently prosecuting a civil penalty action in a court of the United States or this state, or in an administrative enforcement proceeding, with respect to the same allegations, standard, requirement or order. This state, and any political subdivision or agency of this state that is or may be affected by a civil, judicial or administrative action, may intervene as a matter of right in any pending civil, judicial or administrative action for purposes of obtaining injunctive or declaratory relief.