

# *Alternative Path to Designation of Assured Water Supply (ADAWS): Informal Public Meeting on Rulemaking*



*Arizona Department of Water Resources*

*April 22, 2024*

# Meeting Agenda

- 1. Introductions**
2. Welcome
3. Informal Rulemaking Process
4. Background
5. Draft Rules
6. Rulemaking Process
7. Upcoming Meetings
8. Questions and Comments
9. Closing

# Welcome

- Today's meeting is not a formal public hearing.
- This meeting is being broadcast via webinar and is being recorded. The recording will be made available online.
- Initial public comments and questions will be received as time allows at the end of the presentation. Comments and questions may be limited to a certain amount of time per speaker.
  - If you wish to provide comments or questions, **please fill out a speaker card**, located at the entrance, and return it to ADWR staff. Online attendees should complete the questionnaire at the link provided in the chat.
- Please keep your phone or audio connection on mute.

# Informal Rulemaking Process

- The purpose of today's informal public meeting is to review the draft rulemaking.
- ADWR will host a second informal public meeting on **May 1, 2024, at 2:00 pm** that will be dedicated to stakeholder input on the draft rules reviewed today.
- Additional comments and questions on the draft rules that are not presented today should be submitted **no later than 5:00 pm on May 3, 2024.**
- Based upon comments and questions, ADWR may hold additional public meetings and extend the public comment period.

# Governor's Water Policy Council

- The Governor's Water Policy Council was established by Executive Order in January 2023 and comprises of a diverse group of stakeholders appointed by the Governor.
- Two committees were established by the Council, including the Assured Water Supply (AWS) Committee.
- The objective of the AWS Committee was to review and make recommendations for changes to Assured Water Supply policies to address the challenges revealed by Assured Water Supply modeling projections, while continuing to:
  - strengthen the integrity of the Assured Water Supply program,
  - protect consumers and aquifers, and
  - ensure future growth is not reliant on mined groundwater.



# ADAWS Proposal

- On November 29, 2023, the Governor's Water Policy Council submitted five recommendations to the Governor.
- Three of the recommendations came out of the AWS Committee, including a proposal for an **Alternative Pathway to Designation of Assured Water Supply (ADAWS)**.
- The ADAWS proposal outlines changes to the AWS Rules that would provide a means to obtain a Designation of Assured Water Supply in Active Management Areas (AMAs) where there is unmet demand, creating a pathway for water providers to grow incrementally on alternative supplies while reducing groundwater mining.

# ADAWS Purpose

## **ADAWS addresses challenges identified as priorities by the committee:**

- The commingling issue associated with certificates and alternative water supplies
- Unmet demand and/or exceedances of depth-to-water limit in the AMA model
- Incorporating new, non-groundwater supplies into a provider's water portfolio
- Facilitating near-term growth while future infrastructure is under development
- Creating a long-term benefit for the aquifer

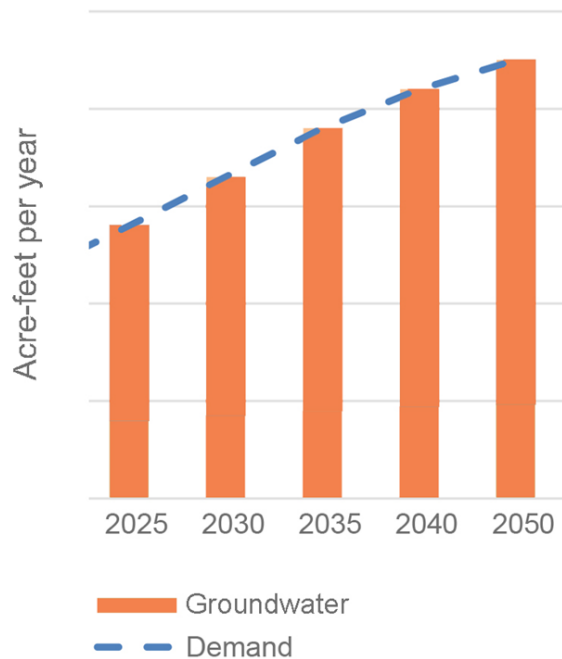
# Overview of ADAWS Concept

- 1. Existing groundwater pumping is grandfathered into the Designation**
  - Physical availability is grandfathered based on 2021 groundwater use and issued certificates, subject to the [25%] substitution requirement in No. 2.
  - A groundwater allowance is granted to help meet Consistency with Goal requirement.
- 2. New Alternative water supplies that meet AWS requirements can be added to the Designation portfolio**
  - A portion of the new supplies [25%] will be used to substitute for existing groundwater pumping to facilitate a transition away from groundwater.
- 3. Expedited modification to add a supply during the term of the DAWS (For ADAWS and DAWS)**

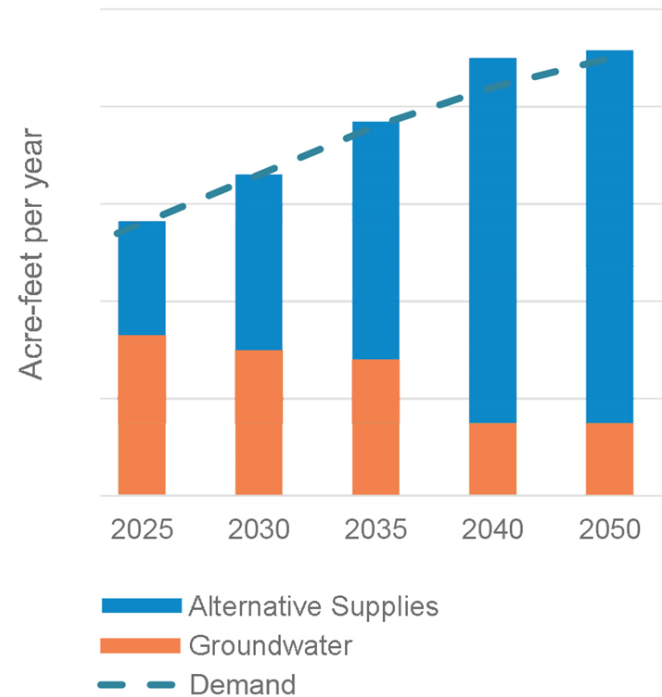


# Hypothetical Visualization: Change in Water Provider's Portfolio Over Time

Without Designation (Status Quo)



Alternative Path to Designation



# Physically Available Volume vs. Groundwater Allowance

**Physically Available Volume:** A volume of groundwater grandfathered into the designation for purposes of demonstrating physical availability under AWS rules.

- A volume of physically available groundwater is calculated based on 2021 groundwater use and issued but unbuilt certificates.
- The volume of 2021 groundwater use + issued certificates is reduced by 25% of new alternative water supplies included in the designation.

**Groundwater Allowance:** A groundwater allowance is granted to make a portion of the physically available volume consistent with the management goal.

- The groundwater allowance is *not* a physically available volume but represents a volume of groundwater that may be used consistent with the management goal.
- Based on water served in 2021 to non-member (CAGR) lands. Groundwater allowances associated with certificates will be added to the volume.

# Draft Rules

## **ADAWS**

- R12-15-701 (related definitions)
- R12-15-710 (physically available volume)
- R12-15-711 (expedited modification, term)
- R12-15-720 (financial capability)
- R12-15-724 (groundwater allowance)

## **Commingling for Certificates**

- R12-15-704 (physically available volume)

# ADAWS Draft Rules

## R12-15-710(H) (Physically Available Volume):

- R12-15-710(H) provides a volume of groundwater and stored water recovered outside the area of impact that will be deemed physically available for a new designation of assured water supply.
- Applies to a new application for designation of assured water supply in the Phoenix AMA.
- The volume calculated in the rule will be deemed physically available “if the Director determines that a New Alternative Water Supply included in the application meets the requirements in R12-15-716 through 720.”
  - **R12-15-701(53)** added to include a definition for New Alternative Water Supply: *a volume of water that is not groundwater withdrawn from an AMA and that was not served within the service area of the municipal provider in the calendar year 2021 for the Phoenix AMA.*

# ADAWS Draft Rules

## R12-15-710(H) (Physically Available Volume):

- The physically available volume is calculated in R12-15-710(H) as follows:
  1. ADD the total volume of groundwater withdrawn and stored water recovered outside the area of impact within the service area of applicant during the calendar year 2021 to the estimated groundwater and stored water recovered outside the area of impact demand for unbuilt portions of issued certificates of assured water supply as of 2021 that are or will be within the service area of the applicant, and multiply the sum by 100;
  2. MULTIPLY twenty-five percent of each New Alternative Water Supply included in the designation by 100;
  3. SUBTRACT the total volume calculated in No. (2) from the total volume calculated in No. (1).

# ADAWS Draft Rules

## R12-15-710(I) (Physically Available Volume):

- R12-15-710(I) applies to applications to modify designations that include the deemed physically available volume from R12-15-710(H)
- In an application modify the designation, the 100-year deemed physically available volume is reduced by:
  - The volume of groundwater withdrawn and stored water recovered outside the area of impact by the applicant since the previous designation order issuance date.
  - 25% of the 100-year volume of each new Alternative Water Supply included in the modified designation but not included in the previous designation.

# ADAWS Draft Rules

## Other Draft Rules Related to Physically Available Volume:

- R12-15-710(J): Provides that a designation that includes a deemed physically available volume under R12-15-710(H) or (I) shall not include any additional sources of groundwater withdrawn from the AMA or stored water recovered outside the area of impact.
- R12-15-710(K): Provides the that a designation that includes a deemed physically available volume under R12-15-710(H) or (I) shall be enrolled as member service area with CAGR D.
- R12-15-710(G) clarifies that an applicant including a volume of water under R12-15-710(G) may not also include a deemed physically available volume under R12-15-710(H) or (I).
- R12-15-711(D) provides that a designation that includes a volume of groundwater pursuant to R12-15-710(H) or (I) shall be for an initial term of no greater than 15 years.

# ADAWS Draft Rules

## Proposed Language in Preamble:

The volume of groundwater and stored water recovered outside the area of impact calculated in R12-15-710(H) and (I) represents a volume of water that will be deemed physically available for an applicant for a new designation of assured water supply. Although the volume calculated in R12-15-710(H) and (I) uses estimated demand associated with unbuilt certificates of assured water supply as a metric for the total volume that will be deemed physically available, the rules do not require or provide for any transfer or pledging of those certificates to the applicant's designation. In the event a designation expires or is otherwise terminated, any certificate previously issued in the designated provider's service area would remain in effect.



# ADAWS Draft Rules

## Groundwater Allowance R12-15-724(A)(4)

- A groundwater allowance may be used to demonstrate that a portion of the physically available groundwater volume is consistent with the management goal of the AMA.
- R12-15-724(A)(4): provides that applications that include a deemed physically available volume under R12-15-710(H) may select one of two calculations for the groundwater allowance as long as the volume does not exceed the applicant's 2021 unreplenished groundwater deliveries multiplied by 100. The resulting volume will be added to the groundwater allowance for each issued certificate of assured water supply that is or will be within the service area.
  - Unreplenished groundwater is added as a definition in R12-15-701(68) as: *the volume of groundwater withdrawn within the service area of a municipal provider after subtracting the groundwater used consistent with the management goal of the AMA pursuant to R12-15-722.*

# ADAWS Draft Rules

## Groundwater Allowance R12-15-724(A)(4)

- Under R12-15-724 (A)(4) an applicant may select one of the following calculations:
  - multiply 30 by the total groundwater deliveries during the calendar year 2021 to customers not enrolled as a member land in the CAGR; OR
  - multiply 20 by the total water deliveries from any source during the calendar year 2021 to customers not enrolled as a member land in the CAGR.
  - Add the remaining groundwater allowance for each issued certificate of assured water supply that is or will be within the service area of the applicant to the volume calculated under subsection (A)(4)(a).

# ADAWS Draft Rules

## Draft Rules for ADAWS Applicable to All Designated Providers:

- Expedited Modification:
  - R12-15-711(G) provides that a during the term of the designation, a designated provider may request an expedited modification of a designation of assured water supply to include additional water supplies that do not include groundwater or stored water recovered outside the area of impact from an AMA.
  - Under R12-15-711(G)(1) and(2), the Director shall review only:
    - The proposed current, committed and projected demands under the current term of the designation; and
    - The assured water supply requirements for the additional water supply pursuant to R12-15-716 through 722.
- Financial Capability:
  - R12-15-720(C) provides that any designation applicant (not just a city or town) may demonstrate financial capability if it has submitted evidence demonstrating that financing mechanisms are in place to construct adequate delivery, storage, and treatment works in a timely manner.

# Commingling for Certificates

- Currently, an applicant for a certificate including an alternative water supply delivered through a provider's commingled system must demonstrate the physical availability of any groundwater delivered through the system.
- In areas with projected unmet groundwater demands for existing assured water supply determinations, a new subdivision served by a commingled groundwater system would be impacted by those projected unmet groundwater demands.

# Commingling for Certificates Overview

- Applicable to Phoenix and Pinal AMAs.
- Time-limited.
- Allows development to move forward with alternative water supplies until provider obtains a designation.
- A provider that commits a new alternative water supply to a subdivision for a certificate must commit an additional amount of the new alternative water supply to offset its existing groundwater pumping.

# Commingling for Certificates Draft Rules

- Under R12-15-704(N), the commingled groundwater or stored water recovered outside the area of impact shall be deemed physically available if all of the following apply:
  1. The application includes a proposed source of supply that is not groundwater or stored water recovered outside the area of impact at a volume equal to the estimated water demand for the proposed subdivision that is committed to the proposed subdivision;
  2. The proposed source of supply in R12-15-704(N)(1) is a new supply that was not served within the service area of the municipal provider as of the calendar year 2022;
  3. The proposed source of supply in R12-15-704(N)(1) meets the requirements in R12-15-716 through 720;
  4. The proposed municipal provider has acquired an additional volume of the proposed source of supply in R12-15-704(N)(1) that was not served within the service area of the municipal provider as of the calendar year 2022, equal to 30% of the estimated water demand for the proposed subdivision, to substitute for its existing use of groundwater or stored water recovered outside the area of impact, and the additional volume meets the requirements in R12-15-716 through 720; and
  5. The land that is the subject of the application is a member land of the CAGRD.

# Next Steps

- Following the series of informal public meetings, ADWR will review all comments and questions.
- Based upon comments and questions, ADWR may revise the draft rules and may then seek approval from the Governor's office to initiate the formal rulemaking process.
- Please see the Governor's Regulatory Review Council's webpage for more information about the formal rulemaking process: [grrc.az.gov/rulemaking](https://grrc.az.gov/rulemaking)

# Upcoming Meetings

## **Wednesday, May 1, 2024, at 2:00PM**

- The purpose of this second meeting is to allow for the public to present comments and questions. No additional presentation will be provided.

ADWR requests that comments and questions, not provided today, be submitted **no later than May 3, 2024, at 5:00PM.**



# Public Comments and Questions Guidelines

- To ensure that everyone who wishes to has the opportunity to ask a question or make a comment, ADWR may limit time for each speaker. Larger groups wishing to present the same message are encouraged to designate a single representative.
- If you have not already done so, and wish to speak, please fill out a speaker card (virtual or physical) and return it to ADWR staff.
- Please come to the microphone at the podium to ask your question. This allows those on the webinar to hear and participate fully.
- We will call people up in order that we receive cards, alternating those in-person with those online.

# Questions & Comments

Written comments not presented at any informal public meeting can be submitted to Sharon Scantlebury electronically at [docketsupervisor@azwater.gov](mailto:docketsupervisor@azwater.gov), by fax at 602-771-8686, using the online submission form (<https://www.azwater.gov/webform/adaws>), hand-delivered or mailed to:

## **Mailing Address**

Arizona Department of Water Resources  
Attn: Sharon Scantlebury, Docket Supervisor  
1802 W. Jackson Street, Box 79  
Phoenix, Arizona 85007

## **Hand-delivery**

Arizona Department of Water Resources  
Attn: Sharon Scantlebury, Docket Supervisor  
1110 West Washington Street, Suite 310  
Phoenix, Arizona 85007



# In Closing

Information related to today's meeting will be posted on ADWR's website at:  
[azwater.gov/how-do-i/find-info/alternative-path-assured-water-supply-public-comments](https://azwater.gov/how-do-i/find-info/alternative-path-assured-water-supply-public-comments)

## Contact information

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