

**Alternative Path to Designation of Assured Water Supply (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.

**R12-15-701. Definitions - Assured and Adequate Water Supply Programs**

53. New Alternative Water Supply: means a volume of water that is not groundwater withdrawn from an AMA and that was not served within the service area of the municipal provider in the calendar year ~~2021~~ 2023 for the Phoenix and Pinal AMAs. The Director shall use the annual report submitted by the municipal provider for calendar year 2023, as verified by the Director, for purposes of this paragraph.

68. Unreplenished groundwater: means the volume of groundwater withdrawn within the service area of a municipal provider after subtracting the groundwater used consistent with the management goal of the AMA pursuant to R12-15-722.

**R12-15-710. Designation of Assured Water Supply**

**A. No change**

1. No change
2. No change
3. No change
4. No change
5. No change
6. No change

- 7. No change
- B.** No change
  - 1. No change
  - 2. No change
- C.** No change
- D.** No change
  - 1. No change
  - 2. No change
  - 3. No change
  - 4. No change
  - 5. No change
- E.** The Director shall designate the applicant as having an assured water supply if the applicant demonstrates all of the following:
  - 1. Sufficient supplies of water are physically available to meet the applicant's estimated water demand, according to the criteria in R12-15-716 or as provided in subsection (G), (H) or (I) of this Section;
  - 2. Sufficient supplies of water are continuously available to meet the applicant's estimated water demand, according to the criteria in R12-15-717;
  - 3. Sufficient supplies of water are legally available to meet the applicant's estimated water demand, according to the criteria in R12-15-718;
  - 4. The proposed sources of water are of adequate quality, according to the criteria in R12-15-719;
  - 5. The applicant has the financial capability to construct adequate delivery, storage, and treatment works in a timely manner according to the criteria in R12-15-720;
  - 6. Any proposed groundwater use is consistent with the management plan in effect at the time of the application, according to the criteria in R12-15-721; and
  - 7. Any proposed use of groundwater withdrawn within an AMA is consistent with the management goal, according to the criteria in R12-15-722.
- F.** No change
- G.** For an application seeking to modify a designation of assured water supply that does not include a volume of groundwater or stored water recovered outside the area of impact pursuant to subsection H or I of this Section, the Director shall not review the physical availability of the volume of groundwater and stored water to be recovered outside the area of impact sought to be included in the designation if the total volume of those sources sought to be included in the designation does not exceed the total volume of those sources included in the previous designation of assured water supply

that are required to be accounted for pursuant to A.A.C. R12-15-716(B)(3)(c)(ii), minus the sum of the following:

1. The volume of groundwater withdrawn by the applicant since the previous designation of assured water supply order issuance date; and
2. The volume of stored water recovered outside the area of impact by the applicant since the previous designation of assured water supply order issuance date.

**H.** For a new application for a designation of assured water supply in the Phoenix and Pinal Active Management Areas, a volume of groundwater and stored water recovered outside the area of impact, as calculated in subsection (H)(1), (2) and (3) of this Section, shall 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. The volume of groundwater and stored water recovered outside the area of impact shall be calculated 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~~ 2023 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~~ 2023 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; and
3. subtract the total volume calculated in subsection (H)(2) of this Section from the total volume calculated in subsection (H)(1).
4. the Director shall use the annual report submitted by the municipal provider for calendar year 2023, as verified by the Director, for purposes of this calculation.

**I.** For an application seeking to modify a designation of assured water supply that includes a volume of groundwater and stored water recovered outside the area of impact pursuant to subsection H of this Section, the following apply:

1. the 100-year volume calculated pursuant to subsection H of this Section shall be 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; and
2. the 100-year volume calculated pursuant to subsection H of this Section shall be further reduced by twenty-five percent of the 100-year volume of each New Alternative Water Supply included in any modified designation but not included in the previous designation.

- J. The Director shall not include any additional sources of groundwater withdrawn from the AMA or stored water recovered outside the area of impact in the AMA in a designation of assured water supply that includes a volume of groundwater and stored water recovered outside the area of impact pursuant to subsection H or I of this Section.
- K. An applicant that includes a volume of groundwater or stored water recovered outside the area of impact pursuant to subsection H or I of this Section must be enrolled as a member service area with the CAGR.

**R12-15-711. Designation of Assured Water Supply; Annual Report Requirements, Review, Modification, Revocation**

- A. No change
  - 1. No change
  - 2. No change
  - 3. No change
  - 4. No change
  - 5. No change
- B. No change
- C. No change
- D. 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.
- E. No change
- F. No change
- G. During the term of the designation, a designated provider may request an expedited modification of the designation to include additional water supplies that do not include groundwater or stored water recovered outside the area of impact from an AMA. The Director shall review only the following for an expedited modification under this subsection:
  - 1. The proposed current, committed and projected demands under the current term of the designation; and
  - 2. The assured water supply requirements for the additional water supply pursuant to R12-15-710(I), if applicable, and R12-15-716 through 722.

**R12-15-720. Financial Capability**

- A. No change
  - 1. No change
  - 2. No change
  - 3. No change
- B. No change
- C. The Director shall determine that an applicant for a designation has the financial capability to construct adequate delivery, storage, and treatment works if the applicant demonstrates one or more of the following for each of those facilities:
  - 1. The applicant has constructed adequate delivery, storage, and treatment works;
  - 2. The applicant has entered into written agreements requiring a potential developer to construct adequate delivery, storage, and treatment works;
  - 3. The applicant has submitted evidence demonstrating that financing mechanisms are in place to construct adequate delivery, storage, and treatment works in a timely manner;
  - 4. If the applicant is a city or town, the applicant has:
    - a. ~~A~~ adopted a five year capital improvement plan that provides for the construction, or the commencement of construction, of adequate delivery, storage, and treatment works in a timely manner, and has submitted a certification by the applicant's chief financial officer that finances are available to implement that portion of the five-year plan; or
    - b. ~~Submitted evidence demonstrating that financing mechanisms are in place to construct adequate delivery, storage, and treatment works in a timely manner; or~~
  - 5. If the applicant is a private water company, the applicant has received approval from the Arizona Corporation Commission for financing the construction of adequate delivery, storage, and treatment works.

**R12-15-723. Extinguishment Credits**

- A. No change
- B. No change
- C. No change
- D. No change
- E. No change
- F. No change

**G.** Extinguishment credits that have not been pledged to a certificate or designation may be conveyed within the same AMA. Extinguishment credits pledged to a certificate or designation shall not be conveyed to another person, except that:

1. If extinguishment credits are pledged to a certificate that is later assigned or reissued, any unused credits are transferred, by operation of this subsection, to the assigned or reissued certificate. If the certificate is partially assigned or reissued, a pro rata share of the unused extinguishment credits is transferred to each assigned or reissued certificate according to the estimated water demand.
2. If extinguishment credits are pledged to a certificate for a subdivision that is later served by a designated provider or a municipal provider that is applying for a designation:
  - a. any unused extinguishment credits may be used to support the municipal provider's designation as long as the municipal provider serves the subdivision and remains designated.
  - b. for a designation that is issued pursuant to R12-15-710(H) or (I), the extinguishment credits may only be applied to groundwater delivered to the subdivision that is the subject of the certificate.
  - c. if the municipal provider is no longer serving the subdivision or if the municipal provider loses its designated status, any unused extinguishment credits shall revert, by operation of this subsection, to the certificate to which they were originally pledged.

**H.** No change

**I.** No change

**J.** No change

**K.** No change

**L.** No change

#### **R12-15-724. Phoenix AMA Calculation of Groundwater Allowance and Extinguishment Credits**

- A.** The Director shall calculate the groundwater allowance for a certificate or designation in the Phoenix AMA as follows:

1. If the application is for a certificate, multiply the applicable allocation factor in the table below by the annual estimated water demand for the proposed subdivision.

MANAGEMENT PERIOD	ALLOCATION FACTOR
Third	4
Fourth	2
Fifth	1
After Fifth	0

2. If the application is for a designation and the applicant provided water to its customers prior to February 7, 1995, multiply 7.5 by the total volume of water provided by the applicant to its customers from any source during calendar year 1994, consistent with the municipal conservation requirements established for the applicant pursuant to Section 5-103(A)(1) of the Second Management Plan for the Phoenix AMA.
3. If the application is for a designation and the applicant commenced providing water to its customers on or after February 7, 1995, the applicant's groundwater allowance is zero acre-feet, except as provided in subsection (A)(4) of this Section.
4. If the application is for a designation that includes a volume of groundwater or stored water recovered outside the area of impact pursuant to R12-15-710(H), the volume groundwater allowance shall be calculated as follows:
  - a. the applicant may select either of the following calculations if the volume does not exceed the applicant's 2021-2023 unreplenished groundwater deliveries multiplied by 100:
    - i. multiply 30 by the total groundwater deliveries during the calendar year 2021-2023 to customers not enrolled as a member land in the CAGR; or
    - ii. multiply 20 by the total water deliveries from any source during the calendar year 2021-2023 to customers not enrolled as a member land in the CAGR.
  - b. 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) of this Section.

- c. **The Director shall use the annual report submitted by the municipal provider for calendar year 2023, as verified by the Director, for purposes of this calculation.**
5. For each calendar year of a designation, the Director shall calculate the volume of incidental recharge for a designated provider within the Phoenix AMA and add that volume to the designated provider's groundwater allowance. The Director shall calculate the volume of incidental recharge by multiplying the provider's total water use from any source in the previous calendar year by the standard incidental recharge factor of 4%. A designated provider may apply for a variance from the standard incidental recharge factor as provided in A.R.S. § 45-566.01(E)(1). The Director may establish a different incidental recharge factor for the designated provider if the provider demonstrates to the satisfaction of the Director that the ratio of the average annual amount of incidental recharge expected to be attributable to the provider during the management period, to the average amount of water expected to be withdrawn, diverted, or received for delivery by the provider for use within its service area during the management period, is different than 4%.
- B. No change**
- 1. No change
  - 2. No change
    - a. No change
    - b. No change

**R12-15-725.Pinal AMA Calculation of Groundwater Allowance and Extinguishment Credits**

- A.** The Director shall calculate the groundwater allowance for a certificate or designation in the Pinal AMA as follows:
- 1. If the application is for a certificate:
    - a. If the certificate application is filed before January 1, 2019, multiply the annual estimated water demand for the proposed subdivision by 10.
    - b. If the certificate application is filed on or after January 1, 2019, the groundwater allowance shall be zero.
  - 2. If the application is for a designation:
    - a. If the applicant was designated as having an assured water supply as of October 1, 2007:
      - i. Multiply the applicant's service area population as of October 1, 2007 by 125 gallons per capita per day and multiply the product by 365 days. The service



- area population shall be determined using the methodology set forth in Section 5-103(D) of the Third Management Plan for the Pinal AMA.
- ii. Convert the number of gallons determined in subsection (A)(2)(a)(i) into acre-feet by dividing the number by 325,851 gallons.
  - iii. Determine the number of residential lots within plats that were recorded as of October 1, 2007 but not served water as of that date, and to which the applicant commenced water service by January 1, 2010.
  - iv. Multiply the number of lots determined in subsection (A)(2)(a)(iii) by 0.35 acre-foot per lot.
  - v. Add the volume from subsection (A)(2)(a)(ii) and the volume from subsection (A)(2)(a)(iv) of this Section.
- b. If the applicant provided water to its customers before October 1, 2007 but was not designated as having an assured water supply as of that date, and a complete and correct application for designation was filed before January 1, 2012, multiply the applicant's service area population as of October 1, 2007 by 125 gallons per capita per day and multiply the product by 365 days. The service area population shall be determined using the methodology in Section 5-103(D) of the Third Management Plan for the Pinal AMA.
  - c. If the applicant provided water to its customers before October 1, 2007 but was not designated as having an assured water supply as of that date, and a complete and correct application for designation was filed on or after January 1, 2012, the applicant's groundwater allowance is zero acre-feet.
  - d. If the applicant commenced providing water to its customers on or after October 1, 2007, the applicant's groundwater allowance is zero acre-feet, **except as provided in subsection (A)(2)(e) of this Section.**
  - e. **If the application is for a designation that includes a volume of groundwater or stored water recovered outside the area of impact pursuant to R12-15-710(H), the groundwater allowance shall be calculated as follows:**
    - i. **the applicant may select either of the following calculations if the volume does not exceed the applicant's 2023 unreplenished groundwater deliveries multiplied by 100:**
      - a. **multiply 30 by the total groundwater deliveries during the calendar year 2023 to customers not enrolled as a member land in the CAGR; or**
      - b. **multiply 20 by the total water deliveries from any source during the calendar year 2023 to customers not enrolled as a member land in the CAGR.**

ii. add the remaining groundwater allowance for each issued certificate of assured water supply that is or will be withdrawn within the service area of the applicant to the volume calculated under subsection (A)(2)(e)(i) of this Section.

iii. The Director shall use the annual report submitted by the municipal provider for calendar year 2023, as verified by the Director, for purposes of this calculation.

3. For each calendar year of a designation, the Director shall calculate the volume of incidental recharge for a designated provider within the Pinal AMA and add that volume to the designated provider's groundwater allowance. The Director shall calculate the volume of incidental recharge by multiplying the provider's total water use from any source in the previous calendar year by the standard incidental recharge factor of 4%. A designated provider may apply for a variance from the standard incidental recharge factor by submitting a hydrologic study demonstrating, to the satisfaction of the Director, that the ratio of the average annual amount of incidental recharge expected to be attributable to the designated provider during the management period to the average annual amount of water expected to be withdrawn, diverted or received for delivery by the designated provider for use within its service area during the management period is different than 4%. The hydrologic study shall include the amount of water withdrawn, diverted or received for delivery by the designated provider for use within its service area during each of the preceding five years and the amount of incidental recharge that was attributable to the designated provider during each of those years. The Director may establish a different incidental recharge factor for the designated provider upon such demonstration.

**B.** No change