

Arizona Administrative Code - 2005

A.A.C. R12-15-717

Ariz. Admin. Code R12-15-717

ARIZONA ADMINISTRATIVE CODE

TITLE 12. NATURAL RESOURCES

CHAPTER 15. DEPARTMENT OF WATER RESOURCES

ARTICLE 7. ASSURED AND ADEQUATE WATER SUPPLY

Current through December 31, 2005 (Supp. 05-4)

R12-15-717. Adequate Water Supply Requirement—Physical Availability

A. The director shall approve an application for a **water report** or designation of adequate water supply only if the director determines that the adequacy **water report** applicant or designation of ADWS applicant will have sufficient supplies of groundwater, surface water, or effluent which are physically available as determined under subsection (B) of this Section, continuously available as determined under subsection (C) of this Section, and legally available under subsection (D) of this Section.

B. The director shall determine whether the applicant will have a sufficient supply of water which will be physically available to satisfy the applicant's 100-year projected water demand, if the applicant is an adequacy **water report** applicant, or will exceed the applicant's current and committed demands for 100 years, if the applicant is a designation of ADWS applicant, in accordance with the following:

1. If the proposed source is groundwater:

a. The director shall determine the volume of **ground** water which will be available for the proposed use:

i. If the applicant is a designation of ADWS applicant, from wells owned by the applicant which are located within the applicant's service area as indicated on the current service area map on the date of application and from proposed wells which the director determines are likely to be constructed for future uses by the designation of ADWS applicant within the applicant's service area.

ii. If the applicant is an adequacy **water report** applicant which will be served by a central distribution system, from wells which will serve the proposed development which are located within the proposed municipal provider's service area or wells which the director determines are likely to be constructed for future uses within the service area of the proposed municipal provider.

iii. If the applicant is an adequacy report applicant which will not be served by a central distribution system, from wells which the director determines are likely to be constructed on individual lots.

b. In determining the quantity of groundwater available from each well for 100 calendar years, the applicant shall submit a hydrologic study using a method of analysis approved by the director which accurately describes the hydrology of the affected area.

c. The director shall consider groundwater to be physically available only if the groundwater is to be withdrawn from depths not to exceed the following 100-year, depth-to-static, water level criteria:

Location of withdrawal / type Maximum 100-year, depth-SMP=type of development to-static water level

i. For areas outside of active 1200 feet below land surface

management areas/develop-

ments other than dry lot devel-

ments

ii. For areas outside of active 400 feet below land surface

management areas/dry lot

developments

iii. For areas outside of active 1200 feet below land surface

management areas/dry lot

developments comprised of

lots with an area between 36

and 160 acres

iv. For areas inside of active 1000 feet below land surface

management areas / develop-

ments comprised of lots with

an area between 36 and 160

acres

d. The director shall determine the 100-year depth-to-static water level by adding:

i. The depth-to-static water level present on the date of application for the area from which groundwater withdrawals are proposed.

ii. The projected declines caused by existing demand, using the projected decline in the 100-year, depth-to-static water level for the area from which groundwater withdrawals are proposed to occur during the 100-year period after the date of application, calculated using records of declines for the maximum period of time for which records are available up to 25 calendar years prior to the date of application. If evidence is provided to the director of likely changes in pumpage patterns and aquifer conditions as opposed to those patterns and conditions occur ring historically, the director may determine projected declines using a model rather than evidence of past declines.

iii. The projected decline in the depth-to-static water level for the area from which groundwater withdrawals are proposed to occur during the 100-year period after the date of application, calculated by adding the projected groundwater demand of items in subsections (B)(1)(d)(iii)(1) and subtracting the projected demand of item in subsection (B)(1)(d)(iii)(3):

(1) Committed demand.

(2) Other lots within developments for which the director has issued an analysis of adequate water supply pursuant to R12-15-723.

(3) The projected demand of subdivided lots whose plats have been abandoned.

iv. The projected decline in depth-to-static water level for the area from which groundwater withdrawals are proposed which the director projects will result from the applicant's proposed use over a 100-year period.

e. The director may lower the 100-year, depth-to-static water level requirement specified in subsection (B)(1)(c), if the director determines that groundwater is available at the lower depth and the applicant demonstrates the financial capability to obtain the groundwater.

2. If the proposed source of water is surface water, other than Central Arizona Project water or Colorado River water:

a. The director shall determine the quantity of water annually available for the proposed use taking into consideration the priority date of the right or claim by calculating 120% of the firm yield of the proposed source from the point of diversion as limited by the capacity of the diversion works; except that, if the applicant demonstrates that it will use an alternative source of water which is physically available during times of shortage in the proposed surface water supply, the director shall determine the quantity of water annually available for the proposed use by calculating 100% of the median flow of the proposed source at the point of diversion as limited by the capacity of the diversion works.

b. The director shall determine the firm yield or median flow as follows:

i. By calculating the firm yield or median flow at the point of diversion on the basis of a minimum of 20 calendar years of flow records from the point of diversion unless 20 calendar years of records are unavailable and the director determines that a shorter period of record provides information necessary to determine the firm yield or median flow; or

ii. By calculating the firm yield or median flow at the point of diversion using a hydrologic model which projects the firm yield or median flow taking into account a minimum of 20 calendar years of historic river flows, changes in reservoir storage facilities, and projected changes in water demand. The yield available to any applicant may be composed of rights to stored water, direct diversion, or normal flow rights. If the permit for the water right was issued less than five years prior to the date of application, the director shall require the applicant to submit evidence in accordance with this subsection (B)(2)(b)(ii).

3. If the proposed source of water is Central Arizona Project water:

a. If an applicant has a non-declining, long-term municipal and industrial subcontract for Central Arizona Project water, the director shall calculate the quantity of water annually available for the proposed use by calculating 100% of the annual amount of water established in the subcontract.

b. If an applicant has a lease for Indian priority Central Arizona Project water, the director shall calculate the annual quantity of water available for the proposed use by calculating 100% of the annual amount of water established in the lease.

c. If an applicant has a subcontract for Central Arizona Project water other than a non-declining, long-term, municipal and industrial subcontract or a lease for Indian priority Central Arizona Project water, and the applicant demonstrates a backup supply of water, the director shall calculate the quantity of water annually available for the proposed use by calculating 100% of the annual amount of water established in the subcontract. The backup supply of water may be established with approval of the director by one or more of the following:

- i. A drought response plan;
- ii. Recharge credits;
- iii. Evidence of other backup supplies which are physically, continuously, and legally available.

d. If the applicant does not submit evidence of sufficient backup supplies, the director shall determine the annual availability of the Central Arizona Project water supply by establishing a percentage of the annual amount established in the subcontract which the director determines to reasonably reflect the reliability of the applicant's Central Arizona Project water supply.

4. If the proposed source of water is Colorado River water:

a. And the priority of the contract provides reliability equal to or better than Central Arizona Project municipal and industrial water, the director shall calculate the quantity of water annually available for the proposed use by calculating 100% of the annual amount of water established in the contract.

b. And the contract provides reliability which is less than Central Arizona Project municipal and industrial water, and the applicant demonstrates a backup supply of water, the director shall calculate the quantity of water annually available for the proposed use by calculating 100% of the annual amount of water set forth in the contract. The backup supply of water may be established by one or more of the following:

- i. A drought response plan;
- ii. Recharge credits;
- iii. Evidence of other backup supplies which are physically, continuously, and legally available.

c. If the applicant does not submit evidence of sufficient backup supplies, the director shall determine the annual availability of the Colorado River water supply by establishing a percentage of the annual amount established in the contract which the director determines to reasonably reflect the reliability of the applicant's Colorado River water supply.

5. If the proposed source of water is effluent which will be used directly:

a. The director shall:

- i. Estimate the annual volume of effluent which will be available to the applicant by evaluating the current, metered production or the projected production of effluent.
- ii. Limit the annual volume of effluent calculated to be available under subsection (B)(5)(a)(i) to the applicant's projected annual demand for the direct use of the effluent.

b. The applicant's proposed effluent use shall be in accordance with any water quality requirements established by the Arizona Department of Environmental Quality.

6. If the proposed source of water is water to be recovered from a storage project:

a. The director shall calculate the volume of water which will be available for 100 years as represented by credits for stored water existing on the date of application in a manner consistent with the provisions of A.R.S. Title 45, Chapter 3, Articles 1 and 3.

b. If the applicant proposes to use credits for stored water which do not exist at the date of application, the director shall evaluate the following in determining whether to include the proposed credits in calculating the volume of the applicant's proposed supplies:

i. The terms of a contract to obtain water to store in a storage project.

ii. The physical availability, continuous availability, and legal availability of the water proposed to be stored or the in lieu water, as applicable.

iii. The presence of an existing storage project which will be available for use for the proposed storage.

iv. The existence of all required permits of an adequate duration.

7. If an applicant proposes to recover stored water from outside the area of impact, sufficient water must exist for the withdrawals consistent with the depth limitations established in subsection (B)(1)(c).

8. If the source of water is to be obtained through a water exchange agreement, evidence that the source of water which will be used by the adequacy **water report** applicant or delivered to customers of a designation of ADWS applicant will be physically available in accordance with the terms of this subsection.

C. The director shall determine that an applicant has or will have a sufficient supply of water which will be continuously available if the applicant is an adequacy **water report applicant** which presents sufficient evidence that adequate delivery, storage, and treatment works will be in place in a timely manner to satisfy the 100-year projected water demand of the applicant or the applicant is a designation of ADWS applicant which presents sufficient evidence that adequate delivery, storage, and treatment works will be in place in a timely manner to exceed the applicant's current and committed demands for 100 years, and:

1. If the proposed source of water is groundwater to be withdrawn by a municipal provider, wells will be constructed in a timely manner within the municipal provider's service area which:

a. Are of a capacity which exceeds the applicant's current and committed demands on a continuous basis for 100 years, if the applicant is a designation of ADWS applicant.

b. Are of a capacity which satisfies the applicant's 100-year projected water demand, if the applicant is an adequacy **water report** applicant.

2. If the proposed source of water is surface water other than Central Arizona Project water or Colorado River water, the projected volume to be diverted from the source is perennial at the point of diversion, unless the director determines that a continuous supply will exist because of one or more of the following:

a. Adequate storage facilities will be available to the applicant in a timely manner to store water for use when a volume of surface water is not available at the point of diversion to satisfy the applicant's water demands. For the purposes of this subsection (C)(2)(a) adequate storage facilities means:

- i. For a designation of ADWS applicant, facilities which can store enough water to exceed the applicant's current and committed demands for the duration of an anticipated shortage.
 - ii. For an adequacy **water report** applicant, facilities which can store enough water to satisfy the applicant's 100-year projected water demand for the duration of an anticipated shortage.
 - b. The applicant has presented evidence of supplies of other sources of water which the director has determined will be physically, continuously, and legally available to the applicant to supplement the applicant's proposed surface water supplies.
 - c. The applicant will withdraw surface water from wells which are of a capacity:
 - i. To exceed the current and committed demands of the applicant on a continuous basis for 100 years, if the applicant is a designation of ADWS applicant.
 - ii. To satisfy the 100-year projected water demand of the applicant on a continuous basis if the applicant is an adequacy **water report** applicant.
 - d. The applicant has submitted a drought response plan which the director has determined will conserve an equal volume of water to the volume of water which is subject to drought.
3. If the proposed source of water is Central Arizona Project water, the director determines that a continuous supply will exist because of one or more of the following:
- a. Adequate storage facilities will be available to the applicant in a timely manner to store water when a volume of Central Arizona Project water is not available to meet the applicant's water demands. For the purposes of this subsection (C)(3)(a), adequate storage facilities means:
 - i. For a designation of ADWS applicant, facilities which can store enough water to exceed the applicant's current and committed demands for the duration of an anticipated shortage.
 - ii. For an adequacy **water report** applicant, facilities which can store enough water to satisfy the applicant's 100-year projected water demand for the duration of an anticipated shortage.
 - b. The applicant has presented evidence of supplies of other sources of water which the director has determined will be physically, continuously, and legally available to the applicant to supplement the proposed Central Arizona Project water supplies.
 - c. The applicant has submitted a drought response plan which the director has determined will conserve an equal volume of water to the volume of water which is subject to drought.
4. If the proposed source of water is Colorado River water, the director determines that a continuous supply will exist because of one or more of the following:
- a. Adequate storage facilities will be available to the applicant in a timely manner to store water when a volume of Colorado River water is not available to meet the applicant's water demands. For the purposes of this subsection (C)(4)(a), adequate storage facilities means:
 - i. For a designation of ADWS applicant, facilities which can store enough water to exceed the applicant's current and committed demands for the duration of an anticipated shortage.

ii. For an adequacy **water report** applicant, facilities which can store enough water to satisfy the applicant's 100-year projected water demand for the duration of an anticipated shortage.

b. The applicant has presented evidence of supplies of other sources of water which the director has determined will be physically, continuously, and legally available to the applicant to supplement the proposed Colorado River water supplies.

c. The applicant has submitted a drought response plan which the director has determined will conserve an equal volume of water to the volume of water which is subject to drought.

5. If the proposed source of water is effluent, the applicant presents evidence that:

a. If the applicant is a designation of ADWS applicant, the applicant's ability to exceed the applicant's current and committed demands for 100 years which are to be satisfied with effluent will not be affected by fluctuations in the supply of effluent.

b. If the applicant is an adequacy **water report** applicant, the applicant's ability to satisfy the applicant's 100-year projected water demand which is to be satisfied with effluent will not be affected by fluctuations in the supply of effluent.

6. If the applicant will obtain the proposed source of water through a water exchange agreement, evidence that the source of water which the applicant or the applicant's customers will use will be continuously available in accordance with the provisions of this subsection.

D. The director shall determine that an applicant will have sufficient supplies of water which will be legally available to the applicant to satisfy the applicant's 100-year projected water demand, if the applicant is an adequacy **water report applicant, or will exceed the applicant's current and committed demands for 100 years, if the applicant is a designation of ADWS applicant, in accordance with the following:**

1. **If the proposed source of water is surface water,** other than Central Arizona Project water or Colorado River water:

a. The applicant shall submit the following evidence:

i. Evidence that the applicant has a certificated surface water right, decreed water right, or a pre-1919 claim for the proposed source, or evidence that the applicant is not the holder of a water right but receives water pursuant to a water right which is appurtenant to the land which is the subject of the application, providing the water right may neither be legally withheld nor severed and transferred by the holder of the water right.

ii. If the certificated surface water right or decreed water right pre-dates the date of application by at least five years, or the applicant submits a pre-1919 claim, evidence that the surface water supply has been used pursuant to the applicable water right or claim within the five years prior to the date of application, evidence that a court has determined that the right has not been abandoned, or evidence that the non-use would not have resulted in an abandonment of the right pursuant to A.R.S § 45-189.

b. And the applicant presents evidence of a certificated surface water right, a decreed water right, or a pre-1919 claim, the director shall determine that the volume of water which is legally available pursuant to the applicant's water right or claim is equal to the face value of the right or claim. If the right or claim is subsequently adjudicated, the director shall determine the volume of water which is legally available based on the adjudicated amount of water.

2. If the proposed source of water is Central Arizona Project water, evidence that the applicant has entered into a subcontract with a multi-county water conservation district for the proposed volume of Central Arizona Project water. The director shall presume that a 50 year long-term, non-declining municipal and industrial subcontract is sufficient evidence of the legal

availability to the applicant of the volume of Central Arizona Project water specified in the subcontract for 100 calendar years.

3. If the proposed supply of water is Colorado River water, evidence that the applicant has a contract with the United States Secretary of the Interior for the proposed supply.

4. If the proposed source of water is effluent, evidence that the applicant has the legal right to use, recapture, or reuse the effluent.

5. If the applicant will obtain the proposed source of water through a written contract other than a water exchange agreement, a contract between an adequacy **water report** applicant and the municipal provider proposed to serve the applicant, a contract with the United States Secretary of the Interior for Colorado River water, or a subcontract with a multi-county water conservation district, the director shall determine whether the proposed source of water is legally available to the applicant, the term of years for which the source is legally available, and the volume of water which is legally available as follows:

- a. The director shall determine that the proposed source of water is legally available to the applicant only if:
 - i. The person providing the water under the contract has a legal right to the water in accordance with the terms of this subsection.
 - ii. The director determines that the terms of the contract will ensure that the proposed source of water will be delivered to the applicant.
- b. The director shall determine the term of years for which the proposed source of water is legally available based on the term of years remaining in the contract.
- c. The director shall determine the quantity of water legally available to the applicant based on the volume established in the contract.

6. If the applicant is an adequacy **water report** applicant, the applicant has submitted evidence indicating that the applicant has entered into a notice of intent to serve agreement signed by both the applicant and the municipal provider proposed to serve the applicant, which contains a statement of the municipal provider's intent to serve all of the proposed lots and uses that are subject to this determination of an adequate water supply.

7. If the applicant is an adequacy **water report** applicant, and the municipal provider proposed to serve the applicant is a city or town, the applicant has submitted evidence indicating that the applicant is located within the incorporated limits of the city or town or the applicant has submitted evidence of the legal right of the city or town to serve water to the applicant outside the city or town's incorporated limits.

8. If the applicant is an adequacy **water report** applicant, and the municipal provider proposed to serve the applicant is a private water company, the applicant has submitted evidence:

- a. Of the private water company's certificate of convenience and necessity approved by the Arizona Corporation Commission. The director shall only determine that the water provided by the private water company is legally available if the certificate of convenience and necessity is free of conditions which would likely result in the revocation of the certificate of convenience and necessity; and
- b. That the applicant is located within the certificated area or within any other area in which the Arizona Corporation Commission authorizes the private water company to serve water.

9. If the applicant is a private water company applying for a designation of adequate water supply, evidence that the applicant has a certificate of convenience and necessity approved by the Arizona Corporation Commission authorizing the proposed water use.

10. If the applicant will obtain the proposed source of water through a water exchange agreement, evidence that the applicant's water exchange agreement satisfies the requirements of A.R.S. Title 45.

11. If the director can only determine the proposed source of water to be physically available under this Section because of the use of storage facilities by the applicant, evidence of the applicant's legal right to store water in the facilities.

E. To determine compliance with the requirements established in subsections (B), (C), and (D) of this Section, the director shall maintain a record, updated annually, of the total water supply and demand status for each holder of a **water report** and **designation of adequate water supply**.

F. The director shall make **an initial determination that an adequacy water report applicant** or a designation of ADWS applicant **satisfies the requirements established in subsections (B), (C), and (D) of this Section if the director determines that:**

1. **For an adequacy water report applicant, the volume of the applicant's proposed supply of water which the director determines to be physically, continuously, and legally available in accordance with the provisions of this Section is equal to or exceeds the volume of the applicant's 100-year projected water demand.**

2. For a designation of ADWS applicant, the volume of the applicant's proposed supply of water which the director determines to be physically, continuously, and legally available in accordance with the provisions of this Section exceeds the volume of the applicant's current and committed demands for 100 years.

G. To determine the volume of the supply of surface water and effluent which is physically, continuously, and legally available for an applicable period of years, the director will multiply the number of years in that period by the annual volume of those sources of water which the director determines to satisfy the requirements of this Section.

H. After the director calculates the volume of water, from any source, which a holder of the designation of adequate water supply has proven to satisfy the requirements of this Section, the director shall annually subtract from the volume attributed to groundwater and credits for stored water the volume of groundwater and credits for stored water which the holder of the designation uses each calendar year.

I. For a holder of a designation whose designation has been modified under R12-15-720 that calendar year, the director shall add any additional volume of water, from any source, which the director determines is physically, continuously, and legally available for the proposed use.

J. The director shall determine that a holder of a designation is no longer in compliance with the requirements established in this Section if the holder of the designation no longer has a physically, continuously, and legally available volume of water, from any source which exceeds the holder's current and committed demands for 100 years.

<General Materials (GM) - References, Annotations, or Tables>

HISTORICAL NOTE

Adopted effective February 7, 1995 (Supp. 95-1).

End of Document

© 2025 Thomson Reuters. No claim to original U.S. Government Works.