

ASSURED WATER SUPPLY RULE MODIFICATIONS TO PROVIDE AN ALTERNATIVE PATH TO DESIGNATION OF A 100-YEAR ASSURED WATER SUPPLY (ADAWS) IN THE PHOENIX AND PINAL AMAS AND TO ALLOW CERTIFICATE OF ASSURED WATER SUPPLY APPLICANTS IN THE PHOENIX AND PINAL AMAS TO COMMINGLE WATER SUPPLIES FOR A LIMITED TERM

**A.R.S. § 41-1055(B)
ECONOMIC, SMALL BUSINESS, AND CONSUMER IMPACT STATEMENT**

The Governor's Water Policy Council (Council) was established by Executive Order on January 9, 2023, and encompassed a diverse group of stakeholders appointed by Governor Hobbs including representation from agriculture, water providers, Tribes, executive agency cabinet officers, cities, the business community, industry, conservation organizations, university experts, and the Arizona legislature. Two committees were established by the Council, including the Assured Water Supply (AWS) Committee. The AWS Committee was charged 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 (1) strengthen the integrity of the Assured Water Supply program, (2) protect consumers and aquifers, and (3) ensure future growth is not reliant on mined groundwater.

At the September 27, 2023, AWS Committee meeting, the Arizona Department of Water Resources (ADWR, or the Department) introduced an "Alternative Path to Designation of a 100-year Assured Water Supply" (ADAWS) proposal, which was drafted by the Department in coordination with a group of Council members and stakeholders. On November 29, 2023, the Department provided the Governor's Office with five policy recommendations from the Governor's Water Policy Council. The Council's AWS Program recommendations provided a launch point and guidance for drafting new rules to provide a means to obtaining a Designation of AWS in Active Management Areas (AMAs) where unmet demand exists in the model projection. Among these recommendations was the proposed ADAWS, which requires amendments to Arizona Administrative Code (A.A.C.) R12-15-701, et. sec.

The ADAWS rulemaking seeks to address challenges that some water providers face in pursuing a new Designation of 100-year Assured Water Supply (DAWS) under the current rules. The ADAWS concept creates a path for water providers historically reliant on groundwater to grow incrementally on alternative supplies while reducing groundwater mining. The Department expects the rulemaking to have long-term economic benefits while also providing greater long-term protection for groundwater supplies by promoting the use of renewable water resources, requiring replenishment of new groundwater uses, and reducing overall groundwater reliance through time.

The 1980 Groundwater Management Act created four AMAs (the Phoenix, Pinal, Prescott and Tucson AMAs) where groundwater use is actively managed. In 1994, a fifth AMA (the Santa Cruz

AMA), was created out of a portion of the Tucson AMA. Each AMA has a management goal, and the Department is required by statute to adopt AWS rules to assist in the attainment of that goal. The Department manages the AWS program within the five AMAs pursuant to A.R.S. § 45-576. The program is designed to sustain the state's economic health by preserving groundwater resources and promoting long-term water supply planning. The AWS program requires new subdivisions¹ to demonstrate a 100-year water supply is legally, physically, and continuously available before recording plats or selling parcels within an AMA. The groundwater supply must also be consistent with the management goal and management plan of the AMA.

The Assured Water Supply Program requires the Department to evaluate the available water supply for 100 years. ADWR uses basin-scale groundwater flow models to evaluate groundwater conditions in the AMAs based on the rules, policies, and requirements of the Assured Water Supply Program. Recent updates to the ADWR Phoenix and Pinal AMA groundwater models project a shortfall in groundwater supplies in the 100-year which indicate unmet AWS demands. Under current rules, ADWR may not approve the issuance of designations and certificates that rely on groundwater if the groundwater model submitted with the application does not demonstrate physical availability of groundwater.

Groundwater physical availability issues in the Phoenix and Pinal AMA models primarily affect fast-growth areas in portions of the AMAs that rely on groundwater. These are the areas in which most new development has been occurring. Many of these communities were initially able to develop because they were able to prove physical availability of groundwater, subject to replenishment. For new growth to occur under current conditions and the traditional AWS rules, developers in these areas will need to find renewable supplies (such as surface water or reclaimed water), the municipality or water provider must secure enough renewable supplies to become designated without the inclusion of groundwater in the portfolio.

In addition to the overriding issue of physical availability, many water providers desiring to obtain a DAWS face further hurdles to doing so, including:

- Assuming legacy groundwater use from subdivisions that predate the AWS rules or assuming uses that fall outside of the subdivision definition requires the provider to make the groundwater use consistent with the AMA management goal. Taking on the necessary replenishment costs can be significant.
- Limited renewable supplies.
- Historic barriers to cost recovery for the expense and effort of securing renewable supplies and applying for designation.
- When the original AWS rules were promulgated, existing providers at the time were allowed to transition from reliance on groundwater to renewable supplies under a DAWS, including certain exemptions and groundwater allowances.

¹ The AWS requirement applies to each new "subdivision" as defined by A.R.S. § 32-2101(56).

- When considering an AWS application, ADWR must consider all water supplies in a system that are relied on to serve water demands. If a municipal provider is relying on groundwater withdrawn within the AMA to serve its customers in combination with other supplies (often referred to as “commingling”), the groundwater must satisfy the Assured Water Supply criteria, including physical availability. Therefore, an application for a certificate or a designation under the current rules that could not demonstrate physical availability of groundwater would be required to demonstrate that there are sufficient non-groundwater supplies to satisfy all the demands in the municipal provider’s system in order to satisfy the physical availability criteria.

The Department is proposing the ADAWS rule modification to enable undesignated providers that currently serve groundwater to existing customers to become designated as having an assured water supply. ADAWS requires the use of alternative supplies to serve new growth and incentivizes providers to replace current groundwater uses with alternative supplies. Expanding the options to obtain a DAWS allows water providers in the Phoenix and Pinal AMAs to develop long-term solutions to water supply requirements as such supplies are necessary to meet the demands of the community it serves while reducing the overall reliance on groundwater and long-term impact on the aquifer.

The declining availability of groundwater in the Phoenix and Pinal AMAs necessitates a shift from reliance on groundwater to alternative supplies for existing uses as well as any new growth. In the development of a path to designation, members of the AWS Committee of the Council recognized the importance of replacing existing groundwater use in addition to acquiring new supplies for growth. ADAWS enables the applicant to demonstrate an assured water supply by showing it will reduce groundwater use over time. Moreover, while ADAWS includes a component to reduce the financial burden of replenishment, the most cost-effective way to do so is by using an alternative supply in the first place, which the proposed rulemaking incentivizes.

While it is uncertain which water providers or developers might apply for a determination under these modified rules, the amendments are expected to contribute to the realization of short-term and long-term economic benefits. The Department expects that the amendments will result in reduced costs to some persons and political subdivisions over the short term and that they have the potential to reduce total groundwater withdrawals over the long term. Due to the often-long lead times required to secure alternative water supplies, it could take time for potentially eligible providers to apply for designation through this path, but they will have certainty to begin making the necessary arrangements. Overall, the Department expects these rule amendments to assist the local community in overcoming the hurdles of development in areas with limited physical availability of groundwater while maintaining and promoting the goals and standards relating to groundwater use in the Phoenix and Pinal AMAs.

The Department believes the proposed amendments strike an appropriate balance between preserving the existing AWS rules, which promote sustainability of water supplies for future

development, and providing a new path for development that will ultimately be less reliant on groundwater, furthering the management goals of the AMAs.

1. An Identification of the Rulemakings

This Economic Impact Statement addresses two rulemakings proposed by the Department. While both rulemakings below are described in this EIS because of similarities, neither is dependent on the other in terms of moving forward.

- The ADAWS rulemaking affects the Phoenix and Pinal AMAs only. It does not repeal nor substantively revise any current AWS rules. Rather, it amends the AWS rules to create an additional, alternative path for a water provider to obtain a designation where physical availability of groundwater cannot be demonstrated in the AWS model. The ADAWS concept creates a voluntary path to designation for water providers reliant on groundwater to grow incrementally on alternative supplies while reducing groundwater mining.
- The commingling rulemaking applies to Certificate of Assured Water Supply (CAWS) applicants in the Phoenix and Pinal AMAs and amends the AWS rules to create an additional, voluntary alternative path for an applicant to obtain a certificate based on non-groundwater sources commingled with groundwater where physical availability of groundwater cannot be demonstrated in the AWS model.

This rulemaking intends to facilitate a path for economic development that strikes a balance between continuing to meet the State's long-term groundwater management goals and continuing to drive new growth toward renewable water supply reliance. Historically, developers and water providers could more readily utilize groundwater to initiate a DAWS or secure a CAWS. Absent the ADAWS rulemaking, the high cost of developing sufficient renewable supplies and infrastructure to meet the DAWS or CAWS application requirements may be overly burdensome to developers and water providers and the current AWS rules would otherwise provide few other options for such applicants to responsibly and equitably facilitate growth.

To create the ADAWS path, the Department is amending A.A.C. R12-15-710 to add section H, which provides an alternative designation path in the Phoenix and Pinal AMAs which would enable designations to include groundwater that is grandfathered and could not otherwise be included under the current AWS rules. The Department is also amending A.A.C. R12-15-710 to add section I, which provides that, for an application to modify an ADAWS, the grandfathered groundwater included in the ADAWS volume will be reduced by the volume of groundwater utilized since the previous ADAWS was issued and also reduced by a portion equal to 25% of any new alternative water supply to be included in the modified designation. The amendments in A.A.C. R12-15-710(H) through (K) present the full concept for a new ADAWS path, including that the applicant must enroll the ADAWS as a member service area (MSA) of the Central Arizona Groundwater Replenishment District (CAGR) and therefore, all excess groundwater use

pursuant to the ADAWS would be subject to replenishment. The Department is also modifying A.A.C. R12-15-711(D) to establish that the initial term of an ADAWS is no greater than 15 years.

In addition to the primary ADAWS amendments to A.A.C. R12-15-710, the Department is making conforming amendments to A.A.C. R12-15-701 and R12-15-711 to consistently incorporate the provisions of the ADAWS. A.A.C. R12-15-724 specifies that the groundwater allowances in the Phoenix AMA and in the Pinal AMA are modified to allow for a volume of groundwater to be used consistent with the management goal and not subject to replenishment. The provider may choose one of two calculations, both based on water deliveries in calendar year 2023. The Department's amendment of A.A.C. R12-15-725(A)(2)(e) also adds an alternative calculation of a groundwater allowance for providers seeking an ADAWS in the Pinal AMA only and adds detail on how the groundwater allowance would be uniquely calculated based on 2023 groundwater deliveries plus any remaining groundwater allowance associated with an issued CAWS that will be served by the ADAWS applicant. A.A.C. R12-15-723(G)(b) now provides that under an ADAWS, extinguishment credits (ECs) that were already pledged to a CAWS can only be applied to groundwater delivered to that original CAWS subdivision to ensure the original subdivision remains the beneficiary of the ECs.

To improve one of the AWS criteria requirements for both the ADAWS and current DAWS, the Department is amending A.A.C. R12-15-720(C)(3) to allow all AWS applicants the ability to prove the financial capability criteria by submitting “evidence demonstrating that financing mechanisms are in place to construct adequate delivery, storage, and treatment works in a timely manner.” Prior to this rulemaking, this provision had only been available to is a city or town.

To further improve the AWS program, with the Department’s addition of A.A.C. R12-15-711(J), all DAWS holders gain the ability to request an expedited modification of a designation if the modification is only being sought to include additional renewable water supplies, allowing providers to incrementally and more easily add supplies and enable additional growth in their service area.

In conjunction with the ADAWS path, the Department is amending A.A.C. R12-15-704 to add section N, which allows a source of supply that is not groundwater or stored water outside the area of impact, but is served through a distribution system that is commingled with those supplies to be considered physically available supply for applications for CAWS in the Pinal and Phoenix AMAs if the following apply:

1. The application must include proposed non-groundwater source of supply of equal volume to the committed demand of the proposed subdivision
2. Proposed supply must be a new supply not already served in calendar year 2023
3. The proposed supply would equal 25% of the estimated demand to substitute for existing use of groundwater or stored supply outside of the area of impact

No AWS rules are repealed through this rulemaking.

For a complete description of the amendments to the AWS rules, refer to the Arizona Administrative Register, Volume 30, Issue 34, August 23, 2024.

2. Persons Who Will Be Directly Affected by, Bear the Costs of, or Directly Benefit from the Rulemaking

Throughout this Impact Statement, the rule amendments are compared to obtaining an AWS determination under the existing rules, which remain in effect, or having no AWS determination.

Because rule changes to enable ADAWS and limited-term commingling of water supplies for CAWS represent additional, alternative paths to applying for and securing an AWS, and as they are not a requirement nor a revision to existing paths to an AWS, the Department expects there will be minimal change in the costs borne by those affected.

It is difficult to predict how many applications may be received and the extent of the growth that will be enabled through these amendments; however, to the extent these amendments are availed, they will provide significant to substantial benefits by enabling new development supported by sustainable water supplies while continuing to protect finite groundwater supplies.

Entities which will directly affected by, bear the costs of, or directly benefit from the AWS rule amendments in the Phoenix and Pinal AMAs include: (1) state agencies such as the Department; (2) political subdivisions, including counties, cities, and towns that seek economic development or provide municipal water, private municipal water providers, as well as the Central Arizona Groundwater Replenishment District (CAGRDR);² (3) subdivision developers; and (4) homeowners and homebuyers in the Phoenix and Pinal AMAs.

a. Persons or Entities Directly Benefiting from the Rulemaking

- **The State.** The proposed rulemaking reduces barriers to determinations of assured water supply and enables a path for sustainable growth, while upholding the integrity of the Assured Water Supply program, protecting consumers and aquifers, and ensuring future growth is not reliant on mined groundwater.
- **Landowners in undesignated areas.** There is a potential benefit that lands that would not otherwise be developed due to minimal water resource options might become more attractive to developers under this rulemaking.
- **Water Providers.** Providers in the Phoenix and Pinal AMAs face several barriers to designation; most significantly, current model projections show a lack of physical

² The CAGRDR is a division of the Central Arizona Water Conservation District, which is a multi-county water conservation district and a political subdivision. See Arizona Constitution, Art. 13, § 7; A.R.S. § 48-3702.

availability of groundwater. Meanwhile, non-AWS supply uses can continue, further depleting limited groundwater supplies. Water providers (public or private) will benefit from the additional path to designation because it enables providers to make the necessary agreements and investments in alternative supplies and infrastructure as service area demands develop, and an ADAWS will include a potentially significant volume of groundwater allowance that is not required to be replenished to assist in managing replenishment costs associated with the designation. ADAWS will allow additional subdivision growth within the provider's service area, while halting previously unconstrained non-AWS groundwater use, protecting and reducing groundwater use over time and providing more water security for the provider, residents, and businesses. The commingling modification to the rules will provide a pathway for development while a provider is working toward a designation, providing them the benefit of serving new homes in the short-term while reducing the risk of potential groundwater shortage.

- **Subdivision developers.** Those who develop and build new subdivisions may have new options to obtain an assured water supply determination, particularly if they are unable to obtain an AWS determination based on groundwater under current rules. Likewise, if a provider is able to obtain a designation under ADAWS, subdivision developers within the service area(s) covered by the ADAWS will no longer need to obtain a separate AWS determination.
- **Existing designated providers.** Existing designated providers desiring to add renewable supplies and expedite their modification applications will benefit from having an expedited regulatory review, as the entire designation is not reviewed, only the additional demands and the relevant water supply that the provider is seeking to add to its designation. This will spare providers the significant investment of staff time and expense involved in the full modification process and allow incremental growth as they are able to acquire additional supplies, even if they are relatively small volumes.
- **Businesses, including small businesses, that support homebuilding.** Those who provide materials and services to support the homebuilding industry may see relatively moderate benefits following this rulemaking, to the extent that homebuilding to support population growth pressure continues and local and regional businesses that support homebuilding are re-engaged.
- **Homeowners.** Persons who purchase new homes in subdivisions with AWS determinations based on renewable supplies and replenished groundwater. Because ADAWS provides an additional path to subdivision development, it could increase inventory of new homes available while also ensuring that new homes have a 100-year assured water supply determination. Those persons who purchase homes in these subdivisions would receive lower property tax assessments if the water provider

were a CAGR member service area because the homeowner is not directly responsible for paying a CAGR replenishment assessment. Under the new commingling rules, homeowners are likely to experience lower property tax assessments because the home's replenishment obligation will be reduced by the inclusion of commingled renewable supplies.

- **CAGR.** Depending on developer and water provider participation in the new path to an AWS determination, the CAGR may see a reduction in its replenishment obligations through time as groundwater reliance is reduced, potentially lowering administrative and renewable water supply costs and providing for additional capacity to replenish excess groundwater on behalf of its remaining members under its current Plan of Operation.

b. *Persons Directly Bearing the Costs of the Rulemaking*

- **ADWR.** The Department will require additional staff to review and process ADAWS and CAWS applications as well as expedited DAWS and ADAWS modification applications and to manage annual reporting and accounting requirements.
- **CAGR.** If CAGR's membership and/or annual groundwater replenishment obligations increase as a result of the rulemaking, particularly if water providers are slower to develop renewable supplies to replace groundwater reliance, CAGR may incur increased costs associated with acquiring additional replenishment supplies and may require increased administrative capacity to meet its statutory obligations. However, under such a scenario, CAGR would also generate additional enrollment fees, activation fees, and annual assessments, helping to offset and manage the added costs.
- **ADAWS water ratepayers and homeowners served by CAWS with commingled groundwater.** Under the ADAWS, the costs associated with the acquisition of water supplies, infrastructure, enrollment in the CAGR, and the expense to replenish groundwater supplies to meet existing requirements for consistency with management goal under ADAWS would be borne by the utility ratepayers. These factors and the associated costs are highly variable and unique to the provider and its circumstances. How these costs are distributed among the ratepayers is determined by the utility through ratemaking processes, which are specific to the provider and community. This is no different than under the existing rules. However, ADAWS includes a larger groundwater allowance as compared to traditional designation rules. Both the ADAWS and the commingling modification include a requirement to offset a certain amount of existing groundwater use with new alternative water supplies. There will be an additional cost passed on to ratepayers (ADAWS) or to homeowners (commingling) as initial groundwater supplies are offset

with renewable supplies. The long-term security, however, provided by renewable supplies and the value of the groundwater allowance will reduce the impact.

- **Groundwater users.** The rulemakings would enable new development to move forward in a service area even if there are groundwater physical availability issues in the groundwater model. Through ADAWS, a groundwater allowance will also be granted, meaning that some groundwater pumping could proceed without replenishment (as compared to traditional designation), which could have some initial impacts on the aquifer. However, negative impacts are mitigated under ADAWS because some previously unreplenished groundwater uses will be replenished, and only groundwater pumping that would already continue absent ADAWS will continue under ADAWS, reducing groundwater pumping within the service area over time.

3. Cost – Benefit Analysis

These amendments create no new requirements; they provide additional voluntary options for water providers and developers to secure determinations of AWS. Water providers and developers may continue to rely on existing rules.

The ADAWS rulemaking creates an additional pathway for water providers to seek a designation; they may still seek designation under the existing rules or continue without a designation if they choose. Likewise, the proposed commingling rule amendment creates an additional pathway to obtain a certificate of assured water supply; the option to include apply for a certificate under the existing rules or not remains. Therefore, specific costs, benefits and impacts of this rulemaking were assessed against these two alternatives—pursuing a determination of AWS under the existing rules or not pursuing a determination.

Benefits for those directly affected by ADAWS are expected to be substantial when compared to a designation under the traditional rules or no designation. ADAWS allows for additional development within a water provider’s service area by a granting a volume of physically available groundwater and groundwater allowance while also facilitating a reduction in groundwater use over time and ensuring that some previously unreplenished groundwater pumping within a provider’s service area will be replenished.

ADWR analyzed the monetary value afforded to providers through the groundwater allowance volume granted in ADAWS relative to the groundwater allowance granted under the traditional designation rules. The benefit is significant and addresses a key financial barrier that has challenged water providers seeking to achieve a traditional designation of assured water supply.

An ADAWS provider that newly enrolls in CAGR as an MSA, as required by this rulemaking (A.A.C. R12-15-710(K)), may utilize a portion of the groundwater allowance to avoid reporting its groundwater deliveries to its service area as “excess groundwater” requiring CAGR

replenishment. The value of the groundwater allowance is substantial in that it could be used to directly replace a portion of the ADAWS provider's reported replenishment obligation to the CAGR. D.

For every acre-foot of groundwater delivered that is not subject to CAGR. D minimum reporting requirements and for which the provider may utilize the groundwater allowance to meet consistency with the management goal, the provider will benefit from a cost savings equal to the per-acre-foot replenishment fee. In other words, since the groundwater allowance may serve as a direct substitute for a portion of the replenished groundwater obligation, the groundwater allowance will have an equivalent value to the CAGR. D replenishment fee in the year it is utilized.

The CAWCD Board-approved 2024 replenishment fee for an MSA in the Phoenix AMA is \$856 per acre-foot of excess groundwater use, a rate that is projected to increase by approximately 4% per year through 2029. In the Pinal AMA, the 2024 replenishment fee is \$875 per acre-foot of excess groundwater use in the Pinal AMA, projected to increase by approximately 3.6% per year through 2029.

The 2024 value of a theoretical groundwater allowance of 272,000 acre-feet—a realistic example—is equivalent to over \$232 million based on CAGR. D's published rates. As described above, CAGR. D rates are projected to continue to increase, which could result in the groundwater allowance being of greater value over time, given that a provider will utilize the allowance over time.

Benefits for those directly affected by the proposed CAWS (A.A.C. R12-15-704) rule amendments are expected to be substantial when compared to obtaining a certificate under the existing rules or having no certificate. The proposed rule changes allow for additional development within a water provider's service area by allowing a certificate based on supplies commingled with groundwater while also requiring the water provider to obtain an additional volume of new alternative supplies (30% of the certificate demand) to replace the water provider's existing groundwater deliveries.

Generally, costs for those directly affected by voluntary pursuit of an ADAWS or CAWS obtained with commingled groundwater supplies are expected to be minimal compared to the currently available alternatives. However, because the proposed ADAWS rules create a path forward for water providers in AMAs where there is insufficient physical availability of groundwater, create an expedited process for all designated providers that reduces the regulatory and financial burden for designation modification, and may re-open the pursuit of CAWS applications in the Phoenix and Pinal AMAs, state agencies such as ADWR will incur costs to hire additional staff necessary to process an increase in applications.

Any costs associated with the proposed rule amendments are outweighed by the benefits when compared to the available alternatives. The rulemaking will have a long-term benefit to groundwater supplies in the Phoenix and Pinal AMAs and will support Assured Water Supply

program objectives to sustain the state's economic health by preserving groundwater resources, promoting long-term water supply planning, and strengthening water security.

a. Probable Benefits and Costs to Agencies

• **ADWR:**

Benefits. The proposed rulemaking supports the Department's mission to safeguard the health, safety and economic welfare of the public by protecting, conserving and enhancing Arizona's water supplies in a bold, thoughtful and innovative manner by reducing barriers to determinations of assured water supply and enabling a path for sustainable growth, while upholding the integrity of the Assured Water Supply program, protecting consumers and aquifers, and ensuring future growth is not reliant on mined groundwater.

• Costs. The ADAWS and commingling rules will have multiple impacts to future staff workload as compared to the traditional rules or no options for an AWS determination. Since these rule amendments present new, optional paths, their precise impact on staffing needs is unknown. New ADAWS applications will be limited in number, but the application process will require substantial staff time, expertise, and legal review. The expedited modification option has the potential to increase the frequency of review of new alternative supplies for ADAWS applications as well as for traditional DAWS holders; however, the expedited modification requires only a partial review as compared to the traditional modification of a DAWS, which required a review of the entirety of the designation application. The Department also anticipates the commingling rule change may increase the number of certificate applicants because it creates a path to development despite the unmet demands in the Phoenix and Pinal groundwater AWS models. The rule amendments will create additional reporting, accounting, and oversight for staff to manage. Overall, depending on how extensively providers use these alternative paths, the Department may need to add one to two additional staff.

• **Other Agencies:**

Benefits. No benefits to other agencies were identified. However, in the absence of these alternatives, AWS applicants will likely continue to face challenges obtaining AWS determinations under current rules, and the perception that insufficient water exists for businesses and development in the Phoenix and Pinal AMAs would have repercussions for the state. These alternative paths enable development on renewable supplies while reducing groundwater mining in the long-term, continuing

Arizona's legacy of secure water supplies and sustainable development and economic growth in an arid environment

Costs. ADWR has not identified specific costs to other agencies but notes that there could be an increase in public reports issued by Arizona Department of Real Estate.

b. *Probable Benefits and Costs to Political Subdivisions*

• **Municipal Water Providers:**

Benefits. Water providers seeking an AWS determination will benefit from the ADAWS in comparison to the traditional rules or no AWS determination, particularly due to (1) additional paths to acquire an AWS determination, (2) the ability to include a physically available volume of groundwater in the determination without the need for a supporting groundwater model run, and (3) a longer timeline during which to acquire and develop water supplies to support the demands of its service area. The rulemaking could effectively enable a municipal water provider to recover costs for the expense and effort of securing renewable supplies over a longer period of time, and to do so more equitably by distributing the costs of such supplies on its current water customers and on future customers through future growth.

Costs. Compared to the traditional rules, there are no identified additional costs. If there were, a provider would be likely to utilize the traditional DAWS path. Water providers that choose the ADAWS path over the traditional designation rules or no determination will incur additional or new groundwater replenishment costs due to the requirement to enroll as a Member Service Area of the CAGR. However, as described above, the provider may offset these costs by utilizing the groundwater allowance provided under this rulemaking, which would be a very substantial savings.

Water providers utilizing the ADAWS and commingling rules will be required to reduce existing groundwater pumping. However, the new paths provided by the rulemaking are less costly compared to the traditional rules, because under those rules, if insufficient physical availability of groundwater exists, the provider would only be able to secure an AWS determination if they develop alternative, non-groundwater supplies to cover 100% of the water demands in the determination for 100 years. Overall, for a water provider seeking to serve new developments or a subdivision development, the benefits of ADAWS and commingling outweigh the costs and provide an alternative path if they are not able to obtain a designation or certificate under current rules.

- **CAGR D:**

Benefits. Under the rule amendments, CAGR D could see a reduction in Member Lands (MLs) served by CAWS if a new ADAWS provider subsumes those certificates in a new Member Service Area (MSA). Administering services for MSAs typically requires less staff time for CAGR D compared to the administration of MLs. Per a CAGR D staff analysis presented to the CAWCD Board, CAGR D expects the rule amendments will result in a lower future replenishment obligation compared to its operations under the traditional rules or no designation, due in large part to the groundwater offset requirement when new alternative water supplies are added during an ADAWS modification.

Costs. CAGR D has seen little to no new subdivision enrollment in the Phoenix and Pinal AMAs since the Department's release of the groundwater model projections showing unmet AWS demands. With this new rulemaking, CAGR D's administrative costs may increase in the near-term if applications, enrollments, and excess groundwater deliveries increase pursuant to new determinations, and replenishment costs may increase to accommodate new members requiring replenishment services in the near term. However, CAGR D has sufficient mechanisms in place to develop the rate and fees necessary to cover the costs of its services.

Political subdivisions:

Benefits. Compared to the traditional rules or no AWS determination, political subdivisions may experience an increase in sales tax and property tax revenue under the rulemaking if homebuilding and its associated support industries are able to expand or remain active in the Phoenix and Pinal AMAs.

Costs. None identified.

c. Probable Benefits and Costs to Business, Including Small Business

- **Business, Including Small Business:**

Benefits. These amendments do not directly impact business, including small business, as they do not impose additional requirement, but rather amend the rules to enable additional options that have advantages over the existing rules.

Businesses and small businesses that directly develop or are linked to the development of subdivisions will benefit over the short-term from greater certainty that development can proceed and benefit over the long term from the economic growth fostered by the amendments.

Costs. None identified.

- **Private water providers:**

Impacts would be the same as those for cities and towns that are water providers. See Part 3(b) “Municipal Water Providers” above.

- **Developers:**

Benefits. Applicants that are unable to demonstrate physical availability of groundwater with groundwater modeling would not be able to obtain a certificate or designation of AWS based on groundwater under the current rules and could not proceed with development. These amendments provide a pathway forward.

ADAWS will enable additional water providers to receive designations with some physically available groundwater supplies, allowing additional development to occur within their service areas in the near term and averting the necessity of applying for certificates.

The commingling rule modifications will enable additional subdivision growth under certificates through June 30, 2027, allowing time to shift to a full designation under ADAWS and providing opportunity for developers to construct subdivisions and sell new homes in the short term. This rule amendment has the effect of allowing additional development to move forward if it could not move forward under traditional rules.

Costs. The water provider will decide how water supply costs are passed through to a developer. Compared to the traditional rules or no designation, these alternatives could allow for additional development.

d. Probable Benefits and Costs to Private Persons and Consumers

- **Homeowners, lessees, and renters:**

Benefits. Homeowners, lessees, and renters may see benefits in subdivisions served by ADAWS determinations as (1) former CAGRDL ML homes may no longer be responsible for direct payment of CAGRDL annual assessments, (2) the water provider need not recoup the cost from current water ratepayers of a 100% alternative water supply portfolio to achieve a designation, as under the traditional rules (without a groundwater model demonstrating physical availability of groundwater), and (3) the ADAWS provider provides the ratepayer with greater water security as it reduces its reliance on groundwater, develops alternative supplies, and is responsible for excess groundwater replenishment through the CAGRDL. Additionally, a homeowner, lessee

or renter may have increased housing options within an ADAWS water provider's service area, compared to the traditional rules or no designation.

The commingling rule modifications will provide benefits because water providers will replace some existing groundwater pumping with alternative supplies, which will provide greater water security.

Costs. Compared to the alternative of not securing a designation, the water provider could incur and pass on to its water ratepayers the water acquisition and replenishment costs. However, the rule amendments create a new groundwater allowance option that is intended to offset replenishment costs, to the benefit of homeowners/water users.

- **Landowners:**

Benefits. In some instances, properties in undesignated areas might become more attractive to developers under this rulemaking compared to the traditional rules since it potentially expands developable areas that were previously more limited in water supply options, benefiting owners of lands that could not otherwise be developed.

Costs. None identified.

This Cost-Benefit Analysis shows that the probable costs to agencies, political subdivisions, business, private persons and consumers resulting from adoption of the proposed rule changes would be minimal. The Department believes the rulemaking will result in greater net benefits to the state and other parties largely stemming from continued growth and development in the Phoenix and Pinal AMAs while at the same time addressing groundwater use concerns and further upholding the Department's long-term groundwater management goals in the Phoenix and Pinal AMAs.

4. Probable Impact on Private and Public Employment in Business, Agencies, and Political Subdivisions

The Department anticipates a significant positive impact on employment as a result of this rulemaking, which provides new AWS alternatives to public and private water providers and previously designated water providers. The probable impacts may be positive for developers, private and public water providers, and cities and towns, as the rulemaking allows a path to economic development that will not be reliant on groundwater in the long-term and will uphold the Department's standards to reach the management goal of each AMA.

5. Probable Impact on Small Business

See Part 3(c) "Probable Benefits and Costs to Business, Including Small Business" above.

6. Probable Effect on State Revenues

Excise, income, property, and sales taxes are expected remain stable to increasing longer-term as growth increases at a sustainable pace in the Pinal and Phoenix AMAs. No new fees or charges are included in this rulemaking. Absent this rulemaking, the State could see decreased tax revenues due to the current AWS rules providing limitations to develop on groundwater, and therefore limiting the geographic extent of new developments to those areas that have previously secured an AWS determination. The Department will need to increase staff as a consequence of adopting the rulemaking.

7. Less Intrusive or Less Costly Alternative Methods of Achieving the Rulemaking

The Department provides qualitative descriptions of each alternative's impacts below because it is not possible to obtain adequate data regarding the specific monetary impacts of each alternative discussed.

- **No Action:** A no action alternative would fail to achieve the objectives of the rulemaking, the Governor's Water Policy Council, and the stakeholders who contributed to the development of the proposed amendments. Without the rulemaking, developers and water providers could continue to face substantial barriers to securing determinations of AWS, and opportunities for additional development in the Phoenix and Pinal AMAs could be limited.

This rulemaking demonstrates the state's ability to adapt to water supply constraints and enable additional growth, while maintaining the integrity of the Assured Water Supply program, protecting consumers and aquifers, and ensuring future growth is not reliant on mined groundwater.

- **Delay rulemaking:** Maintain current AWS rules, unchanged. However, Governor Hobbs, her Water Policy Council, and stakeholders identified an urgent need for solutions to the challenges revealed by the AWS modeling, and these amendments are the solutions developed in response to that. Water providers have communicated that this rulemaking needs to be implemented immediately and that without a clear path forward, they will not be able to justify making the necessary investments in acquiring supplies and constructing necessary infrastructure. These costs will only increase as the rulemaking is delayed and would provide no benefit.

8. Description of Data on Which the Rule Modification is Based

Because this rulemaking amends the AWS rules to create new paths to an AWS application that providers or developers may voluntarily pursue, the Department could not evaluate quantitative impacts to water users, services areas, or aquifer conditions without being overly speculative on

which areas or water users in the Phoenix and Pinal AMAs might apply for these determinations and the types of water supplies or infrastructure that could be included. The proposed amendments are based on the Department's understanding of the limitations faced by developers and water providers under the current AWS rules, recent groundwater modeling projections, the recommendations provided by the Governor's Water Policy Council and its expert Council members, and the Department's Assured Water Supply program's ongoing objective to provide consumer protection and sustain the state's economic health by preserving groundwater resources and promoting long-term water supply planning.