



Arizona Department of Environmental Quality

Sunset Review

36-Month Followup of Report 21-117

The September 2021 Arizona Department of Environmental Quality sunset review was the second of 2 audit reports we issued as part of the Department’s sunset review. The first performance audit found that the Department had not developed all required aquifer water quality standards, conducted key ongoing groundwater monitoring of the State’s aquifers, monitored for agricultural pesticides in groundwater and surrounding soil, or reduced the number of impaired surface waters in the State, limiting its ability to keep these waters safe from pollution.¹

The September 2021 sunset review found that although the Department met its statutory objective and purpose in some areas we reviewed, it had not complied with State conflict-of-interest requirements and did not fully implement some key information technology security policies and requirements. This second audit also provided responses to the statutory sunset factors. We made **16** recommendations to the Department.

¹ For more information on the first performance audit we issued as part of the Department’s sunset review, including the applicable follow-up report, see [Report 21-116](#).

Recommendation implementation statuses

Department's status in implementing 16 recommendations

Implementation status	Number of recommendations
 Implemented	14 recommendations
 Partially implemented	1 recommendation
 In process	1 recommendation

Unless otherwise directed by the Joint Legislative Audit Committee, this report concludes our follow-up work on the Department's efforts to implement the recommendations from the September 2021 sunset review report.

Recommendations to the Department

Finding 1: Department did not comply with some conflict-of-interest requirements, increasing risk that employees and public officers had not disclosed substantial interests that might influence or could affect their official conduct

1. The Department should continue to implement its updated conflict-of-interest policies and procedures to help ensure it complies with State conflict-of-interest requirements and follows recommended practices, including:
 - a. Requiring all employees and public officers to complete a conflict-of-interest disclosure form upon hire and annually, including attesting that no conflicts exist, if applicable.
 - ▶ Status: **Implemented at 12 months.**
 - b. Using a conflict-of-interest disclosure form that addresses both financial and decision-making conflicts of interest.
 - ▶ Status: **Implemented at 12 months.**
 - c. Storing all substantial interest disclosures in a special file.
 - ▶ Status: **Implemented at 12 months.**

- d. Establishing a process to review and remediate disclosed conflicts.

▶ Status: **Implemented at 36 months.**

As reported in our initial followup, the Department developed policies and procedures for reviewing and remediating disclosed conflicts. From January 2023 through August 2024, the Department identified 2 employee disclosures that it reviewed, determined these employee disclosures constituted a substantial interest, and completed a remediation/mitigation plan for these substantial interest disclosures, as required by its policies and procedures. The Department also placed the 2 substantial interest disclosures in its special file, consistent with its policies and procedures.

2. Continue to provide periodic training on its conflict-of-interest requirements, process, and form, including providing training to all employees and public officers on how the State's conflict-of-interest requirements relate to their unique program, function, or responsibilities.

▶ Status: **Implemented at 12 months.**

Sunset Factor 2: The extent to which the Department has met its statutory objective and purpose and the efficiency with which it has operated.

3. The Department should create a written action plan that prioritizes the development and implementation of IT security policies and procedures required by ASET and recommended by credible industry standards. The action plan should include specific tasks and their estimated completion dates, as well as a process for regularly reviewing and updating the plan based on its progress.

▶ Status: **Implemented at 12 months.**

4. Develop and implement IT security policies and procedures consistent with its action plan, ASET requirements, and credible industry standards.

▶ Status: **Implementation in process.**

As reported in our initial followup, the Department developed and began implementing IT security policies and procedures consistent with its action plan, ASET requirements, and credible industry standards.² Although the Department has continued to develop and implement IT security policies and procedures based on its action plan, it has not yet developed all required policies and procedures. For example, the Department has not yet developed procedures to address how data created, stored, processed or transmitted on agency systems shall be classified according to the impact to the State or citizens resulting from the disclosure, modification, breach or destruction of the data as required by Arizona Department of Homeland Security (ADOHS).³ The Department reported that it will complete developing and implementing all required IT security policies and procedures by the end of fiscal year 2025.

² Effective September 24, 2022, Laws 2022, Ch. 50, transferred the responsibility for State agency IT and data security oversight from ASET to the ADOHS.

³ ADOHS Data Classification policy 8110(6.1).

Sunset Factor 4: The extent to which rules adopted by the Department are consistent with the legislative mandate.

5. The Department should work with its Assistant Attorney General to determine whether and when it can develop and adopt rules as required by statute.

▶ Status: **Implemented at 36 months.**

As reported in our initial followup, the Department has identified the rules it is required to develop and adopt, and it requested and received an exemption to the rulemaking moratorium to pursue rulemaking for some of these required rules.⁴ The Department also developed a tracker for monitoring its progress in adopting all rules it is required to develop and adopt (see recommendation 6 for more information on the Department's efforts to adopt required rules).

6. Contingent on receiving an exemption to the rule-making moratorium, adopt rules as required by statute.

▶ Status: **Partially implemented at 36 months.**

Since September 2022, the Department has made progress on adopting rules required by statute. For example, the Department has adopted rules pursuant to A.R.S. §49-761 for solid waste facilities, such as requirements for storing, processing, treating, and disposing of solid waste. According to the Department, it plans to adopt all rules required by statute by the end of calendar year 2027.

Sunset Factor 5: The extent to which the Department has encouraged input from the public before adopting its rules and the extent to which it has informed the public as to its actions and their expected impact on the public.

7. The Department should continue to implement the revisions to its rulemaking policies and procedures to ensure the public receives the full 30 days to submit written comments after publishing the notice of a proposed rulemaking.

▶ Status: **Implemented at 12 months.**

8. Make public meeting minutes, or a recording of these public meetings, available for public inspection within 3 working days following a meeting.

▶ Status: **Implemented at 12 months.**

⁴ Effective January 19, 2022, the Governor's Executive Order 2022-01 continued a moratorium on rulemaking for State agencies subject to the Executive Order, unless those agencies received approval from the Governor's Office. Effective September 24, 2022, Laws 2022, Ch. 265, a law was established requiring State agencies to receive approval from the Governor before conducting rulemaking.

Sunset Factor 6: The extent to which the Department has been able to investigate and resolve complaints that are within its jurisdiction and the ability of the Department to timely investigate and resolve complaints within its jurisdiction.

9. The Department should respond to complainants within 5 business days of assigning the complaint to staff for investigation, as required by Department policy.

▶ Status: **Implemented at 12 months.**

10. Investigate and resolve complaints within 180 days by developing and implementing policies and procedures for complaint investigation and resolution, including guidance for prioritizing complaints for investigation and time frames for completing the various steps in the complaint resolution process, such as assigning complaints to staff and completing complaint investigations.

▶ Status: **Implemented at 12 months.**

11. Respond to comments regarding the Vehicle Emissions Inspection Program (VEIP) within 2 business days, and ensure comments are closed within 2 business weeks, as required by Department policy.

▶ Status: **Implemented at 12 months.**

12. Develop and implement guidance for referring VEIP comments to other agencies, including guidance on when supervisory review is required before comments are referred to other agencies.

▶ Status: **Implemented at 36 months.**

The Department has developed and implemented policies and procedures for receiving and responding to VEIP comments, as well as for escalating comments for supervisory review, such as in instances to determine whether VEIP comments should be referred to other agencies. Our review of a sample of 5 of 17 VEIP comments it received in fiscal year 2024, found that all 5 comments were appropriately escalated for supervisory review, consistent with Department guidance, and 3 of these comments were referred to other agencies. Based on its review and determination, the Department did not refer the remaining 2 comments to other agencies, consistent with its guidance.

13. Continue to implement its new policy and procedure for reviewing and documenting its review of comments received by the VEIP contractor.

▶ Status: **Implemented at 12 months.**