



or an earlier date as determined by the Director. The goal of safe-yield means a long-term balance between groundwater withdrawals or losses and replacement of groundwater within an active management area.

The Groundwater Code also established the Assured Water Supply Program as a tool to allow for continued municipal growth in Arizona while also achieving and maintaining the management goal of safe-yield. Pursuant to A.R.S. § 45-576(I), "assured water supply" means that: (1) sufficient water of adequate quality will be available to meet the water needs of the proposed use for at least 100 years, (2) the projected groundwater use by the development is consistent with the management plan and achievement of the management goal for the active management area in which the development is located and (3) financial capability has been demonstrated to construct the water facilities necessary to make the supply of water available for the proposed use. The program requires all persons proposing to offer subdivided lands for sale or lease within an active management area to demonstrate to the Department that an "assured water supply" exists for the proposed subdivision. The Department approves an Assured Water Supply application for a new subdivision only if the projected water use for that subdivision will not interfere with the "long-term balance" of the amount of groundwater stored in the AMA.

There are two methods by which a person who proposes to offer subdivided lands may demonstrate that a proposed subdivision has an assured water supply. A subdivider may apply for and obtain a certificate of assured water supply from the Department for a particular proposed subdivision. Or, the subdivider may obtain a written commitment of water service for the proposed subdivision from a city, town, or private water company that the Director has designated as having an assured water supply. A designated provider is one that has demonstrated to the Department that adequate supplies exist to serve, for 100 years, at least its current demand, its committed demand (the estimated demand of all recorded lots within the boundaries of the area which are not yet served), and a minimum of two years of projected demand.

In February 1995, the Department adopted rules implementing the Assured Water Supply Program. Those rules, found at A.A.C. R12-15-701 et seq., provide specific requirements for an applicant for a certificate or designation of assured water supply, including proving that water supplies are physically, continuously and legally available for at least 100 years. The rules also establish the amounts of groundwater that can be used to establish an assured water supply consistent with achievement of the management goal. Accordingly, the rules mandate that new subdivisions built within active management areas use primarily renewable water supplies, such as surface water.

When the Assured Water Supply Rules were adopted, hydrologic evidence available at the time indicated that the Prescott AMA was in a safe-yield condition, and the Department concluded that groundwater was still available for additional development in the area. Consequently, the rules allowed unlimited amounts of groundwater to be used to support new development in the AMA, finding such use to be consistent with achieving and maintaining the AMA's management goal.

The Assured Water Supply Rules recognized, however, that this condition could not be expected to continue indefinitely, and that at some point in the future, additional use and allocation of groundwater would push the AMA out of safe-yield. The rules anticipated ongoing monitoring of the AMA, and required that once the Director found evidence that the Prescott AMA was no longer at safe-yield, the Director must issue a preliminary determination to that effect and begin the process of making a final determination of whether there was still groundwater available to commit to new subdivisions without causing a depletion of groundwater supplies in the AMA. After a final determination that the AMA was no longer in safe-yield, only a limited amount of groundwater legally could be used to establish the assured water supply necessary for new subdivisions. In other words, new subdivisions would be required to find alternatives to groundwater to establish an assured water supply.

During the 1998 legislative session, the Arizona legislature enacted Senate Bill 1124 (Laws 1998, Chapter 86), requiring the Director, within 15 days of the law's effective date, to publish the first notice of hearing to determine whether the Prescott Active Management Area was at safe-yield. In August 1998, the Director of the Department issued a preliminary report stating that the Prescott AMA was no longer at safe-yield. In accordance with the procedures established in R12-15-705, a public hearing was held in order to collect evidence and make a final determination as to the safe-yield status of the AMA.

Following the public hearing and consideration of additional evidence submitted, the Director signed a Final Decision and Order in January 1999, determining the Prescott AMA to be no longer at safe-yield. This final decision rendered subsections (B) through (E) of the current rule 705 either outmoded or unnecessary. R12-15-705(B), which the Department proposes to delete, is no longer applicable, because it states that any amount of groundwater used for new subdivisions is consistent with the management goal of the Prescott AMA. As currently written, subsections (C) through (E) provide the steps to follow in determining whether the AMA remains in a safe-yield condition. Thus, these subsections are now outdated.

*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

---

The 1998 session law supersedes the current R12-15-705(F). Subsection (F) establishes calculations for certificate and designation applicants to determine the volume of water that may be withdrawn consistent with the AMA's management goal should the Director enter a final decision and order determining the Prescott AMA to be no longer at safe-yield. The session law mandated changes to the designation calculations in subsection (F) should the Director determine that the AMA is no longer in safe-yield. Thus, in the proposed rule, subsection (F) has been re-written as subsections (B) through (F). Subsection (B) of the proposed rule uses the same formula that the old rule provided for certificate applicants once a final determination was made that the AMA was no longer at safe-yield. Some minor changes were necessary, because the old rule referred to the "declaration year," which is now a definite year - 1999.

However, the proposed rule incorporates the mandated changes to the formulae for calculating allowable groundwater use for designation applicants. Primarily, subsection (F) of the proposed rule recognizes that the allowable volume of groundwater for designation applicants now includes the amount of groundwater necessary for the applicant to serve, for 100 years, any residential groundwater uses, including residential groundwater uses served by an exempt well and including any nonresidential uses associated with the residential uses, in existence on August 21, 1998, that have been replaced by permanent water service from the applicant after that date. And, as mandated by Laws 1998, Ch. 86, subsections (C)(2), (D) and (E) detail an optional formula for designation applicants to use in determining the allowable amount of groundwater use consistent with the management goal.

Other changes included in the proposed rule are mandated by Laws 2000, Ch. 391, partially codified at A.R.S. § 45-472.01. This statute addresses extinguishment of grandfathered rights in the Prescott AMA. A grandfathered right is a statutory right to withdraw and use groundwater based on the fact of lawful withdrawals and use of groundwater prior to the establishment of an active management area. Under the Assured Water Supply Rules, the owners of grandfathered groundwater rights may extinguish the rights in exchange for assured water supply credits that a designation or certificate applicant may apply toward its assured water supply determination. In other words, the groundwater allowed to be pumped under the irrigation right may be exchanged for a water provider's right to pump groundwater under an assured water supply determination.

R12-15-705(M) addresses the amount of assured water supply credits established for extinguishing a grandfathered right. The new subsection (M)(7) of the proposed rule incorporates the statutory requirements as directed by the Legislature. It changes the calculation for certain grandfathered rights in the Prescott AMA, giving three different calculations depending upon when the right is extinguished and how many years the irrigation acres associated with the extinguished right were irrigated in calendar years 1994 through 1999.

R12-15-705(L) addresses requirements for extinguishing grandfathered groundwater rights in exchange for assured water supply credits, including return of the certificate evidencing the grandfathered right and submission of a notarized statement of intent to extinguish the right. The proposed subsection (L)(4) incorporates additional conditions of the 2000 session law for extinguishment of the grandfathered rights located in the Prescott AMA.

**6. A reference to any study that the agency relied on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:**

None

**7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

**8. The preliminary summary of the economic, small business, and consumer impact:**

The proposed rule implements what is already state law, reflected in Laws 1998, Ch. 86, Laws 2000, Ch. 391, and A.R.S. § 45-472.01, and repeals several out-of-date provisions regarding the safe-yield status of the Prescott Active Management Area and determination of consistency with the management goal in the Prescott Active Management Area. The Department is not proposing any action in this rulemaking beyond what the Legislature has required.

**9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**

Name: Charles L. Cahoy, Deputy Counsel  
Legal Division

Address: Arizona Department of Water Resources  
500 N. Third Street  
Phoenix, AZ 85004

Telephone: (602) 417-2420

*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

---

Fax: (602) 417-2415

**10. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**

Persons may submit written comments during business hours to the persons identified in item #9 above until the close of record.

An oral proceeding on the rules will be held at 1:00 p.m. on January 9, 2002 at the Arizona Department of Water Resources, Prescott Active Management Area office, 2200 E. Hillsdale Rd., Prescott, Arizona. In accordance with the Americans with Disabilities Act, persons with a disability may request a reasonable accommodation by contacting the Arizona Department of Water Resources office at (602) 417-2420.

**11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

None

**12. Incorporations by reference and their location in the rule:**

None

**13. The full text of the rule follows:**

**TITLE 12. NATURAL RESOURCES**

**CHAPTER 15. DEPARTMENT OF WATER RESOURCES**

**ARTICLE 7. ASSURED AND ADEQUATE WATER SUPPLY**

Section

R12-15-705. Assured Water Supply Requirement – Consistency with Management Goal

**ARTICLE 7. ASSURED AND ADEQUATE WATER SUPPLY**

**R12-15-705. Assured Water Supply Requirement – Consistency with Management Goal**

- A.** The ~~Director~~ ~~director~~ shall approve an application for a certificate of assured water supply or a designation of assured water supply only if the applicant submits information from which the ~~Director~~ ~~director~~ determines that the proposed groundwater use will be consistent with the achievement of the management goal of the active management area.
- B.** ~~In the Prescott Active Management Area, the proposed use of an applicant for a certificate of assured water supply or a designation of assured water supply is consistent with the achievement of the management goal of the active management area, regardless of the volume of groundwater withdrawn from within the active management area for the proposed use, until the director enters a final decision and order determining that the Prescott Active Management Area is no longer at safe yield under the provisions of this Article.~~
- C.** ~~The director shall determine whether the Prescott Active Management Area continues to be at safe yield by analyzing a minimum of three annual data reports containing information on:~~
- ~~1. Groundwater levels;~~
  - ~~2. Changes in groundwater levels;~~
  - ~~3. Pumpage volumes from confined and unconfined aquifers;~~
  - ~~4. Long term precipitation records;~~
  - ~~5. Surface water flow records;~~
  - ~~6. A comparative evaluation of groundwater conditions as related to climatic normal conditions.~~
- D.** ~~When the reports from three successive annual data reports using normalized information, including committed demand and demands associated with the groundwater allocation for designated entities for calendar year 1995, made in accordance with subsection (F)(2), show ongoing water level declines and increased pumpage, the director shall make a preliminary determination that the Prescott Active Management Area is no longer at safe yield.~~
- E.** ~~Prior to entering a final decision and order that the Prescott Active Management Area is no longer at safe yield, the director shall publish a notice once each week for two consecutive weeks in a newspaper of general circulation in Yavapai County stating that the director shall conduct a hearing to determine whether the Prescott Active Management Area is no longer at safe yield. After publishing notice in the manner described above, the director shall hold a hearing in the Prescott Active Management Area within 30 days of the last notice. Any person may appear at the hearing and submit oral or documentary evidence on the issue of whether the Prescott Active Management Area is no longer at safe yield. Persons may submit written comments concerning matters discussed at the hearing within 30 days after the hearing. Within 180 days after the termination of the public comment period, the director shall enter a final decision and order determining~~

*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

---

either that the Prescott Active Management Area remains at safe yield or that the Prescott Active Management Area is no longer at safe yield.

- F.** ~~If the director enters a final decision and order determining that the Prescott Active Management Area is no longer at safe yield, the director shall calculate the volume of groundwater which may be withdrawn consistent with the management goal of the active management area in accordance with subsection (A) of this Section by adding to the volume of assured water supply credits determined in accordance with subsection (M) of this Section, the volume calculated as follows:~~
- ~~1. If the application is for a certificate of assured water supply:
    - a. Subtract the declaration year from 2025, unless the date of application occurs subsequent to the declaration year, in which case subtract the year of the date of application from 2025.
    - b. Determine the total volume of water, from any source, projected by the director to meet 100% of the applicant's water demands for the 15th calendar year after the date of application consistent with the conservation requirements established in the management plan in effect on the date of application for the municipal provider proposed to serve the applicant.
    - c. Multiply the number determined in subsection (F)(1)(a) by the amount calculated in subsection (F)(1)(b).
    - d. Divide the product obtained in subsection (F)(1)(c) by two. The minimum volume which may be calculated in this paragraph is zero acre-feet.~~
  - ~~2. If the application is for a designation of assured water supply:
    - a. And, except as provided in subsection (F)(2)(c), the date of application occurs within 180 days after the declaration date:
      - i. Multiply 100 by the volume of groundwater withdrawn from within the active management area by the applicant during the declaration year or calendar year 1995, whichever volume is greater, consistent with the conservation requirements established for the applicant in the management plan in effect on the date of application.
      - ii. Determine the volume of the applicant's total water demand, from any source, for the declaration year consistent with the conservation requirements established for the applicant in the management plan in effect on the date of application.
      - iii. Determine the volume of the applicant's total water demand, from any source, for the 15th calendar year after the declaration year consistent with the conservation requirements established for the applicant in the management plan in effect on the date of application.
      - iv. Subtract the volume calculated in subsection (F)(2)(a)(ii) from the volume calculated in subsection (F)(2)(a)(iii).
      - v. Subtract the declaration year from 2025.
      - vi. Multiply the volume calculated in subsection (F)(2)(a)(iv) by the number calculated in subsection (F)(2)(a)(v).
      - vii. Divide the product obtained in subsection (F)(2)(a)(vi) by two.
      - viii. Add the volume calculated in subsection (F)(2)(a)(vii) to the volume calculated in subsection (F)(2)(a)(i).
    - b. And, except as provided in subsection (F)(2)(c) the date of application does not occur within 180 days after the declaration date, subtract from the volume calculated in subsection (F)(2)(a) the volume of groundwater calculated in subsection (F)(2)(b)(iii). The volume shall be calculated as follows:
      - i. Determine the volume of groundwater withdrawn by the applicant from within the active management area during the period beginning January 1 of the declaration year and ending either December 31 of the declaration year or December 31 of the calendar year prior to the date of the application, whichever is later.
      - ii. Multiply the volume of groundwater withdrawn by the applicant from within the active management area in the declaration year by the number of calendar years in the period beginning with the declaration year and ending with the calendar year prior to the date of application.
      - iii. Subtract from the volume calculated in subsection (F)(2)(b)(i) the volume calculated in subsection (F)(2)(b)(ii).
    - c. And the applicant did not exist as of the declaration date, or the date of application occurs after calendar year 2025, the maximum volume of groundwater which the applicant may use for the proposed use for 100 years from the date of application consistent with the achievement of the management goal for the Prescott Active Management Area is zero acre feet.~~
  - ~~3. If the director receives an application for a certificate of assured water supply or a designation of assured water supply prior to the declaration year, the director shall perform the calculations described in subsection (F)(1) or (2) after the director enters a final decision and order determining that the Prescott Active Management Area is no longer at safe yield.~~
- B.** The Director shall determine that a certificate of assured water supply applicant's projected groundwater use is consistent with the achievement of the management goal of the Prescott Active Management Area if the applicant's projected groundwater use for 100 years from the date of application will not exceed the volume of groundwater calculated by add-

*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

---

ing to the volume of assured water supply credits calculated in subsection (M) of this Section, the volume of groundwater calculated as follows:

1. Subtract the year in which the application is filed from 2025.
2. Determine the total projected volume of water, from any source, needed to meet all of the water demands of the applicant's subdivision for the 15th calendar year after the date of application, consistent with the conservation requirements established in the management plan in effect on the date of application for the municipal provider proposed to serve the applicant.
3. Multiply the number calculated in subsection (B)(1) by the amount determined in subsection (B)(2).
4. Divide the product obtained in subsection (B)(3) by two. The minimum volume that may be calculated in this subsection is zero acre-feet.

**C.** The Director shall determine that a designation of assured water supply applicant's projected groundwater use is consistent with the achievement of the management goal of the Prescott Active Management Area if the applicant's projected groundwater use for 100 years will not exceed the volume of groundwater calculated by adding to the volume of assured water supply credits calculated in subsection (M) of this Section, the volume of groundwater calculated in subsection (F) of this Section, and the volume of groundwater calculated, at the option of the applicant, by one of the following 2 formulae:

1. Formula "1":

- a. Multiply 100 by the largest volume of groundwater determined by the Director to have been withdrawn by the applicant from within the Prescott Active Management Area for use within its service area in any calendar year from 1995 through 1998 consistent with the conservation requirements that were applicable under the second management plan for the Prescott Active Management Area.
- b. Determine the volume of the applicant's total water demand, from any source, for calendar year 1999 consistent with the conservation requirements that are applicable under the management plan in effect for the Prescott Active Management Area on the date of application.
- c. Determine the total projected or actual volume of water, from any source, needed to meet all of the applicant's water demands for calendar year 2014 consistent with the conservation requirements that are applicable under the management plan in effect for the Prescott Active Management Area on the date of application.
- d. Subtract the volume calculated in subsection (C)(1)(b) from the volume calculated in subsection (C)(1)(c).
- e. Multiply the volume calculated in subsection (C)(1)(d) by 13, which is half of the difference between the declaration year of 1999 and 2025.
- f. Add the volume calculated in subsection (C)(1)(e) to the volume calculated in subsection (C)(1)(a).
- g. Determine the volume of groundwater withdrawn by the applicant from within the Prescott Active Management Area during the period beginning January 1, 1999 and ending December 31 of the calendar year immediately preceding the date of application.
- h. Multiply the volume of groundwater withdrawn by the applicant from within the Prescott Active Management Area in calendar year 1999 by the number of calendar years in the period beginning with 1999 and ending with the calendar year immediately preceding the date of application.
- i. Subtract from the volume calculated in subsection (C)(1)(g) the volume calculated in subsection (C)(1)(h). This amount shall not be less than zero.
- j. Subtract from the volume calculated in subsection (C)(1)(f) the volume calculated in subsection (C)(1)(i).

2. Formula "2":

- a. Multiply 100 by the largest volume of groundwater determined by the Director to have been withdrawn by the applicant from within the Prescott Active Management Area for use within its service area in any calendar year from 1995 through 1998 consistent with the conservation requirements that were applicable under the second management plan for the Prescott Active Management Area.
- b. Determine in accordance with subsection (E) the amount of groundwater necessary for the applicant to serve residential lots that meet the criteria of subsection (D).
- c. Add the volume calculated in subsection (C)(2)(b) to the volume calculated in subsection (C)(2)(a).
- d. Determine the volume of groundwater withdrawn by the applicant from within the Prescott Active Management Area during the period beginning January 1, 1999 and ending December 31 of the calendar year immediately preceding the date of application.
- e. Determine the number of calendar years in the period beginning with 1999 and ending with the calendar year immediately preceding the date of application and multiply that number of years by the largest volume of groundwater determined by the Director to have been withdrawn by the applicant from within the Prescott Active Management Area for use within its service area in any calendar year from 1995 through 1998, consistent with the conservation requirements applicable under the second management plan for the Prescott Active Management Area.
- f. Determine the average dwelling occupancy within the applicant's service area and multiply that average occupancy by an amount of groundwater calculated by multiplying 150 gallons per capita per day by 365 days.



*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

LOCATION OF PROPOSED DEVELOPMENT	MANAGEMENT PERIOD / DATE OF APPLICATION	ALLOCATION FACTOR
TUCSON AMA	Second	15
	Third	8
LOCATION OF PROPOSED DEVELOPMENT	Fourth	4
	Fifth	2
	After Fifth	0
PHOENIX AMA	Second	7.5
	Third	4
	Fourth	2
	Fifth	1
	After Fifth	0

2. If the application is for a designation of assured water supply and the applicant provided water to its customers before ~~prior to~~ the effective date of this Article, multiply the total volume of water, from any source, consistent with the first intermediate conservation requirement established in the second management plan, provided by the applicant to its customers during the calendar year before ~~prior to~~ the effective date of this Article by 15 if the applicant is located in the Tucson Active Management Area or by 7.5 if the applicant is located in the Phoenix Active Management Area.
  3. If the application is for a designation of assured water supply, and the applicant commences providing water to its customers on or after the effective date of this Article, zero acre-feet of groundwater.
- H.** Except as provided in subsection (I) or (J) ~~of this Section~~, with respect to the Pinal Active Management Area, the Director ~~director~~ shall determine the volume of groundwater that which an applicant for a certificate of assured water supply or a designation of assured water supply may withdraw from the active management area consistent with the achievement of the management goal of the active management area by adding the volume of assured water supply credits determined annually in accordance with subsection (M) ~~of this Section~~ to the volume calculated as follows:
1. If the applicant is a certificate applicant that which will be served by a small municipal provider or a municipal provider that which is required to comply with a total-gallons-per-capita-per-day requirement or a non-per capita requirement established in the management plan in effect on the date of application for the Pinal Active Management Area:
    - a. Determine the proposed development's 15-year build-out population; and-
    - b. Multiply the population determined in subsection (H)(1)(a) by the product of 125 gallons per capita per day and the number of days in the calendar year.
  2. If the applicant is a certificate applicant that which will be served by an existing municipal provider that which is required to comply with a residential gallons-per-capita-per-day requirement established in the management plan in effect on the date of application for the Pinal Active Management Area, zero acre-feet.
  3. If the applicant is a certificate applicant that which will be served by a new municipal provider that which is required to comply with a residential gallons-per-capita-per-day requirement established in the management plan in effect on the date of application for the Pinal Active Management Area:
    - a. Determine the proposed development's 15-year build-out population; and-
    - b. Multiply the population determined in subsection (H)(3)(a) by the product of 62.5 gallons-per-capita-per-day and the number of days in the calendar year.
  4. If the applicant is a designation of AWS applicant that which is a small municipal provider or a municipal provider that which is required to comply with a total gallons-per-capita-per-day requirement or a non-per capita program requirement established in the management plan in effect on the date of application for the Pinal Active Management Area:
    - a. Determine the applicant's service area population for the calendar year; and-
    - b. Multiply the population determined in subsection (H)(4)(a) by the product of 125 gallons per capita per day and the number of days in the calendar year.
  5. If the applicant is a designation of AWS applicant that which is an existing municipal provider that which is required to comply with a residential gallons-per-capita-per-day requirement established in the management plan in effect on

*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

---

the date of application for the Pinal Active Management Area, the largest volume of groundwater withdrawn by the applicant within the active management area in any one calendar year from calendar year 1980 through calendar year 1989.

6. If the applicant is a designation of AWS applicant ~~that which~~ is a new municipal provider ~~that which~~ is required to comply with a residential gallons-per-capita-per-day requirement established in the management plan in effect on the date of application for the Pinal Active Management Area:
  - a. Determine the applicant's service area population for the calendar year; ~~and-~~
  - b. Multiply the population determined in subsection (H)(6)(a) by the product of 62.5 gallons-per-capita-per-day and the number of days in the calendar year.
- I. If a municipal provider ~~that which~~ is not a deemed provider in the Phoenix, Tucson, or Pinal Active Management Areas files an application within 180 days after the effective date of this Article as required by R12-15-702(D), the ~~Director~~ ~~director~~ shall determine that the proposed use of the applicant will be consistent with the management goal of the active management area for calendar years 1996, 1997, and 1998, regardless of the volume of groundwater withdrawn by the applicant within the active management area. Beginning calendar year 1999, the applicant shall comply with the provisions of this Section.
- J. If a municipal provider ~~that which~~ is a deemed provider files an application to be designated on or before January 1, 1997, the ~~Director~~ ~~director~~ shall determine that the proposed use of the applicant is consistent with the management goal for the calendar years 1998, 1999, and 2000, regardless of the volume of groundwater withdrawn by the applicant within the active management area. Beginning calendar year 2001, the applicant shall comply with the provisions of this Section.
- K. After the ~~Director~~ ~~director~~ issues a designation of assured water supply to a municipal provider in the Tucson or Phoenix Active Management Area, the ~~Director~~ ~~director~~ shall, ~~before~~ ~~prior to~~ the beginning of each calendar year, add a volume of groundwater to the volume calculated for the applicant in subsection (G) ~~of this Section~~ in determining whether the use of the provider is consistent with the achievement of the management goal of the active management area. The ~~Director~~ ~~director~~ shall calculate the volume of groundwater by multiplying the provider's total water use, from any source, in the previous calendar year, by the standard incidental recharge factor of 4%. The ~~Director~~ ~~director~~ may establish a different incidental recharge factor for the provider if the provider demonstrates to the satisfaction of the ~~Director~~ ~~director~~ that the ratio of the average annual amount of incidental recharge expected to be attributable to the municipal provider during the management period to the average annual 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%. If a provider applies for a variance from the standard incidental recharge factor, the provider shall do so in a manner consistent with A.R.S. § 45-565.01(D).
- L. The ~~Director~~ ~~director~~ shall establish an assured water supply credit for the extinguishment of a grandfathered groundwater right if all of the following conditions are met:
  1. The owner of the right submits to the ~~Director~~ ~~director~~ a notarized statement of intent to extinguish the grandfathered groundwater right.
  2. The certificate evidencing the grandfathered groundwater right is returned to the ~~Director~~ ~~director~~ or the ~~Director~~ ~~director~~ receives an affidavit evidencing that the certificate has been lost. If only a portion of a type 1, non-irrigation grandfathered right or irrigation grandfathered right is extinguished, the ~~Director~~ ~~director~~ shall issue a new certificate for the remainder of the right.
  3. If the right being extinguished is a type 1, non-irrigation grandfathered right or an irrigation grandfathered right, the owner of the right submits sufficient evidence of ownership of the land associated with the grandfathered groundwater right.
  4. If the grandfathered groundwater right is located in the Prescott Active Management Area, all of the following conditions are met:
    - a. The land to which the right is appurtenant has not been and will not be subdivided pursuant to a preliminary plat or a final plat that was approved by a city, town or county before August 21, 1998.
    - b. The land to which the right is appurtenant is not and will not be the location of a subdivision for which a complete and correct application for a certificate of assured water supply was submitted to the Director before August 21, 1998.
    - c. The land to which the right is appurtenant has not been physically developed for industrial, commercial or other non-irrigation use.
- M. The amount of the assured water supply credit established for extinguishing a grandfathered right is as follows:
  1. For the extinguishment of an irrigation grandfathered right, or a portion of an irrigation grandfathered right ~~thereof~~ in the ~~Prescott~~, Phoenix, or Tucson Active Management Area, the amount calculated by multiplying 1.5 acre-feet per acre by the number of irrigation acres associated with the extinguished right and multiplying the product by the difference calculated by subtracting the calendar year of extinguishment from 2025. If only a portion of an irrigation grandfathered right is extinguished, only those irrigation acres associated with the portion of the right ~~that which~~ is extinguished shall be included in the calculation.

*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

---

2. For the extinguishment of an irrigation grandfathered right in the Pinal Active Management Area, after the right or a portion ~~of the right thereof~~ is extinguished, add annually the product of 3.0 acre-feet per acre multiplied by the number of irrigation acres associated with the extinguished right in each calendar year ~~before prior to~~ 2000, and the product of 1.5 acre-feet per acre multiplied by the number of irrigation acres associated with the extinguished right for each calendar year thereafter. If only a portion of an irrigation grandfathered right is extinguished, only those irrigation acres associated with the portion of the right ~~that which~~ is extinguished shall be included in the calculation.
  3. For the extinguishment of a type 1, non-irrigation grandfathered right or a portion ~~of the non-irrigation grandfathered right thereof~~ extinguished in the Prescott, Phoenix, or Tucson Active Management Area, the amount calculated by:
    - a. Subtracting the calendar year of extinguishment from 2025.
    - b. Multiplying 1.5 acre-feet per acre by the number of acres to which the type 1, non-irrigation grandfathered right is appurtenant.
    - c. Multiplying the product calculated in subsection (M)(3)(b) by the difference calculated in subsection (M)(3)(a).
  4. For the extinguishment of a type 1, non-irrigation grandfathered right or a portion ~~of the non-irrigation grandfathered right thereof~~ in the Pinal Active Management Area, the amount calculated annually by multiplying 1.5 acre-feet per acre by the number of acres to which the type 1 non-irrigation right is appurtenant. If only a portion of the type 1 non-irrigation right is extinguished, only those acres associated with the portion of the right ~~that which~~ is extinguished shall be included in the calculation.
  5. For the extinguishment of a type 2, non-irrigation grandfathered right in the Prescott, Phoenix, or Tucson Active Management Area, the amount calculated by multiplying the number of acre-feet indicated on the certificate by the difference between the calendar year of extinguishment and 2025.
  6. For the extinguishment of a type 2, non-irrigation grandfathered right in the Pinal Active Management Area, an annual amount equal to the number of acre-feet indicated on the certificate.
  7. For the extinguishment of an irrigation grandfathered right or a type 1 non-irrigation grandfathered right in the Prescott Active Management Area:
    - a. Through December 31, 2010:
      - i. If the irrigation acres associated with the extinguished right were irrigated for at least 4 of the 6 calendar years preceding January 1, 2000, the amount calculated by multiplying 1.5 acre-feet per acre by the number of irrigation acres associated with the extinguished right and multiplying that product by 25.
      - ii. If the irrigation acres associated with the extinguished right were not irrigated for at least 4 of the 6 calendar years preceding January 1, 2000, the amount calculated by multiplying 1.5 acre-feet per acre by the number of irrigation acres associated with the extinguished right and multiplying the product by the difference calculated by subtracting the calendar year in which the statement of intent to extinguish is filed from 2025.
    - b. After December 31, 2010, the amount calculated by multiplying 1.5 acre-feet per acre by the number of irrigation acres associated with the extinguished right and multiplying the product by the difference calculated by subtracting the calendar year in which the statement of intent to extinguish is filed from 2025.
- N. A municipal provider receiving credits for the extinguishment of a grandfathered groundwater right may convey the credits. The holder of a certificate may not convey credits obtained for the extinguishment of a grandfathered groundwater right unless the credits are conveyed as part of the transfer of the certificate to which they have been applied.
- O. If an irrigation grandfathered right which is extinguished has a debit balance in its flexibility account established under A.R.S. § 45-467, the Director ~~director~~ shall subtract the amount of the debit from the amount of the assured water supply credit calculated in subsection (M) ~~of this Section~~.
- P. The Director ~~director~~ shall not give any assured water supply credit for the extinguishment of a type 1, non-irrigation grandfathered right ~~that which~~ was requested to be included by a city or town in the Tucson Active Management Area in the determination made under A.R.S. § 45-463(F) nor to the holder of a type 1, non-irrigation grandfathered right who the Director ~~director~~ determines is likely to continue to receive groundwater from an undesignated municipal provider pursuant to its service area right or pursuant to a groundwater withdrawal permit. The Director ~~director~~ shall not give any assured water supply credit for the extinguishment of a type 2, non-irrigation grandfathered right ~~that which~~ was issued for the purpose of allowing mineral extraction or the generation of electrical power.
- Q. The volume of groundwater ~~that which~~ the Director ~~director~~ determines may be used by a person consistent with the achievement of the management goal of the active management area pursuant to subsection (B), (C), (F), (G), (K), or (M) of this Section may be used by the person in any calendar year.
- R. To determine compliance with the consistency with management goal requirements ~~of established in~~ this Section for the Prescott, Phoenix, or Tucson Active Management Area, the Director ~~director~~ shall maintain an account updated annually of the water supply and demand status for each holder of a certificate of assured water supply and each holder of a designation of assured water supply. The Director ~~director~~ shall subtract annually the volume of groundwater, except for groundwater excluded under subsection (T) ~~of this Section~~, ~~that is which was~~ withdrawn from within the applicable active management area and used by the holder of the certificate or designation, from the volume of groundwater ~~that which~~ the Director ~~director~~ has determined under subsections (B), (C), (F), (G), (K), and (M) ~~of this Section~~ that the holder of the certificate or designation may withdraw from within the active management area and use consistent with the achievement

*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

---

of the management goal of the active management area. The ~~Director~~ director shall determine that the use of a holder of a certificate or a designation is not consistent with the management goal of the active management area if the holder of the certificate or the designation has used more groundwater withdrawn from within the active management area than the volume ~~that which~~ the ~~Director~~ director has determined the holder may use consistent with the achievement of the management goal for the active management area.

- S. To determine compliance with the consistency with management goal requirement of ~~established in this Section~~ rule for the Pinal Active Management Area:
1. The ~~Director~~ director shall maintain an account updated annually of the groundwater supply and demand status for each holder of a certificate of assured water supply and each holder of a designation of assured water supply. After the ~~Director~~ director calculates under subsection (H) ~~of this Section~~ the volume of groundwater ~~that which~~ the holder of the certificate or designation may withdraw within the active management area and use for a calendar year consistent with the management goal of the active management area, the ~~Director~~ director shall determine compliance with this Section by determining the volume of groundwater withdrawn from within the active management area ~~that which~~ is used by the applicant during the calendar year.
  2. The ~~Director~~ director shall determine that the holder of a certificate or designation is not consistent with the management goal of the active management area if the holder of the certificate or the designation has used more groundwater withdrawn within the active management area during the calendar year than the maximum annual allotment of groundwater ~~that which~~ the ~~Director~~ director has determined the holder may use consistent with the achievement of the management goal for the active management area for the calendar year.
  3. If the ~~Director~~ director determines that the holder of a certificate or designation uses less groundwater withdrawn from within the active management area in any calendar year than the maximum annual allotment of groundwater established for the holder for that calendar year, the ~~Director~~ director shall add to the next calendar year's groundwater allotment the amount calculated by subtracting the volume of groundwater used in the calendar year from the maximum groundwater allotment for the calendar year.
- T. For a holder of a certificate or designation, the ~~Director~~ director, upon application, shall exclude the following volumes of groundwater withdrawn within the applicable active management area and used by the holder in determining under subsections (R) and (S) ~~of this Section~~ whether the holder's use continues to be consistent with the achievement of the management goal for the active management area:
1. If the ~~Director~~ director has determined that a surface water supply is physically available to the holder under R12-15-703 and the volume of the supply actually available to the holder during a calendar year is equal to or less than the drought volume for the supply, the volume of groundwater, other than the groundwater ~~that which~~ is accounted for under subsections (R) or (S), withdrawn within the active management area ~~that, which,~~ when combined with the holder's available surface water supply, is equal to or less than the holder's drought volume.
  2. The volume of groundwater withdrawn from within the active management area to which all of the following apply:
    - a. The ~~Director~~ director has received a written determination from the ~~Director~~ director of the Arizona Department of Environmental Quality stating that the quality of the groundwater pumped or exchanged fails to meet state aquifer water quality standards, that the groundwater is a threat to future drinking water supplies, and that the removal and use of the contaminated groundwater is an appropriate remedial action.
    - b. The groundwater pumped has either been treated or blended to achieve the water quality standards or exchanged for other water supplies ~~that which~~ achieve such standards.
    - c. The groundwater would not have otherwise been removed from the aquifer, or the withdrawal of the groundwater will accelerate the treatment of groundwater at a designated state or federal groundwater clean-up site.
    - d. The groundwater was withdrawn ~~before~~ prior to the end of calendar year 2025.
  3. Any volume of groundwater withdrawn within a portion of an active management area ~~that which~~ is exempt from conservation requirements ~~under pursuant to~~ A.R.S. Title 45 due to waterlogging. The ~~Director~~ director shall review the application of this exclusion on a periodic basis not to exceed 15 years.
- U. For the purpose of performing the calculations prescribed in this Section, the ~~Director~~ director shall evaluate an application for a designation of assured water supply filed by a city or town ~~that which~~ is deemed to have an assured water supply under A.R.S. § 45-576(E) in the same manner as any other municipal provider.
- V. An applicant for a dry lot subdivision comprised of 20 or fewer lots is exempt from the requirements of this Section.