

5-103. Large Municipal Provider Total Gallons Per Capita Per Day Program

E. Exclusion of Deliveries of Central Arizona Project Water from Total GPCD Requirement

1. Exclusion

A large municipal provider may apply to the director to have CAP water delivered by the provider to a non-residential customer excluded from the provider's total water use when determining the provider's compliance with its total GPCD requirement as established pursuant to subsection B of this section. The director shall grant a one time exclusion for a period not to exceed ten years if the director finds that all of the following apply:

- a. The provider will ultimately serve direct use effluent to the non-residential customer from a wastewater treatment plant that is either in existence or planned for construction; the provider will begin replacing the deliveries of CAP water with direct use effluent as soon as direct use effluent becomes available for delivery to the non-residential customer from the treatment facility; and the provider will completely replace the deliveries of CAP water with direct use effluent within a reasonable period of time, not to exceed ten years.*
- b. The CAP water that the provider will deliver to the non-residential customer cannot be delivered through the provider's potable water distribution system to any of its customers located outside the boundaries of a water users association, as defined in A.R.S. § 10-140, because of treatment facility or distribution system limitations, and the provider's CAP water treatment facilities and potable water distribution system have a reasonable level of capacity.*
- c. Granting the exclusion will result in the non-residential customer receiving effluent sooner than it would if the exclusion is not granted, and the effluent that the non-residential customer will receive as a result of the exclusion would not otherwise be put to a direct beneficial use by the provider.*
- d. Neither the Non-Per Capita Conservation Program described in section 5-104 of this chapter nor the Alternative Conservation Program described in section 5-105 of this chapter are currently an appropriate conservation program for the provider.*
- e. If the non-residential customer is a turf-related facility, a large-scale cooling facility, or a publicly owned right-of-way, the customer will be required to comply with conservation requirements during the duration of the exclusion identical to the conservation requirements that would apply to the customer under section 5-112 of this chapter if the customer was using groundwater.*
- f. If the CAP water that the provider will deliver to the non-residential customer is to be recovered by the provider pursuant to a recovery well permit issued under Title 45, Chapter 3.1, Arizona Revised Statutes, the provider is unable to deliver CAP water to the customer except from a recovery well.*

2. Duration of Exclusion

The duration of any exclusion granted pursuant to paragraph 1 of this subsection shall be determined by the director at the time the exclusion is granted and shall not exceed ten

years. After the exclusion has become effective, the director may at any time rescind the exclusion, or reduce the amount of the exclusion as determined pursuant to paragraph 3 of this subsection, if the director determines that one of the following applies:

- a. The large municipal provider is not delivering all available effluent to the non-residential customer.
- b. The large municipal provider will not entirely replace the deliveries of CAP water with effluent by the date determined by the director to be reasonable at the time the exclusion was granted.
- c. The large municipal provider's CAP water treatment facilities or potable water distribution system no longer have a reasonable level of capacity.

3. Amount of Exclusion

During the duration of any exclusion granted pursuant to paragraph 1 of this subsection, the amount of CAP water that shall be excluded from the large municipal provider's total water usage in any calendar year shall be calculated as follows:

- a. Determine the amount of CAP water delivered by the provider to the non-residential customer during the calendar year and then subtract from that amount any amount of water used by the non-residential customer during the year in excess of the conservation requirements applicable to such use as set forth in section 5-112 of this chapter.
- b. The amount of CAP water that shall be excluded from the provider's total water use during the calendar year shall be the volume from subparagraph a above, but not to exceed the lesser of the following:
 - 1) The amount of effluent that will be available for direct delivery by the provider to the non-residential customer during the last year of the exclusion, as determined by the director at the time the exclusion is granted.
 - 2) The amount of groundwater that would have been used by the non-residential customer during the year if the provider had not served CAP water to the customer, as determined by the director.

4. Agreement by Non-Residential Customer Not to Use Groundwater; Exception

An exclusion granted pursuant to paragraph 1 of this subsection shall not become effective until the non-residential customer agrees in writing that it will not use groundwater from a source other than the large municipal provider during the duration of the exclusion, except during any temporary period in which the provider is unable to deliver a sufficient quantity of water to the customer because of distribution system failure or other emergency, and provided that the customer applies to the director in writing for permission to use the groundwater within seven days after commencement of the provider's distribution system failure or other emergency and the director approves the application in writing.

5. *Deliveries of Groundwater by Large Municipal Provider to Non-Residential Customer Included in GPCD Requirement; Exception*

During the duration of any exclusion granted pursuant to paragraph 1 of this subsection, any groundwater delivered by the large municipal provider to the non-residential customer shall be included in determining the provider's compliance with its GPCD requirement, except for groundwater delivered by the provider to the non-residential customer during any temporary period, not to exceed 30 days, in which the provider is unable to deliver a sufficient quantity of CAP water or effluent to the customer because of distribution system failure or other emergency, and provided that the provider applies to the director in writing for an exclusion of such groundwater from its GPCD requirement within seven days after commencement of the distribution system failure or other emergency and the director approves the application in writing for a specified period of time.