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ADMINISTRATIVE RULES DIVISION



# TITLE 12. NATURAL RESOURCES

## CHAPTER 15. DEPARTMENT OF WATER RESOURCES

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Refer to the notes at the end of a Section to learn about the history of a rule as it was published in the *Arizona Administrative Register*.

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**The release of this Chapter in Supp. 24-4 replaces Supp. 23-4, 1-88 pages.**
Please note that the Chapter you are about to replace may have rules still in effect after the publication date of this supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.

## PREFACE

Under Arizona law, the Department of State, Office of the Secretary of State (Office), Administrative Rules Division, accepts state agency rule notice and other legal filings and is the publisher of Arizona rules. The Office of the Secretary of State does not interpret or enforce rules in the *Administrative Code*. Questions about rules should be directed to the state agency responsible for the promulgation of the rule.

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION

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### RULES

The definition for a rule is provided for under A.R.S. § 41-1001. *"'Rule' means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency."*

### THE ADMINISTRATIVE CODE

The *Arizona Administrative Code* is where the official rules of the state of Arizona are published. The *Code* is the official codification of rules that govern state agencies, boards, and commissions.

The *Code* is separated by subject into Titles. Titles are divided into Chapters. A Chapter includes state agency rules. Rules in Chapters are divided into Articles, then Sections. The "R" stands for "rule" with a sequential numbering and lettering outline separated into subsections.

Rules are codified quarterly in the *Code*. Supplement release dates are printed on the footers of each Chapter.

First Quarter: January 1 - March 31
Second Quarter: April 1 - June 30
Third Quarter: July 1 - September 30
Fourth Quarter: October 1 - December 31

For example, the first supplement for the first quarter of 2022 is cited as Supp. 22-1. Supplements are traditionally released three to four weeks after the end of the quarter because filings are accepted until the last day of the quarter.

Please note: The Office publishes by Chapter, not by individual rule Section. Therefore there might be only a few Sections codified in each Chapter released in a supplement. This is why the Office lists only updated codified Sections on the previous page.

### RULE HISTORY

Refer to the HISTORICAL NOTE at the end of each Section for the effective date of a rule. The note also includes the *Register* volume and page number in which the notice was published (A.A.R.) and beginning in supplement 21-4, the date the notice was published in the *Register*.

### AUTHENTICATION OF PDF CODE CHAPTERS

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### HOW TO USE THE CODE

Rules may be in effect before a supplement is released by the Office. Therefore, the user should refer to issues of the *Arizona Administrative Register* for recent updates to rule Sections.

### ARIZONA REVISED STATUTE REFERENCES

The Arizona Revised Statutes (A.R.S.) are available online at the Legislature's website, www.azleg.gov. An agency's authority note to make rules is often included at the beginning of a Chapter. Other Arizona statutes may be referenced in rule under the A.R.S. acronym.

### SESSION LAW REFERENCES

Arizona Session Law references in a Chapter can be found at the Secretary of State's website, www.azsos.gov under Services-> Legislative Filings.

### EXEMPTIONS FROM THE APA

It is not uncommon for an agency to be exempt from the steps outlined in the rulemaking process as specified in the Arizona Administrative Procedures Act, also known as the APA (Arizona Revised Statutes, Title 41, Chapter 6, Articles 1 through 10). Other agencies may be given an exemption to certain provisions of the Act.

An agency's exemption is written in law by the Arizona State Legislature or under a referendum or initiative passed into law by Arizona voters.

When an agency files an exempt rulemaking package with our Office it specifies the law exemption in what is called the preamble of rulemaking. The preamble is published in the *Register* online at www.azsos.gov/rules, click on the *Administrative Register* link.

Editor's notes at the beginning of a Chapter provide information about rulemaking Sections made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

The Office makes a distinction to certain exemptions because some rules are made without receiving input from stakeholders or the public. Other exemptions may require an agency to propose exempt rules at a public hearing.

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*Rhonda Paschal, rules managing editor, assisted with the editing of this Chapter.*


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# TITLE 12. NATURAL RESOURCES

## CHAPTER 15. DEPARTMENT OF WATER RESOURCES

Authority: A.R.S. § 45-101 et seq.

**Supp. 24-4**

***Editor's Note: The lowercase references to the Department Director and Department have been changed to title case for continuity in this Chapter (Supp. 22-1).***

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## ARTICLE 1. FEES

**R12-15-101. Definitions**

In addition to the definitions in A.R.S. §§ 45-101, 45-271, 45-402, 45-511, 45-561, 45-802.01, 45-1001, 45-1201 and R12-15-701, the following definitions apply to this Article:

1. "Application" means a written request submitted by an applicant to the Department for the purpose of obtaining a permit, license or other legal authorization issued by the Department.
2. "Fiscal year" means the year beginning July 1 and ending June 30.
3. "Mileage expenses" means the Department's mileage expenses for traveling to and from a site inspection calculated at the rate set by the Arizona Department of Administration for state travel by motor vehicle.
4. "Municipality" means an incorporated city or town.
5. "Pre-decision administrative hearing" means an administrative hearing held on an application before the Department makes any decision on the application.
6. "Population" means the population according to the most recent United States decennial census.
7. "Review hours" means the hours or portions of hours spent by Department employees in reviewing an application and making a decision thereon, including pre-application consultation time in excess of 60 minutes and site inspection time. Only time spent by the program staff members and technical review team members responsible for processing the application shall be included as review hours. Review hours do not include the first 60 minutes of pre-application consultation time, the time spent traveling to and from a site inspection, any time spent on a pre-decision administrative hearing and any time spent on the application after a party appeals the Director's decision on the application pursuant to A.R.S. § 41-1092.03(B).
8. "Site inspection" means an inspection conducted by the Department before issuing a decision on an application or before issuing a decision on whether water may be stored at an underground storage facility.
9. "Site inspection time" means time spent on a site inspection. Site inspection time includes the time spent conducting the inspection and the time spent preparing an inspection report following the inspection, but does not include the time spent traveling to and from the inspection.
10. "Water resources fund" means the water resources fund established by A.R.S. § 45-117.

**Historical Note**

New Section made by exempt rulemaking at 16 A.A.R. 1205, effective June 15, 2010 (Supp. 10-2). Amended by exempt rulemaking at 16 A.A.R. 1950, effective September 10, 2010 (Supp. 10-3). Amended by exempt rulemaking at 17 A.A.R. 776, effective April 15, 2011 with an automatic repeal date effective June 4, 2011; new Section made by final rulemaking at 17 A.A.R. 659, effective June 4, 2011 (Supp. 11-2). Amended by final rulemaking at 18 A.A.R. 203, effective July 1, 2012 (Supp. 12-1).

**R12-15-102. Fees for Applications and Filings**

**A.** A person submitting an application or filing to the Department on or after the effective date of this Section shall pay an hourly application fee as provided in R12-15-103 or a fixed application or filing fee as provided in R12-15-104, whichever applies. Application fees for an initial certificate of grandfathered right following the designation of a subsequent active management area or an initial notice of irrigation authority in a subsequent irrigation non-expansion area fall under a fixed application or filing fee structure, as outlined in R12-15-104. Fees for applications and filings shall be paid in U.S. dollars by cash, check, cashier's check, money order, or any other method acceptable to the Department.

**B.** A person with an application or filing pending before the Department prior to the effective date of this Section shall pay the application or filing fees and costs in effect when the application or filing was submitted to the Department.

**C.** For an application for an initial certificate of grandfathered right in a subsequent active management area or a notice of irrigation authority in a subsequent irrigation non-expansion area submitted prior to the effective date of this Section the applicant shall only be responsible for the fees and costs in effect on the effective date of this Section. The Department shall refund the difference in the fees and costs paid when the application was submitted to the applicant within 60 days of the effective date of this Section.

**Historical Note**

New Section made by exempt rulemaking at 16 A.A.R. 1205, effective June 15, 2010 (Supp. 10-2). Amended by exempt rulemaking at 16 A.A.R. 1950, effective September 10, 2010 (Supp. 10-3). Amended by exempt rulemaking at 17 A.A.R. 776, effective April 15, 2011 with an automatic repeal date effective June 4, 2011; new Section made by final rulemaking at 17 A.A.R. 659, effective June 4, 2011 (Supp. 11-2). Amended by final expedited rulemaking at 29 A.A.R. 3478 (November 3, 2023), with an immediate effective date of October 13, 2023 (Supp. 23-4).

**R12-15-103. Applications Subject to Hourly Fee; Amount of Fee; Initial Fee; Billing and Payment; Request for Reconsideration of Fee; Past Due Fee**

**A.** The Department shall calculate the fee for an application listed in subsection (B) by multiplying the number of review hours for the application by an hourly rate of $118.00, plus any mileage expenses and the actual cost of mailing or publishing any legal notice of the application.

**B.** A person submitting an application listed in subsections (B)(1) through (10) shall pay an hourly fee for the application, not to exceed the maximum fee shown for the application:

1. Wells:

| Type of Application | Maximum Fee |
|---|---|
| Variance from well construction requirements that has not been pre-approved by the Department | $10,000.00 |

2. Groundwater:

| Type of Application | Maximum Fee |
|---|---|
| a. Issuance, renewal or modification of groundwater withdrawal permit | $10,000.00 |
| b. Approval of contract by a city, town or private water company to supply groundwater to another city, town or private water company pursuant to A.R.S. § 45-492(C) | $10,000.00 |
| c. Notice of intent to establish new service area right by a city, town or private water company | $10,000.00 |

| | |
|---|---|
| d. Final petition to establish new service area right by a city, town or private water company | $10,000.00 |
| e. Extension of the service area of a city, town or private water company to furnish disproportionately large amounts of water to an industrial or other large water user pursuant to A.R.S. § 45-493(A)(2) | $10,000.00 |
| f. Addition and exclusion of area by an irrigation district pursuant to A.R.S. § 45-494.01 | $10,000.00 |
| g. Delivery of groundwater by an irrigation district to an industrial user with a general industrial use permit pursuant to A.R.S. § 45-497(B) | $10,000.00 |
| h. Determination of historically irrigated acres or annual transportation allotment for lands in McMullen valley groundwater basin pursuant to A.R.S. § 45-552 | $10,000.00 |
| i. Determination of volume of groundwater that can be transported from lands in Harquahala irrigation non-expansion area to an initial active management area pursuant to A.R.S. § 45-554 | $10,000.00 |
| j. Determination of historically irrigated acres or annual transportation allotment for lands in the Big Chino sub-basin of the Verde River groundwater basin pursuant to A.R.S. § 45-555 | $10,000.00 |
| k. Permit to transport groundwater away from the Yuma groundwater basin pursuant to A.R.S. § 45-547 | $10,000.00 |
| l. Drought emergency groundwater transfer away from a groundwater basin outside of an active management area | $10,000.00 |

3. Grandfathered Rights:

| Type of Application | Maximum Fee |
|---|---|
| a. Type 1 non-irrigation grandfathered right for land retired from irrigation after date of designation of active management area pursuant to A.R.S. § 45-469 or 45-472 | $10,000.00 |
| b. Restoration of retired irrigation grandfathered right pursuant to A.R.S. § 45-469(O) | $10,000.00 |

4. Substitution of Acres:

| Type of Application | Maximum Fee |
|---|---|
| a. Substitution of flood damaged acres in an active management area or an irrigation non-expansion area | $10,000.00 |
| b. Substitution of acres to eliminate limiting condition impeding efficient irrigation in an active management area or an irrigation non-expansion area | $10,000.00 |
| c. Substitution of acres to allow irrigation with Central Arizona Project water in an active management area | $10,000.00 |

5. Lakes:

| Type of Application | Maximum Fee |
|---|---|
| a. Permit to fill body of water with poor quality water pursuant to A.R.S. § 45-132(C) | $10,000.00 |
| b. Permit for interim water use in a body of water | $10,000.00 |
| c. Temporary emergency permit for use of surface water or groundwater in a body of water | $10,000.00 |

6. Water Exchange:

| Type of Application | Maximum Fee |
|---|---|
| a. Issuance, renewal or modification of water exchange permit | $10,000.00 |
| b. Notice of water exchange for which approval is required pursuant to A.R.S. § 45-1052(6)(b) | $10,000.00 |

7. Water Exportation:

| Type of Application | Maximum Fee |
|---|---|
| Permit to transport water from this state | $25,000.00 |

8. Underground Water Storage, Savings and Replenishment:

| Type of Application | Maximum Fee |
|---|---|
| a. Issuance, renewal or modification of an underground storage facility permit | $25,000.00 |
| b. Issuance, renewal or modification of a groundwater savings facility permit | $10,000.00 |
| c. Issuance, renewal or modification of a water storage permit | $10,000.00 |
| d. Recovery well permit, including an emergency temporary recovery well permit | $10,000.00 |

9. Assured and Adequate Water Supply:

| Type of Application | Maximum Fee |
|---|---|
| a. Physical availability determination | $10,000.00 |
| b. Analysis of assured or adequate water supply | $10,000.00 |
| c. Renewal of analysis of assured or adequate water supply | $10,000.00 |
| d. Certificate of assured water supply | $10,000.00 |
| e. Issuance or modification of designation of assured water supply | $35,000.00 |

| | | |
|---|---|---|
| f. | Issuance or modification of designation of adequate water supply | $25,000.00 |
| g. | Water report (outside an AMA) | $10,000.00 |
| h. | Assignment of Type A certificate of assured water supply | $5,000.00 |
| i. | Assignment of Type B certificate of assured water supply | $5,000.00 |
| j. | Classification of Type A certificate of assured water supply pursuant to R12-15-707 | $10,000.00 |
| k. | Review of revised plat to determine whether changes are material | $10,000.00 |
| l. | New certificate of assured water supply pursuant to R12-15-704(G) | $10,000.00 |
| m. | Letter stating that owner is not required to obtain a certificate of assured water supply pursuant to R12-15-704(M) | $10,000.00 |

10. Surface Water:

| Type of Application | | Maximum Fee |
|---|---|---|
| a. | Permit to appropriate public water | $10,000.00 |
| b. | Certificate of water right | $10,000.00 |
| c. | Primary reservoir permit or secondary reservoir permit | $10,000.00 |
| d. | Change in use of water | $10,000.00 |
| e. | Severance and transfer of water right to land that is not within the same parcel or farm unit as the current use, or that includes a change in water source, use or ownership | $25,000.00 |
| f. | Severance and transfer of water right to land that is within the same parcel or farm unit as the current use and that does not include a change in water source, use or ownership | $2,500.00 |
| g. | Request for extension of time to complete construction | $10,000.00 |

**C.** A person filing an application that is subject to an hourly fee shall submit an initial fee at the time the application is submitted to the Department. The initial fee for applications described in subsections (B)(7), (B)(8)(a), (B)(9)(e), (f) and (B)(10)(e) shall be $2,000.00. The initial fee for all other applications shall be $1,000.00. If requested by the applicant, the Department may set a lower initial fee if the Department estimates that the total application fee will be less than the initial fee specified in this subsection. The Department shall not accept an application for which an initial fee is required under this subsection unless the initial fee is included with the application.

**D.** The Department shall bill the applicant for processing the application no more than monthly, but at least quarterly. Each bill shall contain the following information for the billing period:

1. The number of review hours accrued by activity and subactivity code during the billing period, the date of each activity, a description of each activity and the effective hourly rate for all activities;
2. A description and amount of any mileage expenses charged for the application;
3. A description and amount of the cost of mailing or publishing any legal notice of the application or notice of a pre-decision administrative hearing on the application; and
4. The total fees paid to date, the total fees due for the billing period, the date when the fees are payable, which shall be at least 60 days after the date of the bill, and the maximum fee for the application.

**E.** A bill for hourly fees becomes past due if the applicant does not pay the bill in full by the due date specified in the bill, unless the applicant submits a timely request for reconsideration of the bill pursuant to subsection (G). If the applicant submits a timely request for reconsideration of the bill, the bill becomes past due if the applicant does not pay the amount due under the Director's decision on the request by the date specified in the decision. If a bill for hourly fees becomes past due, the following shall apply:

1. The applicable review time-frame shall be suspended from the date the bill became past due until the applicant pays the bill in full or the application is denied under subsection (E)(2), whichever applies.
2. The Department shall suspend its review of the application and send a written notice to the applicant that the bill is past due. If the applicant does not pay the outstanding bill by the date specified in the notice, which shall be at least 35 days from the date of the notice, the application shall be denied.

**F.** After the Department makes a determination whether to grant or deny the application, or when an applicant withdraws the application, the Department shall prepare and send to the applicant a final itemized billing statement for the application fee.

1. If the total fee exceeds the amount of the initial fee paid plus all other payments made to date, the applicant shall pay the balance, up to the maximum fee for the application, plus any mileage expenses and the actual cost of mailing or publishing any legal notice of the application or notice of a pre-decision administrative hearing on the application, by the date specified in the statement, unless the applicant submits a timely request for reconsideration of the bill pursuant to subsection (G). The statement shall specify a date, at least 60 days from the date of the statement, by which the applicant must pay the bill. If the applicant submits a timely request for reconsideration of the bill, the applicant shall pay the amount due under the Director's decision on the request by the date specified in the decision. The Department shall not release the final permit or approval until the final bill is paid in full.
2. If the total fee is less than the initial fee plus all other payments made to date, the Department shall refund the difference to the applicant within 35 days of the date of the statement.

**G.** An applicant may seek reconsideration of a bill for hourly fees by filing a written request for reconsideration with the Director. The request shall specify, in detail, why the bill is in dispute and shall include any supporting documentation. The written request for reconsideration shall be delivered to the Director in person, by mail, or by facsimile on or before the payment due date. The Director shall make a final decision on the request for reconsideration of the bill and mail a final written decision to the person within 20 business days after the date the Director receives the written request. The decision

shall specify a date, at least 35 days from the date of the decision, by which the applicant must pay the bill. The Director may reduce the amount of any fees billed under this Section if the Director determines that the number of review hours or mileage expenses billed to the applicant was incorrect or that time spent by the Department to review the application and make a decision thereon was not necessary or advisable.

**H.** If a person receives a bill under this Section and the bill becomes past due under subsection (E) or (F), the Department shall not accept for filing any other application by that person until the person pays the past due amount in full.

**Historical Note**

New Section made by exempt rulemaking at 16 A.A.R. 1205, effective June 15, 2010 (Supp. 10-2). Amended by exempt rulemaking at 16 A.A.R. 1950, effective September 10, 2010 (Supp. 10-3). Amended by exempt rulemaking at 17 A.A.R. 776, effective April 15, 2011 with an automatic repeal date effective June 4, 2011; new Section made by final rulemaking at 17 A.A.R. 659, effective June 4, 2011 (Supp. 11-2). Amended by final expedited rulemaking at 29 A.A.R. 3478 (November 3, 2023), with an immediate effective date of October 13, 2023 (Supp. 23-4).

**R12-15-104. Applications and Filings Subject to Fixed Fee; Fixed Fee Schedule; Mileage Expenses; Costs for Legal Notices**

**A.** The Department shall not accept or take action on the following applications and filings unless the fee shown for the application or filing is paid at the time the application or filing is submitted:

1. Wells:

| Type of Application or Filing | Fee |
|---|---|
| a. Late registration of well | $60.00 |
| b. Well driller's license | $50.00 |
| c. Re-issuance, renewal, or amendment of well driller's license | $50.00 |
| d. Re-activation of expired well driller's license | $50.00 |
| e. Well assignment | $30.00 per well |
| f. Notice of intention to abandon a well | $150.00 |
| g. Notice of intention to drill a well other than a well described in subsection (A)(1)(h) of this Section | $150.00 |
| h. Notice of intention to drill a well that will not be located in an active management area or irrigation non-expansion area, that will be used solely for domestic purposes and that will have a pump with a maximum capacity of not more than 35 gallons per minute | $100.00 |
| i. Re-issuance of drill card | $120.00 |
| j. Permit to drill non-exempt well in an active management area | $150.00 application fee plus $30.00 permit fee |

2. Groundwater:

| Type of Application or Filing | Fee |
|---|---|
| a. Conveyance of farm's flexibility account balance | $250.00 |
| b. Conveyance of notice of authority to irrigate in an irrigation non-expansion area | $500.00 |
| c. Conveyance of groundwater withdrawal permit | $500.00 |
| d. Issuance of notice of authority to irrigate in an irrigation non-expansion area | $75.00 |

3. Grandfathered rights:

| Type of Application | Fee |
|---|---|
| a. Late application for certificate of grandfathered right in an initial Active Management Area | $100.00 |
| b. Conveyance of certificate of grandfathered right | $500.00 |
| c. Issuance of revised certificate of grandfathered right following partial extinguishment of grandfathered right for assured water supply extinguishment credits | $120.00 |
| d. Revised certificate of Type 2 non-irrigation grandfathered right to reflect new or additional points of withdrawal or the deletion of a point of withdrawal | $250.00 |
| e. Approval of development plan to retire irrigation grandfathered right for a Type 1 non-irrigation grandfathered right | $500.00 |
| f. Re-issuance of certificate of grandfathered right to reflect a change in family circumstances or a transfer of the right from the rightholder to a trust in which the rightholder is a beneficiary or from a trust to a beneficiary of the trust | $120.00 |
| g. Application for certificate of grandfathered right following the designation of a subsequent Active Management Area | $75.00 |

4. Underground water storage, savings and replenishment:

| Type of Application or Filing | Fee |
|---|---|
| a. Conveyance of storage facility permit | $500.00 |
| b. Conveyance of water storage permit | $500.00 |
| c. Assignment of long-term storage credits | $250.00 |

5. Assured water supply:

| Type of Application or Filing | Fee |
|---|---|
| a. Extinguishment of grandfathered right for extinguishment credits | $250.00 |
| b. Conveyance of extinguishment credits | $250.00 |

6. Surface water:

| Type of Application or Filing | Fee |
|---|---|

| | |
|---|---|
| a. Re-issuance of a surface water permit or certificate (not associated with an assignment of the permit or certificate) | $120.00 |
| b. Claim of water right for a stockpond pursuant to A.R.S. § 45-273 | $10.00 |
| c. Statement of claim for a water right pursuant to A.R.S. § 45-183 | $5.00 |
| d. Assignment of application, permit, certificate or statement of claim | $75.00 |
| e. Certification of water right for a stockpond pursuant to A.R.S. § 45-275 | $120.00 |

7. Dams:

| Type of Application | Fee |
|---|---|
| Approval of plans for construction, enlargement, repair, alteration or removal of dam | 2 percent of the total project cost |

8. Water Exchange:

| Type of Filing | Fee |
|---|---|
| Notice of water exchange that does not require approval pursuant to A.R.S. § 45-1052(6)(b) | $500.00 |

9. Weather modification:

| Type of Application | Fee |
|---|---|
| a. License for weather control or cloud modification | $100.00 |
| b. Equipment license for weather control or cloud modification | $10.00 |

**B.** In addition to the application or filing fee listed in subsection (A), an applicant shall pay any mileage expenses and the actual cost of mailing or publishing any legal notice of the application. This subsection shall not apply to applications listed in subsection (A)(2)(d) or (A)(3)(g).

**Historical Note**

New Section made by exempt rulemaking at 16 A.A.R. 1205, effective June 15, 2010 (Supp. 10-2). Amended by exempt rulemaking at 16 A.A.R. 1950, effective September 10, 2010 (Supp. 10-3). Amended by exempt rulemaking at 17 A.A.R. 776, effective April 15, 2011 with an automatic repeal date effective June 4, 2011; new Section made by final rulemaking at 17 A.A.R. 659, effective June 4, 2011 (Supp. 11-2). Amended by final expedited rulemaking at 29 A.A.R. 3478 (November 3, 2023), with an immediate effective date of October 13, 2023 (Supp. 23-4).

**R12-15-105. Fee for Dam Safety Inspection; Fee for Review of Dam Safety Inspection Report**

**A.** The owner of a high or significant hazard potential dam shall pay a fee for the Department's dam safety inspection pursuant to R12-15-1219(A). The fee shall be based on the total crest length of the dam plus appurtenant embankments and saddle dikes, as follows:

| Length (feet) | Fee |
|---|---|
| 0 up to and including 500 | $2,000.00 |
| More than 500 up to and including 1,000 | $2,200.00 |
| More than 1,000 up to and including 2,000 | $2,400.00 |
| More than 2,000 up to and including 4,000 | $2,600.00 |
| More than 4,000 up to and including 8,000 | $3,000.00 |
| More than 8,000 up to and including 16,000 | $3,400.00 |
| More than 16,000 up to and including 32,000 | $3,800.00 |
| More than 32,000 | $4,200.00 |

**B.** The owner of a low or very low hazard potential dam shall pay a fee for the Department's dam safety inspection pursuant to R12-15-1219(A). The fee shall be $250.00.

**C.** After conducting a dam safety inspection pursuant to R12-15-1219(A), the Director shall send to the dam owner a bill for the fee required by subsection (A) or (B) of this Section. The dam owner shall pay the fee by the date specified in the bill, which shall be at least 35 days from the date of the bill. Failure by a dam owner to pay a fee required by subsection (A) or (B) of this Section shall be considered a violation of R12-15-1219.

**D.** The owner of a dam who submits a dam safety inspection report pursuant to R12-15-1219(E) shall pay a fee of $750.00 if the dam is a high or significant hazard potential dam or a fee of $250 if the dam is a low or very low hazard potential dam. The Department shall not accept a dam safety inspection report unless the fee is submitted with the report.

**Historical Note**

New Section made by exempt rulemaking at 16 A.A.R. 1205, effective June 15, 2010 (Supp. 10-2). Amended by exempt rulemaking at 16 A.A.R. 1950, effective September 10, 2010 (Supp. 10-3). Amended by exempt rulemaking at 17 A.A.R. 776, effective April 15, 2011 with an automatic repeal date effective June 4, 2011; new Section made by final rulemaking at 17 A.A.R. 659, effective June 4, 2011 (Supp. 11-2). Section amended by final rulemaking at 23 A.A.R. 2375, effective October 10, 2017 (Supp. 17-3).

**R12-15-106. Fee for Well Capping**

The owner of a well that is capped by the Department pursuant to A.R.S. § 45-594(C) shall pay to the Department a fee of $300.00, plus actual expenses over $300.00. After capping an open well, the Department shall send the owner of the well a bill for the fee under this Section. The owner of the well shall pay the fee by the date specified in the bill, which shall be at least 35 days after the date of the bill.

**Historical Note**

New Section made by exempt rulemaking at 16 A.A.R. 1205, effective June 15, 2010 (Supp. 10-2). Amended by exempt rulemaking at 16 A.A.R. 1950, effective September 10, 2010 (Supp. 10-3). Amended by exempt rulemaking at 17 A.A.R. 776, effective April 15, 2011 with an automatic repeal date effective June 4, 2011; new Section made by final rulemaking at 17 A.A.R. 659, effective June 4, 2011 (Supp. 11-2).

**R12-15-107. Expired**

**Historical Note**

New Section made by exempt rulemaking at 16 A.A.R. 1205, effective June 15, 2010 (Supp. 10-2). Amended by exempt rulemaking at 16 A.A.R. 1950, effective September 10, 2010 (Supp. 10-3). Amended by exempt rulemaking at 17 A.A.R. 776, effective April 15, 2011 with an automatic repeal date effective June 4, 2011 (Supp. 11-2). New Section made by exempt rulemaking at 17 A.A.R. 1769, effective August 10, 2011 with an automatic repeal

date effective July 1, 2012 (Supp. 11-3). New Section made by final rulemaking at 18 A.A.R. 203, effective July 1, 2012 (Supp. 12-1). Section expired under A.R.S. § 41-1056(J) at 22 A.A.R. 3475, effective November 5, 2016 (Supp. 16-4).

**R12-15-108. Reserved**

**R12-15-109. Reserved**

**R12-15-110. Reserved**

**R12-15-111. Reserved**

**R12-15-112. Reserved**

**R12-15-113. Reserved**

**R12-15-114. Reserved**

**R12-15-115. Reserved**

**R12-15-116. Reserved**

**R12-15-117. Reserved**

**R12-15-118. Reserved**

**R12-15-119. Reserved**

**R12-15-120. Reserved**

**R12-15-121. Reserved**

**R12-15-122. Reserved**

**R12-15-123. Reserved**

**R12-15-124. Reserved**

**R12-15-125. Reserved**

**R12-15-126. Reserved**

**R12-15-127. Reserved**

**R12-15-128. Reserved**

**R12-15-129. Reserved**

**R12-15-130. Reserved**

**R12-15-131. Reserved**

**R12-15-132. Reserved**

**R12-15-133. Reserved**

**R12-15-134. Reserved**

**R12-15-135. Reserved**

**R12-15-136. Reserved**

**R12-15-137. Reserved**

**R12-15-138. Reserved**

**R12-15-139. Reserved**

**R12-15-140. Reserved**

**R12-15-141. Reserved**

**R12-15-142. Reserved**

**R12-15-143. Reserved**

**R12-15-144. Reserved**

**R12-15-145. Reserved**

**R12-15-146. Reserved**

**R12-15-147. Reserved**

**R12-15-148. Reserved**

**R12-15-149. Reserved**

**R12-15-150. Reserved**

**R12-15-151. Repealed**

**Historical Note**
Adopted effective October 8, 1982 (Supp. 82-5). Amended effective June 29, 1994 (Supp. 94-2). Amended effective March 3, 1995 (Supp. 95-1). Amended by final rulemaking at 11 A.A.R. 5395, effective February 4, 2006 (Supp. 05-4). Amended by final rulemaking at 13 A.A.R. 3022, effective October 6, 2007 (Supp. 07-3). Section repealed by exempt rulemaking at 16 A.A.R. 1205, effective June 15, 2010 (Supp. 10-2). New Section made by exempt rulemaking at 16 A.A.R. 1950, effective September 10, 2010 (Supp. 10-3). Section repealed by final rulemaking at 17 A.A.R. 659, effective June 4, 2011 (Supp. 11-2).

**R12-15-152. Expired**

**Historical Note**
Adopted effective October 8, 1982 (Supp. 82-5). Section expired under A.R.S. § 41-1056(E) at 13 A.A.R. 1647, effective May 31, 2006 (Supp. 07-2).

## ARTICLE 2. PROCEDURAL RULES

**R12-15-201. Expired**

**Historical Note**
Adopted effective June 13, 1984 (Supp. 84-3). The reference to R12-14-223 in subsection (C) corrected to read R12-15-223 (Supp. 93-1). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 2159, effective February 28, 2001 (Supp. 01-2).

**R12-15-202. Expired**

**Historical Note**
Adopted effective June 13, 1984 (Supp. 84-3). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 2159, effective February 28, 2001 (Supp. 01-2).

**R12-15-203. Expired**

**Historical Note**
Adopted effective June 13, 1984 (Supp. 84-3). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 2159, effective February 28, 2001 (Supp. 01-2).

**R12-15-204. Expired**

**Historical Note**
Adopted effective June 13, 1984 (Supp. 84-3). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 2159, effective February 28, 2001 (Supp. 01-2).

**R12-15-205. Expired**

**Historical Note**
Adopted effective June 13, 1984 (Supp. 84-3). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 2159, effective February 28, 2001 (Supp. 01-2).

**R12-15-206. Expired**

**Historical Note**
Adopted effective June 13, 1984 (Supp. 84-3). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 2159, effective February 28, 2001 (Supp. 01-2).

**R12-15-207. Correction of Clerical Mistakes**

Upon a motion or on the initiative of the Director, the Director may correct clerical mistakes in decisions, orders, rulings, any process issued by the Department, or other parts of the record, and errors in the record arising from oversight or omission. The Director shall give all parties and the Chief Counsel notice of any corrections made pursuant to this Section.

**Historical Note**
Adopted effective June 13, 1984 (Supp. 84-3). Amended by final rulemaking at 13 A.A.R. 3022, effective October 6, 2007 (Supp. 07-3).

**R12-15-208. Expired**

**Historical Note**
Adopted effective June 13, 1984 (Supp. 84-3). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 2159, effective February 28, 2001 (Supp. 01-2).

**R12-15-209. Expired**

**Historical Note**
Adopted effective June 13, 1984 (Supp. 84-3). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 2159, effective February 28, 2001 (Supp. 01-2).

**R12-15-210. Expired**

**Historical Note**
Adopted effective June 13, 1984 (Supp. 84-3). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 2159, effective February 28, 2001 (Supp. 01-2).

**R12-15-211. Expired**

**Historical Note**
Adopted effective June 13, 1984 (Supp. 84-3). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 2159, effective February 28, 2001 (Supp. 01-2).

**R12-15-212. Expired**

**Historical Note**
Adopted effective June 13, 1984 (Supp. 84-3). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 2159, effective February 28, 2001 (Supp. 01-2).

**R12-15-213. Expired**

**Historical Note**
Adopted effective June 13, 1984 (Supp. 84-3). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 2159, effective February 28, 2001 (Supp. 01-2).

**R12-15-214. Expired**

**Historical Note**
Adopted effective June 13, 1984 (Supp. 84-3). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 2159, effective February 28, 2001 (Supp. 01-2).

**R12-15-215. Expired**

**Historical Note**
Adopted effective June 13, 1984 (Supp. 84-3). Section number corrected (Supp. 93-1). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 2159, effective February 28, 2001 (Supp. 01-2).

**R12-15-216. Expired**

**Historical Note**
Adopted effective June 13, 1984 (Supp. 84-3). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 2159, effective February 28, 2001 (Supp. 01-2).

**R12-15-217. Expired**

**Historical Note**
Adopted effective June 13, 1984 (Supp. 84-3). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 2159, effective February 28, 2001 (Supp. 01-2).

**R12-15-218. Expired**

**Historical Note**
Adopted effective June 13, 1984 (Supp. 84-3). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 2159, effective February 28, 2001 (Supp. 01-2).

**R12-15-219. Expired**

**Historical Note**
Adopted effective June 13, 1984 (Supp. 84-3). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 2159, effective February 28, 2001 (Supp. 01-2).

**R12-15-220. Expired**

**Historical Note**
Adopted effective June 13, 1984 (Supp. 84-3). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 2159, effective February 28, 2001 (Supp. 01-2).

**R12-15-221. Expired**

**Historical Note**
Adopted effective June 13, 1984 (Supp. 84-3). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 2159, effective February 28, 2001 (Supp. 01-2).

**R12-15-222. Expired**

**Historical Note**
Adopted effective June 13, 1984 (Supp. 84-3). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 2159, effective February 28, 2001 (Supp. 01-2).

**R12-15-223. Expired**

**Historical Note**
Adopted effective June 13, 1984 (Supp. 84-3). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 2159, effective February 28, 2001 (Supp. 01-2).

**R12-15-224. Ex Parte Communications**

**A.** During the course of a contested case or appealable agency action, a party shall not make an ex parte communication or knowingly cause an ex parte communication to be made to the Director or other Department employee or consultant who is or may reasonably be expected to be involved in the decision-making process of the contested case or appealable agency action.

**B.** During the course of a contested case or appealable agency action, the Department personnel listed in subsection (A) shall not make an ex parte communication or knowingly cause an ex parte communication to be made to a party or a person who will be materially and directly affected by the outcome of the contested case or appealable agency action.

**C.** Any of the Department personnel listed in subsection (A) of this Section who receives a written communication prohibited by this Section shall file a copy of the communication in the

public docket and serve a copy on the Director, the Chief Counsel, and all parties to the contested case or appealable agency action. Any of the Department personnel listed in subsection (A) of this Section who receives an oral communication prohibited by this Section shall file a summary, stating the substance of the communication, in the public docket and serve a copy on the Director, the Chief Counsel, and all parties to the contested case or appealable agency action.

**D.** Upon receipt of an ex parte communication or a copy or summary of an ex parte communication made or knowingly caused to be made by a party in violation of this Section, the Director, to the extent consistent with the interests of justice and the policy of the underlying statutes and rules, may require the party to show cause why the party's claim or interest in the contested case or appealable agency action should not be dismissed, denied or disregarded because of the violation.

**E.** For purposes of this Section, "ex parte communication" means any written or oral communication relating to the merits of a contested case or appealable agency action, except:

1. Communications made in the course of official proceedings in the contested case or appealable agency action;
2. Communications made in writing, if a copy of the communication is promptly served on the Director, the Chief Counsel, and all parties to the contested case or appealable agency action;
3. Oral communications made after adequate notice, stating the substance of each communication, to all parties and the Chief Counsel;
4. Communications relating solely to procedural matters; and
5. As otherwise authorized by law.

**Historical Note**
Adopted effective June, 1984 (Supp. 84-3). Amended by final rulemaking at 13 A.A.R. 3022, effective October 6, 2007 (Supp. 07-3).

## ARTICLE 3. STOCKPOND AND OTHER SURFACE WATER RULES

**R12-15-301. Expired**

**Historical Note**
Adopted effective October 8, 1982 (Supp. 82-5). Amended effective April 3, 1987 (Supp. 87-2). Amended effective May 7, 1990 (Supp. 90-2). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 2012, effective February 28, 2001 (Supp. 01-2).

**R12-15-302. Expired**

**Historical Note**
Adopted effective October 8, 1982 (Supp. 82-5). Amended effective May 7, 1990 (Supp. 90-2). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 2012, effective February 28, 2001 (Supp. 01-2).

**R12-15-303. Multiple Applications for Water Rights**

**A.** If two or more applications are filed with the Director pursuant to A.R.S. §§ 45-152 or 45-273 or both by or for the same applicant and for a right to use the same water, the Director shall consolidate the applications. If the applicant is otherwise entitled to both a permit to appropriate and a certificate of stockpond water right, the Director shall issue to the applicant either the permit to appropriate or the certificate of stockpond water right, whichever would give the applicant the higher priority.

**B.** If one or more applications are filed with the Director pursuant to A.R.S. §§ 45-152 or 45-273 or both by or for the same applicant and for a right to use the same water for which the applicant holds a permit to appropriate, a certificate of water right or a certificate of stockpond water right, the Director shall deny the application or applications unless the applicant relinquishes every permit to appropriate, certificate of water right and certificate of stockpond water right which the applicant holds for that same water. The applicant may relinquish every permit to appropriate, certificate of water right and certificate of stockpond water right on the condition that the Director issues a permit to appropriate or certificate of stockpond water right to the applicant for the same water. In that case, the relinquishment shall be effective when the Director issues the permit to appropriate or certificate of stockpond water right.

**C.** For purposes of this rule, "same water" means the same quantity of water from the same source for use at the same place for the same purpose. Water for which a right is applied or held pursuant to an application or permit to appropriate, certificate of water right or certificate of stockpond water right may be the same water in whole or in part as water for which a right is applied or held pursuant to a separate application or permit to appropriate, certificate of water right or certificate of stockpond water right.

**Historical Note**
Adopted effective April 3, 1987 (Supp. 87-2). Section R12-15-310 renumbered to R12-15-303 and amended effective May 7, 1990 (Supp. 90-2).

**R12-15-304. Reserved**

**R12-15-305. Reserved**

**R12-15-306. Reserved**

**R12-15-307. Reserved**

**R12-15-308. Reserved**

**R12-15-309. Reserved**

**R12-15-310. Renumbered**

**Historical Note**
Adopted effective April 3, 1987 (Supp. 87-2). Section R12-15-310 renumbered to R12-15-303 effective May 7, 1990 (Supp. 90-2)

## ARTICLE 4. LICENSING TIME-FRAMES

**R12-15-401. Licensing Time-frames**

The following time-frames apply to licenses issued by the Department. In this Article, "license" has the meaning prescribed in A.R.S. § 41-1001. The licensing time-frames consist of an administrative completeness review time-frame, a substantive review time-frame, and an overall time-frame.

1. Within the administrative completeness review time-frames set forth in subsection (7), the Department shall notify the applicant in writing whether the application is complete or incomplete. If the application is incomplete, the notice shall specify what information or component is required to make the application complete.
2. An applicant with an incomplete application shall supply the missing information within 60 days from the date of the notice, or within such further time as the Director may specify, unless another time limit is specified by statute or applicable rule. If the applicant fails to complete the application within the specified time period, the Director

may deny the application. Denial of an application under this provision does not preclude the applicant from filing a new application.

3. Within the overall time-frames set forth in subsection (7), unless extended by mutual agreement under A.R.S. § 41-1075, the Department shall notify the applicant in writing that the application is granted or denied. If the application is denied, the Department shall provide written justification for the denial and a written explanation of the applicant's right to a hearing or the applicant's right to appeal.
4. In computing any period of time prescribed by this rule, the day of the filing, notice or event from which the designated period of time begins to run shall not be included. The last day of the computed period shall be included, unless it is a Saturday, Sunday, or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or legal holiday. When the prescribed administrative completeness review time-frame or substantive review time-frame is less than 11 days, intermediate Saturdays, Sundays and legal holidays shall be excluded from the computation. The overall time-frame is the sum of the administrative completeness review time-frame and the substantive review time-frame calculated as prescribed by this Section.
5. Except as otherwise noted, the licensing time-frames do not include time for hearings. Time-frames in cases where a hearing is held are increased by 120 days.
6. The licensing time-frame rules are effective after December 31, 1998, as prescribed by A.R.S. § 41-1073(A), and apply to all applications filed after that date.
7. The licensing time-frames are set forth in Table A.

**Historical Note**

Adopted effective December 31, 1998; filed with the Office of the Secretary of State July 28, 1998 (Supp. 98-3). Amended by final rulemaking at 11 A.A.R. 5395, effective February 4, 2006 (Supp. 05-4).

**Table A. Licensing Time-frames**

| No. | License | Legal Authority | Completeness Review (Days)* | Substantive Review (Days)* | Overall Time-frame (Days)* |
|---|---|---|---|---|---|
| 1 | Filling a body of water with poor quality water | A.R.S. § 45-132(C) | 30 | 60 | 90 |
| 2 | Interim water use in body of water | A.R.S. § 45-133 | 30 | 60 | 90 |
| 3 | Temporary emergency permit for use of surface water or groundwater in body of water | A.R.S. § 45-134 | 10 | 20 | 30 |
| 4 | Permit to appropriate water (non-instream flow) | A.R.S. §§ 45-151, 45-152 and 45-153 | 30 | 420 | 450 |
| 5 | Permit to appropriate water (instream flow) | A.R.S. §§ 45-151, 45-152.01 and 45-153 | 50 | 530 | 580 |
| 6 | Change in use of water | A.R.S. § 45-156(B) | 30 | 375 | 405 |
| 7 | Exception to limitation on time of completion of construction | A.R.S. § 45-160 | 5 | 15 | 20 |
| 8 | Primary reservoir permit | A.R.S. § 45-161 | 30 | 420 | 450 |
| 9 | Secondary reservoir permit | A.R.S. § 45-161 | 30 | 420 | 450 |
| 10 | Certificate of water right (non-instream flow) | A.R.S. § 45-162 | 20 | 100 | 120 |
| 11 | Certificate of water right (instream flow) | A.R.S. § 45-162 | 20 | 190 | 210 |
| 12 | Reissuance of permit or certificate held by the United States or State of Arizona | A.R.S. § 45-164(C) | 10 | 80 | 90 |
| 13 | Severance and transfer | A.R.S. § 45-172 (excluding § 172(A)(6)) | 30 | 390 | 420 |
| 14 | Stockpond certificate | A.R.S. § 45-273 | 30 | 190 | 220 |
| 15 | Transporting water from this state ** | A.R.S. § 45-292 | 120 | 300 | 420 |
| 16 | Waiver of water conserving plumbing fixture requirement | A.R.S. § 45-315 | 10 | 3 | 13 |
| 17 | Irrigated acreage in an irrigation non-expansion area | A.R.S. § 45-437 | 30 | 90 | 120 |

| No. | License | Legal Authority | Completeness Review (Days)* | Substantive Review (Days)* | Overall Time-frame (Days)* |
|---|---|---|---|---|---|
| 18 | Substitution of acres in an irrigation non-expansion area/ flood damage | A.R.S. § 45-437.02 | 30 | 90 | 120 |
| 19 | Substitution of acres in an irrigation non-expansion area/ impediments to efficient irrigation | A.R.S. § 45-437.03 | 30 | 90 | 120 |
| 20 | Reversal of substitution of acres irrigated with Central Arizona Project water | A.R.S. § 45-452(F) | 30 | 90 | 120 |
| 21 | Type 1 non-irrigation grandfathered right associated with irrigation land retired 1965-1980 | A.R.S. §§ 45-463, 45-476.01, and 45-476 | 30 | 60 | 90 |
| 22 | Type 2 non-irrigation grandfathered right | A.R.S. §§ 45-464, 45-476.01, and 45-476 | 30 | 60 | 90 |
| 23 | Irrigation grandfathered right | A.R.S. §§ 45-465, 45-476.01, and 45-476 | 30 | 60 | 90 |
| 24 | Substitution of acres in an active management area/flood damaged acres | A.R.S. § 45-465.01 | 30 | 90 | 120 |
| 25 | Substitution of acres in an active management area/ impediments to efficient irrigation | A.R.S. § 45-465.02 | 30 | 90 | 120 |
| 26 | Type 1 non-irrigation right retired after 6/12/80 | A.R.S. § 45-469 | 30 | 90 | 120 |
| 27 | Restoration of retired irrigation grandfathered right | A.R.S. § 45-469(O) | 30 | 90 | 120 |
| 28 | Revised certificate for new or additional points of withdrawal for a Type 2 right | A.R.S. § 45-471(C) | 45 | 45 | 90 |
| 29 | Conveyance of irrigation grandfathered right for electrical energy generation | A.R.S. § 45-472(B)(2) | 30 | 90 | 120 |
| 30 | Conveyance of irrigation grandfathered right for non-irrigation use within service area | A.R.S. § 45-472(C) | 30 | 90 | 120 |
| 31 | Contract to supply groundwater | A.R.S. § 45-492(C) | 15 | 90 | 105 |
| 32 | Extension of service area to provide disproportionally large amount of water to large user | A.R.S. § 45-493(A)(2) | 15 | 90 | 105 |
| 33 | Addition/exclusion of acres by irrigation district | A.R.S. § 45-494.01(A) | 30 | 90 | 120 |
| 34 | Delivery of groundwater from an irrigation district to a general industrial use permit holder | A.R.S. § 45-497(B) | 15 | 60 | 75 |
| 35 | Issuance/renewal/modification of dewatering permit | A.R.S. §§ 45-513 and 45-527 | 30 | 70 | 100 |
| 36 | Issuance/renewal/modification of mineral extraction and metallurgical processing permit | A.R.S. §§ 45-514 and 45-527 | 30 | 70 | 100 |
| 37 | Issuance/renewal/modification of general industrial use permit | A.R.S. §§ 45-515, 45-521, 45-522, 45-523, 45-524, and 45-527 | 30 | 70 | 100 |

| No. | License | Legal Authority | Completeness Review (Days)* | Substantive Review (Days)* | Overall Time-frame (Days)* |
|---|---|---|---|---|---|
| 38 | Issuance/renewal/modification of poor quality groundwater withdrawal permit | A.R.S. §§ 45-516 and 45-527 | 30 | 70 | 100 |
| 39 | Issuance/renewal/modification of temporary permit for electrical energy generation | A.R.S. §§ 45-517 and 45-527 | 30 | 70 | 100 |
| 40 | Issuance/extension/ modification of temporary dewatering permit | A.R.S. §§ 45-518 and 45-527 | 30 | 70 | 100 |
| 41 | Emergency temporary dewatering permit | A.R.S. § 45-518(D) | 3 | 7 | 10 |
| 42 | Issuance/renewal/modification of drainage water withdrawal permit | A.R.S. §§ 45-519 and 45-527 | 30 | 70 | 100 |
| 43 | Issuance/renewal/modification of hydrologic testing permit | A.R.S. §§ 45-519.01, 45-521, 45-522, 45-524, and 45-527 | 30 | 15 | 45 |
| 44 | Change of location of use | A.R.S. §§ 45-520(A), 45-521, and 45-527 | 30 | 30 | 60 |
| 45 | Conveyance of a groundwater withdrawal permit | A.R.S. § 45-520(B) | 30 | 30 | 60 |
| 46 | Transportation of groundwater withdrawn in McMullen Valley Basin to an active management area | A.R.S. § 45-552(B) | 45 | 105 | 150 |
| 47 | Transportation of groundwater withdrawn in Harquahala irrigation non-expansion area to an initial active management area | A.R.S. § 45-554(B) | 45 | 105 | 150 |
| 48 | Transportation of groundwater withdrawn in Big Chino subbasin to an initial active management area | A.R.S. § 45-555(B) | 45 | 105 | 150 |
| 49 | Well spacing requirements for withdrawing groundwater for transportation to an active management area | A.R.S. § 45-559 | 45 | 105 | 150 |
| 50 | Groundwater replenishment district's preliminary or long-term replenishment plan ** | A.R.S. § 45-576.03 | As prescribed by A.R.S. § 45-576.03(A) | As prescribed by A.R.S. § 45-576.03 (B), (C), (D), and (E) | As prescribed by A.R.S. § 45-576.03 |
| 51 | Conservation district or water district long-term replenishment plan ** | A.R.S. §§ 45-576.03, 45-576.02(C), and 45-576.02(E) | As prescribed by A.R.S. § 45-576.03(I) | As prescribed by A.R.S. § 45-576.03(J), (K), (L), and (M) | As prescribed by A.R.S. § 45-576.03 |
| 52 | Notice of intent to abandon a well | A.R.S. § 45-594 and A.A.C. R12-15-816 | 15 | 15 | 30 |
| 53 | Well construction request for variance | A.R.S. §§ 45-594, 45-596(D), and A.A.C. R12-15-820 | 15 | 30 | 45 |
| 54 | Well driller license | A.R.S. § 45-595(C) | 25 | 65 | 90 |
| 55 | Single well license | A.R.S. § 45-595(D) | 25 | 65 | 90 |
| 56 | Renewal or reactivation of well drilling license | A.R.S. § 45-595(C) A.A.C. R12-15-806 | 25 | 15 | 40 |
| 57 | Notice of intent to drill | A.R.S. § 45-596, and A.A.C. R12-15-810 | 15 | 0 | 15 |
| 58 | Well construction permit | A.R.S. § 45-599 | 30 | 60 | 90 |

| No. | License | Legal Authority | Completeness Review (Days)* | Substantive Review (Days)* | Overall Time-frame (Days)* |
|---|---|---|---|---|---|
| 59 | Alternative water measuring devices | A.R.S. § 45-604 and A.A.C. R12-15-909 | 15 | 60 | 75 |
| 60 | Underground storage facility permit | A.R.S. §§ 45-811.01 and 45-871.01 | As prescribed by A.R.S. § 45-871.01(B) | As prescribed by A.R.S. § 45-871.01(D), (G), and (H) | As prescribed by A.R.S. § 45-871.01 |
| 61 | Groundwater savings facility permit | A.R.S. §§ 45-812.01 and 45-871.01 | As prescribed by A.R.S. § 45-871.01(B) | As prescribed by A.R.S. § 45-871.01(D), (G), and (H) | As prescribed by A.R.S. § 45-871.01 |
| 62 | Storage facility permit renewal/ conveyance/ modification | A.R.S. §§ 45-814.01 and 45-871.01 | As prescribed by A.R.S. § 45-871.01(B) | As prescribed by A.R.S. § 45-871.01(D), (G), and (H) | As prescribed by A.R.S. § 45-871.01 |
| 63 | Water storage permit modification/conveyance | A.R.S. §§ 45-831.01 and 45-871.01 | As prescribed by A.R.S. §§45-831.01(G) and 45-871.01(B) and (E) | As prescribed by A.R.S. §§ 45-831.01(G) and 45-871.01(D), (E), (G), and (H) | As prescribed by A.R.S. §§ 45-831.01(G) and 45-871.01 |
| 64 | Recovery well permit | A.R.S. §§ 45-834.01 and 45-871.01 | As prescribed by A.R.S. § 45-871.01(B) | As prescribed by A.R.S. § 45-871.01(F), (G), and (H) | As prescribed by A.R.S. § 45-871.01 |
| 65 | Emergency temporary recovery well permit | A.R.S. § 45-834.01(D) | 5 | 10 | 15 |
| 66 | Issuance/renewal/modification of water exchange permit | A.R.S. §§ 45-1041, 45-1042, and 45-1045 | As prescribed by A.R.S. § 45-1042(A) | As prescribed by A.R.S. § 45-1042(B), (C), and (D) | As prescribed by A.R.S. § 45-1042 |
| 67 | Modification of previously enrolled or permitted water exchange/non-Colorado River | A.R.S. § 45-1041(B) | 60 | 90 | 150 |
| 68 | Construction, enlargement, repair, alteration, or removal of a dam | A.R.S. §§ 45-1203, 45-1206, and 45-1207 | 120 | 60 | 180 |
| 69 | Weather modification license | A.R.S. § 45-1601 | 15 | 60 | 75 |
| 70 | Certificate of Assured Water Supply (CAWS) | A.A.C. R12-15-704, A.R.S. §§ 45-576 and 45-578 | 150 | 60 | 210 |
| 71 | Designation or Modification of Designation of Assured Water Supply (DAWS) | A.A.C. R12-15-710 and R12-15-714; A.R.S. § 45-576 | 150 | 60 | 210 |
| 72 | Analysis of Assured Water Supply | A.A.C. R12-15-703, A.R.S. § 45-576(H) | 150 | 30 | 180 |
| 73 | Water Report | A.A.C. R12-15-713, A.R.S. § 45-108 | 75 | 45 | 120 |
| 74 | Designation or Modification of Designation of Adequate Water Supply | A.A.C. R12-15-714 and R12-15-715; A.R.S. § 45-108 | 150 | 60 | 210 |
| 75 | Analysis of Adequate Water Supply | A.R.S. § 45-108 A.A.C. R12-15-712 | 90 | 30 | 120 |
| 76 | Final petition to establish new service area right by city, town, or private water company | A.R.S. § 45-492(A) | 30 | 60 | 90 |
| 77 | Application for permit to transport groundwater away from the Yuma groundwater basin | A.R.S. § 45-547 | 120 | 300 | 420 |
| 78 | Application for substitution of acres to allow irrigation with Central Arizona Project in an active management area | A.R.S. § 45-452(B) | 30 | 60 | 90 |

| No. | License | Legal Authority | Completeness Review (Days)* | Substantive Review (Days)* | Overall Time-frame (Days)* |
|---|---|---|---|---|---|
| 79 | Application for approval of development plan to retire irrigation grandfathered right for Type I non-irrigation grandfathered right | A.R.S. § 45-469(A)(2) and (B) | 30 | 60 | 90 |
| 80 | Application for assignment of Type A certificate of assured water supply | A.R.S. § 45-579; A.C.C. R12-15-705 | 90 | 30 | 120 |
| 81 | Application for assignment of Type B certificate of assured water supply | A.R.S. § 45-579; A.C.C. R12-15-706 | 90 | 30 | 120 |
| 82 | Application for classification of Type A certificate of assured water supply | A.C.C. R12-15-707 | 30 | 15 | 45 |
| 83 | Application for new certificate of assured water supply pursuant to A.A.C. R12-15-704(G) | A.C.C. R12-15-704(G) | 150 | 60 | 210 |
| 84 | Application for letter stating that owner is not required to obtain a certificate of assured water supply | A.C.C. R12-15-704(M) | 60 | 30 | 90 |
| 85 | Application for extinguishment of grandfathered right for extinguishment credits | A.C.C. R12-15-723(A) | 60 | 30 | 90 |
| 86 | Application for conveyance of extinguishment credits | A.C.C. R12-15-723(G) | 60 | 30 | 90 |
| 87 | Application for exemption from adequate water supply requirements based on substantial capital investment | A.R.S. § 45-108.02 | 90 | 30 | 120 |
| 88 | Application for exemption from adequate water supply requirements based on an adequate water supply within twenty years | A.R.S. § 45-108.03 | 90 | 30 | 120 |
| 89 | Application for re-issuance of drill card to new driller | A.R.S. § 45-596 | 10 | 0 | 10 |
| 90 | Application for equipment license for weather control or cloud modification | A.R.S. § 45-1605 | 15 | 60 | 75 |

* The computation of days is prescribed by R12-15-401(4).
** Hearing is required.

**Historical Note**

Adopted effective December 31, 1998; filed with the Office of the Secretary of State July 28, 1998 (Supp. 98-3). Table A amended by final rulemaking at 23 A.A.R. 2375, effective October 10, 2107 (Supp. 17-3). Table A amended by final expedited rulemaking at 28 A.A.R. 266 (January 28, 2022), with an immediate effective date of January 5, 2022 (Supp. 22-1).

## ARTICLE 5. RESERVED

## ARTICLE 6. RESERVED

## ARTICLE 7. ASSURED AND ADEQUATE WATER SUPPLY

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

In addition to any other definitions in A.R.S. Title 45 and the management plans in effect at the time of application, the following words and phrases in this Article shall have the following meanings, unless the context otherwise requires:

1. "Abandoned plat" means a plat for which a certificate or water report has been issued and that will not be developed because of one of the following:
   a. The land has been developed for another use; or
   b. Legal restrictions will preclude approval of the plat.
2. "ADEQ" means the Arizona Department of Environmental Quality.
3. "Adequate delivery, storage, and treatment works" means:
   a. A water delivery system with sufficient capacity to deliver enough water to meet the needs of the proposed use;

b. Any necessary storage facilities with sufficient capacity to store enough water to meet the needs of the proposed use; and
c. Any necessary treatment facilities with sufficient capacity to treat enough water to meet the needs of the proposed use.

4. "Adequate storage facilities" means facilities that can store enough water to meet the needs of the proposed use.
5. "Affiliate" means a person who, directly or indirectly through one or more intermediaries, controls, is controlled by or is under common control with the person specified.
6. "AMA" means an active management area as defined in A.R.S. § 45-402.
7. "Analysis" means an analysis of assured water supply or an analysis of adequate water supply.
8. "Analysis holder" means a person to whom an analysis of assured water supply or an analysis of adequate water supply is issued and any current owner of land included in the analysis.
9. "Analysis of adequate water supply" means a determination issued by the Director stating that one or more criteria required for a water report pursuant to R12-15-713 have been demonstrated for a development.
10. "Analysis of assured water supply" means a determination issued by the Director stating that one or more criteria required for a certificate of assured water supply pursuant to R12-15-704 have been demonstrated for a development.
11. "Annual authorized volume" means, for an approved remedial action project, the annual authorized volume specified in a consent decree or other document approved by ADEQ or the EPA, except that:
    a. If no annual authorized amount is specified in a consent decree or other document approved by ADEQ or the EPA, the annual authorized volume is the largest volume of groundwater withdrawn pursuant to the approved remedial action project in any year prior to January 1, 1999.
    b. If the Director increases the annual authorized volume pursuant to R12-15-729(C), the annual authorized volume is the amount approved by the Director.
12. "Annual estimated water demand" means the estimated water demand divided by 100.
13. Approved remedial action project" means a remedial action project approved by ADEQ under A.R.S. Title 49, or by the EPA under CERCLA.
14. "Authorized remedial groundwater use" means, for any year, the amount of remedial groundwater withdrawn pursuant to an approved remedial action project and used by a municipal provider during the year, not to exceed the annual authorized volume of the project.
15. "Build-out" means a condition in which all water delivery mains are in place and active water service connections exist for all lots.
16. "CAP water" means:
    a. All water from the Colorado River or from the Central Arizona Project works authorized in P.L. 90-537, excluding enlarged Roosevelt reservoir, which is made available pursuant to a subcontract with a multi-county water conservation district.
    b. Any additional water not included in subsection 16(a) of this Section that is delivered by the United States Secretary of the Interior pursuant to an Indian water rights settlement through the Central Arizona Project.
17. "Central Arizona Groundwater Replenishment District" or "CAGRD" means a multi-county water conservation district acting in its capacity as the entity established pursuant to A.R.S. § 48-3771, et seq., and responsible for replenishing excess groundwater.
18. "Central distribution system" means a water system that qualifies as a public water system pursuant to A.R.S. § 49-352.
19. "CERCLA" or "Comprehensive Environmental Response, Compensation, and Liability Act of 1980" has the same meaning as prescribed in A.R.S. § 49-201.
20. "Certificate" means a certificate of assured water supply issued by the Director for a subdivision pursuant to A.R.S. § 45-576 et seq. and this Article.
21. "Certificate holder" means any person included on a certificate, except the following:
    a. Any person who no longer owns any portion of the property included in the certificate, and
    b. Any potential purchaser for whom the purchase contract has been terminated or has expired.
22. "Certificate of convenience and necessity" means a certificate required by the Arizona Corporation Commission, pursuant to A.R.S. § 40-281, which allows a private water company to serve water to customers within its certificated area.
23. "Colorado River water" means water from the main stream of the Colorado River. For purposes of this Article, Colorado River water does not include CAP water.
24. "Committed demand" means the 100-year water demand at build-out of all recorded lots that are not yet served water within the service area of a designation applicant or a designated provider.
25. "County water augmentation authority" means an authority formed pursuant to A.R.S. Title 45, Chapter 11.
26. "Current demand" means the 100-year water demand for existing uses within the service area of a designation applicant or designated provider, based on the annual report for the previous calendar year.
27. "Depth-to-static water level" means the level at which water stands in a well when no water is withdrawn by pumping or by free flow.
28. "Designated provider" means:
    a. A municipal provider that has obtained a designation of assured or adequate water supply; or
    b. A city or town that has obtained a designation of adequate water supply pursuant to A.R.S. § 45-108(D).
29. "Designation means a decision and order issued by the Director designating a municipal provider as having an assured water supply or an adequate water supply.
30. "Determination of adequate water supply" means a water report, a designation of adequate water supply, or an analysis of adequate water supply.
31. "Determination of assured water supply" means a certificate, a designation of assured water supply, or an analysis of assured water supply.
32. "Development" means either a subdivision or an unplatted development plan.
33. "Diversion works" means a structure or well that allows or enhances diversion of surface water from its natural course for other uses.

34. "Drought response plan" means a plan describing a variety of conservation and augmentation measures, especially the use of backup water supplies, that a municipal provider will utilize in operating its water supply system in times of a water supply shortage. The plan may include the following:
    a. An identification of priority water uses consistent with applicable public policies.
    b. A description of sources of emergency water supplies.
    c. An analysis of the potential use of water pressure reduction.
    d. Plans for public education and voluntary water use reduction.
    e. Plans for water use bans, restrictions, and rationing.
    f. Plans for water pricing and penalties for excess water use.
    g. Plans for coordination with other cities, towns, and private water companies.
35. "Drought volume" means 80% of the volume of a surface water supply, determined by the Director under R12-15-716 to be physically available on an annual basis to a certificate holder or a designated provider.
36. "Dry lot development" means a development or subdivision without a central water distribution system.
37. "EPA" means the United States Environmental Protection Agency.
38. "Estimated water demand" means:
    a. For a certificate or water report, the Director's determination of the 100-year water demand for all uses included in the subdivision;
    b. For a designation, the sum of the following:
        i. The Director's determination of the current demand;
        ii. The Director's determination of the committed demand; and
        iii. The Director's determination of the projected demand during the term of the designation; or
    c. For an analysis, the Director's determination of the water demand for all uses included in the development.
39. "Existing municipal provider" means a municipal provider that was in operation and serving water for non-irrigation use on or before January 1, 1990.
40. "Extinguish" means to cause a grandfathered right to cease to exist through a process established by the Director pursuant to R12-15-723.
41. "Extinguishment credit" means a credit that is issued by the Director in exchange for the extinguishment of a grandfathered right and that may be used to make groundwater use consistent with the management goal of an AMA.
42. "Firm yield" means the minimum annual diversion for the period of record which may include runoff releases from storage reservoirs, and surface water withdrawn from a well.
43. "Gray water" has the same meaning as provided in A.R.S. § 49-201.
44. "Gray water reuse system" means a system constructed to reuse gray water that meets the requirements of the rules adopted by ADEQ for gray water systems.
45. "Management plan" means a water management plan adopted by the Director according to A.R.S. § 45-561 et seq.
46. "Mandatory adequacy jurisdiction" means a city, town, or county that requires an adequate water supply determination by the Director as a condition of approval of a plat according to A.R.S. § 9-463.01(J) or (O) or A.R.S. § 11--823(A).
47. "Master-planned community" has the same meaning as provided in A.R.S. § 32-2101.
48. "Median flow" means the flow which is represented by the middle value of a set of flow data that are ranked in order of magnitude.
49. "Member land" has the same meaning as provided in A.R.S. § 48-3701.
50. "Member service area" has the same meaning as provided in A.R.S. § 48-3701.
51. "Multi-county water conservation district" means a district established according to A.R.S. Title 48, Chapter 22.
52. "Municipal provider" has the same meaning as provided in A.R.S. § 45-561.
53. "New Alternative Water Supply" means a volume of water that is not groundwater withdrawn from an AMA and that was not served within the service area of the municipal provider in the calendar year 2023 for the Phoenix and Pinal AMAs. The Director shall use the annual report submitted by the municipal provider for calendar year 2023, as verified by the Director, for purposes of this paragraph.
54. "New municipal provider" means a municipal provider that began serving water for non-irrigation use after January 1, 1990.
55 "Owner" means:
    a. For an analysis, certificate, or water report applicant, a person who holds fee title to the land described in the application; or
    b. For a designation applicant, the person who will be providing water service according to the designation.
56. "Perennial" means a stream that flows continuously.
57. "Persons per household" means a measure obtained by dividing the number of persons residing in housing units by the number of housing units.
58. "Physical availability determination" means a letter issued by the Director stating that an applicant has demonstrated all of the criteria in R12-15-702(C).
59. "Plat" means a preliminary or final map of a subdivision in a format typically acceptable to a platting entity.
60. "Potential purchaser" means a person who has entered into a purchase agreement for land that is the subject of an application for a certificate or an assignment of a certificate.
61. "Projected demand" means the 100-year water demand at build-out, not including committed or current demand, of customers reasonably projected to be added and plats reasonably projected to be approved within the designated provider's service area and reasonably anticipated expansions of the designated provider's service area.
62. "Proposed municipal provider" means a municipal provider that has agreed to serve a proposed subdivision.
63. "Purchase agreement" means a contract to purchase or acquire an interest in real property, such as a contract for purchase and sale, an option agreement, a deed of trust, or subdivision trust agreement.
64. "Remedial groundwater" means groundwater withdrawn according to an approved remedial action project, but

does not include groundwater withdrawn to provide an alternative water supply according to A.R.S. § 49-282.03.

65. "Service area" means:
    a. For an application for an analysis of adequate water supply, a water report, or a designation of adequate water supply, the area of land actually being served water for a non-irrigation use by the municipal provider and additions to the area that contain the municipal provider's operating distribution system for the delivery of water for a non-irrigation use;
    b. For an application for a designation of adequate water supply according to A.R.S. § 45-108(D), the area of land actually being served water for a nonirrigation use by each municipal provider that serves water within the city or town, and additions to the area that contain each municipal provider's operating distribution system for the delivery of water for a non-irrigation use; or
    c. For an application for a certificate or designation of assured water supply, "service area" has the same meaning as prescribed in A.R.S. § 45-402.
66. "Subdivision" has the same meaning as prescribed in A.R.S. § 32-2101.
67. "Superfund site" means the site of a remedial action undertaken according to CERCLA.
68. "Surface water" means any surface water as defined in A.R.S. § 45-101, including CAP water and Colorado River water.
69. "Unreplenished groundwater" means the volume of groundwater withdrawn within the service area of a municipal provider after subtracting the groundwater used consistent with the management goal of the AMA pursuant to R12-15-722.
70. "Water Quality Assurance Revolving Fund site" or "WQARF site" means a site of a remedial action undertaken according to A.R.S. Title 49, Chapter 2, Article 5.
71. "Water report" means a letter issued to the Arizona Department of Real Estate by the Director for a subdivision stating whether an adequate water supply exists according to A.R.S. § 45-108 and this Article.

**Historical Note**

Adopted effective February 7, 1995 (Supp. 95-1). Amended by emergency rulemaking at 11 A.A.R. 2706, effective June 29, 2005 for 180 days (Supp. 05-2). Emergency renewed for 180 days at 12 A.A.R. 144, effective December 23, 2005 (Supp. 05-4). Emergency expired. Amended by final rulemaking at 12 A.A.R. 3475, effective September 12, 2006 (Supp. 06-3). Amended by final expedited rulemaking at 28 A.A.R. 909 (May 6, 2022), with an immediate effective date of April 11, 2022 (Supp. 22-2). Amended by final rulemaking at 30 A.A.R. 3751 (December 13, 2024), with an immediate effective date of November 25, 2024 (Supp. 24-4).

**R12-15-702. Physical Availability Determination**

**A.** A person may apply for a physical availability determination by submitting an application on a form prescribed by the Director with the initial fee required by R12-15-103(C), and providing the following information with the application:
1. The proposed source of water for which the applicant is seeking a determination of physical availability,
2. Evidence that the applicant has complied with subsection (C) of this Section, and
3. Any other information that the Director reasonably deems necessary to determine whether water is physically available in the area that is the subject of the application.

**B.** Each applicant shall sign an application for a physical availability determination. If an applicant is not a natural person, the applicant's authorized officer, managing member, partner, trust officer, trustee or other person who performs similar decision-making functions for the applicant shall sign the application. If the applicant submits a letter, signed by the applicant and dated within 90 days of the date the application is submitted, authorizing a representative to submit applications for permits regarding the land to be included in the determination, the authorized representative may sign the application on the applicant's behalf.

**C.** An applicant for a physical availability determination shall demonstrate the following:
1. The volume of water that is physically available for 100 years in the area that is the subject of the application, according to the criteria in R12-15-716.
2. That the proposed sources of water will be of adequate quality, according to the criteria in R12-15-719.

**D.** After a complete application is submitted, the Director shall review the application and associated evidence to determine whether the applicant has demonstrated all of the criteria in subsection (C) of this Section. If the Director determines that the applicant has demonstrated all of the criteria in subsection (C) of this Section, the Director shall issue a physical availability determination.

**E.** Any person applying for a determination of assured water supply or a determination of adequate water supply may use an existing physical availability determination for purposes of R12-15-716. The Director shall consider any changes in hydrologic conditions for purposes of R12-15-716.

**F.** The issuance of a physical availability determination does not reserve any water for purposes of this Article.

**Historical Note**

Adopted effective February 7, 1995 (Supp. 95-1). Section repealed; new Section made by final rulemaking at 12 A.A.R. 3475, effective September 12, 2006 (Supp. 06-3). Amended by exempt rulemaking at 16 A.A.R. 1205, effective June 15, 2010 (Supp. 10-2). Amended by exempt rulemaking at 16 A.A.R. 1950, effective September 10, 2010 (Supp. 10-3). Amended by final rulemaking at 17 A.A.R. 659, effective June 4, 2011 (Supp. 11-2).

**R12-15-703. Analysis of Assured Water Supply**

**A.** A person proposing to develop land that will not be served by a designated provider may apply for an analysis of assured water supply before applying for a certificate. An applicant for an analysis must be the owner of the land that is the subject of the application or have the written consent of the owner. The commissioner of the Arizona State Land Department may apply for an analysis for land owned by the state of Arizona or may consent to the inclusion of such land in an application.

**B.** An applicant for an analysis shall submit an application on a form prescribed by the Director with the initial fee required by R12-15-103(C), and attach the following:
1. A title report, condition of title report, limited search title report, or recorded deed, dated within 90 days of the date the application is submitted, demonstrating the ownership of the land that is the subject of the application;
2. A description of the development, including:
    a. A map of the land uses included in the development,

b. A list of water supplies proposed to be used by the development,
c. A summary of land use types included in the development, and
d. An estimate of the water demand for the land uses included in the development; and

3. Evidence that the applicant has complied with subsection (E) of this Section.

**C.** An applicant shall sign the application for an analysis. If an applicant is not a natural person, the applicant's authorized officer, managing member, partner, trust officer, trustee, or other person who performs similar decision-making functions for the applicant shall sign the application. If the applicant submits a letter, signed by the applicant and dated within 90 days of the date the application is submitted, authorizing a representative to submit applications for permits regarding the land to be included in the analysis, the authorized representative may sign the application on the applicant's behalf.

**D.** After a complete application is submitted, the Director shall determine the estimated water demand of the development.

**E.** The Director shall issue an analysis if an applicant demonstrates one or more of the following:

1. Sufficient supplies of water are physically available to meet all or part of the estimated water demand of the development for 100 years, according to the criteria in R12-15-716.
2. Sufficient supplies of water are continuously available to meet the estimated water demand of the development for 100 years, according to the criteria in R12-15-717.
3. Sufficient supplies of water are legally available to meet the estimated water demand of the development for 100 years, according to the criteria in R12-15-718.
4. The proposed sources of water are of adequate quality, according to the criteria in R12-15-719.
5. Any proposed groundwater use is consistent with the management plan in effect at the time of the application, according to the criteria in R12-15-721.
6. Any proposed groundwater use is consistent with the management goal, according to the criteria in R12-15-722.

**F.** For 10 years after the Director issues an analysis, or a longer period allowed under subsections (H) or (I) of this Section:

1. If groundwater is a source of supply in the analysis and the applicant demonstrates that groundwater is physically available under subsection (E)(1) of this Section, the Director shall consider that supply of groundwater reserved for the use of the proposed development in subsequent determinations of physical availability pursuant to R12-15-716(B).
2. If an analysis holder applies for a certificate for a subdivision located on land included in the analysis, the Director shall presume that a criterion demonstrated in the analysis remains satisfied with respect to the subdivision, unless the Director has received new evidence demonstrating that the criterion is not satisfied. If the Director issues the certificate, the Director shall reduce the volume of groundwater reserved pursuant to subsection (F)(1) of this Section by the amount of the estimated water demand for the certificate that will be met with groundwater.

**G.** The Director shall reduce the amount of groundwater considered reserved for use of the development upon request by the analysis holder. If the analysis holder requesting a reduction is not the person to whom the analysis was issued, the Director shall reduce the amount of reserved groundwater only if the person to whom the analysis was issued or that person's designee consents to the request for reduction. The person to whom the analysis was issued shall notify the Director in writing of the name of the person's designee for purposes of this subsection.

**H.** The analysis holder may apply to the Director for a five-year extension of the time period in subsection (F) of this Section by submitting an application on a form prescribed by the Director no earlier than 36 months before the end of the time period and no later than 30 days before the end of the time period. If an extension is granted, the analysis holder may apply to the Director for an additional five-year extension by submitting an application on a form prescribed by the Director no earlier than 36 months before the end of the extended time period and no later than 30 days before the end of the extended time period. The Director shall extend the time period for no more than two successive five-year periods under this subsection if the analysis holder demonstrates one of the following:

1. The analysis holder has made a substantial capital investment in developing the land included in the analysis.
2. The analysis holder has made material progress in developing the land included in the analysis.
3. Progress in developing the land included in the analysis has been delayed for reasons outside the control of the analysis holder.

**I.** After the Director grants two five-year extensions pursuant to subsection (H) of this Section, the Director may extend the time period for additional five-year periods if the analysis holder files a timely application pursuant to subsection (H) of this Section and demonstrates one of the criteria in subsections (H)(1), (2), or (3) of this Section.

**J.** The Director shall review an application for an analysis or an application for an extension pursuant to subsections (H) or (I) of this Section pursuant to the licensing time-frame provisions in R12-15-401.

**Historical Note**

Adopted effective February 7, 1995 (Supp. 95-1). Amended by emergency rulemaking at 11 A.A.R. 2706, effective June 29, 2005 for 180 days (Supp. 05-2). Emergency renewed for 180 days at 12 A.A.R. 144, effective December 23, 2005 (Supp. 05-4). Emergency expired. Section repealed; new Section made by final rulemaking at 12 A.A.R. 3475, effective September 12, 2006 (Supp. 06-3). Amended by exempt rulemaking at 16 A.A.R. 1205, effective June 15, 2010 (Supp. 10-2). Amended by exempt rulemaking at 16 A.A.R. 1950, effective September 10, 2010 (Supp. 10-3). Amended by final rulemaking at 17 A.A.R. 659, effective June 4, 2011 (Supp. 11-2).

### R12-15-703.01. Repealed

**Historical Note**

New Section made by final rulemaking at 7 A.A.R. 3038, effective June 18, 2001 (Supp. 01-2). Section repealed by final rulemaking at 12 A.A.R. 3475, effective September 12, 2006 (Supp. 06-3).

### R12-15-704. Certificate of Assured Water Supply

**A.** An application for a certificate shall be filed by the current owner of the land that is the subject of the application. Potential purchasers and affiliates may also be included as applicants.

**B.** An applicant for a certificate shall submit an application on a form prescribed by the Director with the fee required by R12-15-103(C) and provide the following:

1. One of the following forms of proof of ownership for each applicant to be listed on the certificate:
   a. For an applicant that is the current owner, one of the following:
      i. A title report, condition of title report, limited search title report, or recorded deed, dated within 90 days of the date the application is filed, demonstrating that the applicant is the owner of the land that is the subject of the application; or
      ii. Evidence that the CAGRD has reviewed and approved evidence that the applicant is the owner of the land that is the subject of the application.
   b. For an applicant that is a potential purchaser, evidence of a purchase agreement;
   c. For an applicant that is an affiliate of another applicant, a certification by the other applicant of the affiliate status;
2. A plat of the subdivision;
3. An estimate of the 100-year water demand for the subdivision;
4. If the subdivision is enrolled as a member land in the CAGRD and the applicant proposes to install gray water reuse systems in the subdivision, sufficient information for the Director to determine the appropriate reduction in demand;
5. A list of all proposed sources of water that will be used by the subdivision;
6. Evidence that the criteria in subsection (F) or (G) are met; and
7. Any other information that the Director reasonably determines is necessary to decide whether an assured water supply exists for the subdivision.

**C.** Each applicant shall sign the application for a certificate. If an applicant is not a natural person, the applicant's authorized officer, managing member, partner, trust officer, trustee, or other person who performs similar decision-making functions for the applicant shall sign the application. If an applicant submits a letter, signed by the applicant and dated within 90 days of the date the application is submitted, authorizing a representative to submit applications for permits regarding the land to be included in the certificate, the authorized representative may sign the application on the applicant's behalf.

**D.** The Director shall give public notice of an application for a certificate as provided in A.R.S. § 45-578.

**E.** After a complete application is submitted, the Director shall review the application and associated evidence to determine:
1. The estimated water demand of the subdivision. If the subdivision is enrolled in the CAGRD and the applicant demonstrates that gray water reuse systems will be installed in the subdivision, the Director shall reduce the estimated water demand of the subdivision by the volume the Director determines is likely to be saved through the gray water reuse systems;
2. The amount of the groundwater allowance for the subdivision, as provided in R12-15-724 through R12-15-727; and
3. Whether the applicant has demonstrated all of the requirements in subsection (F) or (G).

**F.** Except as provided in subsection (G), the Director shall issue a certificate if the applicant demonstrates all of the following:
1. Sufficient supplies of water are physically available to meet the estimated water demand of the subdivision, according to the criteria in R12-15-716;
2. Sufficient supplies of water are continuously available to meet the estimated water demand of the subdivision, according to the criteria in R12-15-717;
3. Sufficient supplies of water are legally available to meet the estimated water demand of the subdivision, according to the criteria in R12-15-718;
4. The sources of water are of adequate quality, according to the criteria in R12-15-719;
5. The applicant has the financial capability to construct adequate delivery, storage, and treatment works for the subdivision, according to the criteria in R12-15-720;
6. The proposed use of groundwater withdrawn within an AMA is consistent with the management plan in effect at the time of the application, according to the criteria in R12-15-721; and
7. The proposed use of groundwater withdrawn within an AMA is consistent with the achievement of the management goal, according to the criteria in R12-15-722.

**G.** If the Director previously issued a certificate for the subdivision, the Director shall issue a new certificate to the applicant if the applicant demonstrates that all of the requirements in subsection (F) are met or that all of the following apply:
1. Any changes to the plat for which the previous certificate was issued are not material, according to the criteria in R12-15-708;
2. If groundwater is a proposed source of supply for the subdivision, the proposed groundwater withdrawals satisfied the physical availability requirements in effect at the time the complete and correct application for the previous certificate was submitted;
3. Any proposed sources of water, other than groundwater, are physically available to satisfy the estimated water demand that will not be satisfied with groundwater, according to the criteria in R12-15-716;
4. Any proposed sources of water other than groundwater are continuously available to satisfy the estimated water demand that will not be satisfied with groundwater, according to the criteria in R12-15-717;
5. The proposed uses of groundwater withdrawn within an AMA were consistent with the achievement of the management goal according to the criteria in effect at the time the complete and correct application for the previous certificate was submitted; and
6. The applicant demonstrates that the requirements in subsections (F)(3) through (6) are met.

**H.** Before issuing a certificate, the Director shall classify the certificate for the purposes of R12-15-705 and R12-15-706 as follows:
1. Type A certificate. The Director shall classify the certificate as a Type A certificate if the applicant meets the criteria in R12-15-720(A)(1) and all of the subdivision's estimated water demand will be met with one or more of the following:
   a. Groundwater served by a proposed municipal provider pursuant to an existing service area right;
   b. Groundwater served by a proposed municipal provider pursuant to a pending service area right, if the proposed municipal provider currently holds or will hold the well permit;

c. CAP water served by a municipal provider pursuant to the proposed municipal provider's non-declining, long-term municipal and industrial subcontract;
d. Surface water served by a proposed municipal provider pursuant to the proposed municipal provider's surface water right or claim;
e. Effluent owned and served by a proposed municipal provider; or
f. A Type 1 grandfathered right appurtenant to the land on which the groundwater will be used and held by a proposed municipal provider.

2. Type B certificate. The Director shall classify all certificates that do not meet the requirements of subsection (H)(1) as Type B certificates.

**I.** The Director shall review an application for a certificate pursuant to the licensing time-frame provisions in R12-15-401.

**J.** An owner of six or more lots is not required to obtain a certificate if all of the following apply:
1. The lots comprise a subset of a subdivision for which:
a. A plat was recorded before 1980; or
b. A certificate was issued before February 7, 1995;
2. No changes were made to the plat since February 7, 1995; and
3. Water service is currently available to each lot.

**K.** A new owner of all or a portion of a subdivision for which a plat has been recorded is not required to obtain a certificate if all of the following apply:
1. The Director previously issued a Type A certificate for the subdivision pursuant to subsection (H)(1) or R12-15-707;
2. Water service is currently available to each lot; and
3. There are no material changes to the plat for which the certificate was issued, according to the criteria in R12-15-708.

**L.** An owner of six or more lots in the Pinal AMA is not required to obtain a certificate if all of the following apply:
1. A plat for the subdivision was recorded before October 1, 2007;
2. There have been no material changes to the plat according to the criteria in R12-15-708, since October 1, 2007;
3. The proposed municipal provider was designated as having an assured water supply when the plat was recorded, but is no longer designated as having an assured water supply; and
4. Water service is currently available to each lot.

**M.** A person may request a letter stating that the owner is not required to obtain a certificate pursuant to subsection (J), (K), or (L) by submitting an application on a form prescribed by the Director and attaching evidence that the criteria of subsection (J), (K), or (L) are met. Upon receiving an application pursuant to this subsection, the Director shall:
1. Review the application pursuant to the licensing time-frame provisions in R12-15-401.
2. Determine whether the criteria of subsection (J), (K), or (L) are met.
3. If the Director determines that the criteria of subsection (J) are met, issue a letter to the applicant and the Arizona Department of Real Estate stating that the current owner is not required to obtain a certificate.
4. If the Director determines that the criteria of subsection (K) or (L) are met, issue a letter to the applicant and the Arizona Department of Real Estate stating that the current owner and any future owners are not required to obtain a certificate.

**Historical Note**

Adopted effective February 7, 1995 (Supp. 95-1). Section repealed; new Section made by final rulemaking at 12 A.A.R. 3475, effective September 12, 2006 (Supp. 06-3). Amended by final rulemaking at 13 A.A.R. 1394, effective October 1, 2007 (Supp. 07-2). Amended by exempt rulemaking at 16 A.A.R. 1205, effective June 15, 2010 (Supp. 10-2). Amended by exempt rulemaking at 16 A.A.R. 1950, effective September 10, 2010 (Supp. 10-3). Amended by final rulemaking at 17 A.A.R. 659, effective June 4, 2011 (Supp. 11-2). Amended by final expedited rulemaking at 28 A.A.R. 909 (May 6, 2022), with an immediate effective date of April 11, 2022 (Supp. 22-2).

**R12-15-705. Assignment of Type A Certificate of Assured Water Supply**

**A.** The certificate holder of a Type A certificate and the assignee may apply for approval of an assignment of the Type A certificate within the time allowed by A.R.S. § 45-579(A). The assignee may file the application if there is no certificate holder. The application shall be submitted on a form prescribed by the Director with the initial fee required by R12-15-103(C), and the applicant shall provide the following:
1. One of the following forms of proof of ownership for each assignee:
a. A title report, condition of title report, limited search title report, or recorded deed, dated within 90 days of the date the application is submitted to the Director and demonstrating that the assignee is the owner of the land that is the subject of the proposed assignment; or
b. If the assignee is a potential purchaser, evidence of a purchase agreement;
2. A current plat of the subdivision;
3. An estimate of the 100-year water demand for the subdivision, based on the current plat;
4. Certification by each applicant that:
a. The proposed municipal provider has not changed and has agreed to continue to serve the subdivision after the assignment; and
b. All water supplies listed on the current certificate are physically, continuously, and legally available to meet the estimated water demand of the subdivision after the assignment.

**B.** Each applicant shall sign the application for an assignment of a Type A certificate. If an applicant is not a natural person, the entity's authorized officer, managing member, partner, trust officer, trustee, or other person who performs similar decision-making functions for the applicant shall sign the application. If an applicant submits a letter, signed by the applicant and dated within 90 days of the date the application is submitted, authorizing a representative to submit applications for permits regarding the land included in the certificate, the authorized representative may sign the application on behalf of the applicant.

**C.** Upon receiving an application for an assignment of a Type A certificate, the Director shall post the notice required by A.R.S. § 45-579(E).

**D.** If the Director determines that the application meets the criteria of A.R.S. § 45-579(A), the Director shall issue a Type A certificate to each applicant. A Type A certificate issued under this subsection shall retain the issue date, the number of lots, and the estimated water demand shown on the original certificate, except as provided in subsection (E) of this Section. The

Director shall determine that the application meets the criteria of A.R.S. § 45-579(A) if all of the following apply:

1. The application is submitted within the time allowed by A.R.S. § 45-579(A);
2. The assignee is the owner or a potential purchaser of the portion of the subdivision that is the subject of the assignment;
3. There have been no material changes to the plat for which the original certificate was issued, according to the criteria in R12-15-708;
4. Neither the applicant nor a predecessor in interest has impaired the manner in which consistency with management goal requirements were satisfied when the original certificate was issued; and
5. The applicant makes the certifications required in subsection (A)(4) of this Section.

**E.** In the case of a partial assignment, the Director shall determine whether changes to the plat are material according to R12-15-708. The Director shall issue a Type A certificate to the assignee for the portion of the subdivision that is the subject of the assignment and for the number of lots and the estimated water demand of the current plat of the portion of the subdivision that is the subject of the assignment. The Director shall issue a Type A certificate to the certificate holder for the portion of the subdivision retained by the certificate holder and for the remainder of the number of lots and the remainder of the estimated water demand. The sum of the number of lots and the sum of the amount of the estimated water demand shown on each certificate shall equal the total number of lots and the total estimated water demand shown on the certificate being assigned.

**F.** The Director shall review an application for an assignment of a Type A certificate of assured water supply pursuant to the licensing time-frame provisions in R12-15-401.

**Historical Note**

Adopted effective February 7, 1995 (Supp. 95-1). Amended by final rulemaking at 8 A.A.R. 4390, effective November 22, 2002 (Supp. 02-3). Section repealed; new Section made by final rulemaking at 12 A.A.R. 3475, effective September 12, 2006 (Supp. 06-3). Amended by exempt rulemaking at 16 A.A.R. 1205, effective June 15, 2010 (Supp. 10-2). Amended by exempt rulemaking at 16 A.A.R. 1950, effective September 10, 2010 (Supp. 10-3). Amended by final rulemaking at 17 A.A.R. 659, effective June 4, 2011 (Supp. 11-2).

**R12-15-706. Assignment of Type B Certificate of Assured Water Supply**

**A.** The certificate holder of a Type B certificate or a certificate issued before the effective date of this Section that has not been classified pursuant to R12-15-707 and the assignee may apply for approval of an assignment of the certificate to another person within the time allowed by A.R.S. § 45-579(A). The assignee may file the application if there is no certificate holder. The application shall be submitted on a form prescribed by the Director with the initial fee required by R12-15-103(C), and the applicant shall provide the following:

1. One of the following forms of proof of ownership for each assignee:
   a. A title report, condition of title report, limited search title report, or recorded deed, dated within 90 days of the date the application is submitted to the Director and demonstrating that the assignee is the owner of the land that is the subject of the proposed assignment; or
   b. If the assignee is a potential purchaser, evidence of a purchase agreement;
2. A current plat of the subdivision;
3. An estimate of the 100-year water demand for the subdivision, based on the current plat;
4. Evidence that all necessary water rights, permits, licenses, contracts, and easements have been or will be assigned to the assignee of the certificate;
5. Evidence that the assignee has the financial capability to construct adequate delivery, storage, and treatment works for the subdivision according to the criteria in R12-15-720;
6. Evidence that all water supplies listed on the current certificate are physically, continuously, and legally available to meet the estimated water demand of the subdivision after the assignment;
7. Evidence that the proposed municipal provider has not changed and has agreed to serve the subdivision after the assignment;
8. If the applicant requests that the Director classify the certificate pursuant to subsection (E) of this Section, evidence that the requirements of R12-15-704(H)(1) are satisfied;
9. Any other information that the Director reasonably deems necessary to determine whether the application meets the criteria of A.R.S. § 45-579.

**B.** Each applicant shall sign the application for an assignment of a certificate. If an applicant is not a natural person, the entity's authorized officer, managing member, partner, trust officer, trustee, or other person who performs similar decision-making functions for the applicant shall sign the application. If an applicant submits a letter, signed by the applicant and dated within 90 days of the date the application is submitted, authorizing a representative to submit applications for permits regarding the land to be included in the certificate, the authorized representative may sign the application on the applicant's behalf.

**C.** Upon receiving an application for an assignment, the Director shall post the notice required by A.R.S. § 45-579(E).

**D.** Except as provided in subsection (E) of this Section, if the Director determines that the application meets the criteria of A.R.S. § 45-579(A), the Director shall issue a Type B certificate to each applicant. A Type B certificate issued under this subsection shall retain the issue date, the number of lots, and the estimated water demand shown on the original certificate, except as provided in subsection (F) of this Section. The Director shall determine that the application meets the criteria of A.R.S. § 45-579(A) if all of the following apply:

1. The application is submitted within the time allowed by A.R.S. § 45-579(A);
2. The assignee is the owner or potential purchaser of the portion of the subdivision that is the subject of the assignment;
3. There have been no material changes to the plat for which the original certificate was issued, according to the criteria in R12-15-708;
4. The applicant demonstrates the financial capability to construct adequate delivery, storage, and treatment works for the subdivision according to the criteria in R12-15-720;

5. All necessary water rights, permits, licenses, contracts, and easements have been or will be assigned to the assignee of the certificate;
6. All water supplies listed on the current certificate are physically, continuously, and legally available to meet the estimated water demand of the subdivision after the assignment;
7. Neither the applicant nor a predecessor in interest has impaired the manner in which consistency with management goal requirements were satisfied when the original certificate was issued; and
8. The proposed municipal provider has agreed to serve the subdivision after the assignment.

**E.** The applicant may include in the application a request to classify the certificate as a Type A certificate. If the Director determines that the request meets the requirements of R12-15-704(H)(1), the Director shall classify the certificate as a Type A certificate.

**F.** In the case of a partial assignment, the Director shall determine whether changes to the plat are material according to R12-15-708. The Director shall issue a Type B certificate to the assignee for the portion of the subdivision that is the subject of the assignment and for the number of lots and the estimated water demand of the current plat of the portion of the subdivision that is the subject of the assignment. The Director shall issue a Type B certificate to the certificate holder for the portion of the subdivision retained by the certificate holder and for the remainder of the number of lots and the remainder of the estimated water demand. The sum of the number of lots and the sum of the amount of the estimated water demand shown on each certificate shall equal the total number of lots and the total estimated water demand shown on the certificate that is being assigned.

**G.** The Director shall review an application for an assignment of a Type B certificate pursuant to the licensing time-frame provisions in R12-15-401.

**Historical Note**

Adopted effective February 7, 1995 (Supp. 95-1). Section repealed; new Section made by final rulemaking at 12 A.A.R. 3475, effective September 12, 2006 (Supp. 06-3). Amended by exempt rulemaking at 16 A.A.R. 1205, effective June 15, 2010 (Supp. 10-2). Amended by exempt rulemaking at 16 A.A.R. 1950, effective September 10, 2010 (Supp. 10-3). Amended by final rulemaking at 17 A.A.R. 659, effective June 4, 2011 (Supp. 11-2).

**R12-15-707. Application for Classification of a Type A Certificate**

**A.** A holder of a Type B certificate or a certificate issued before the effective date of this Section may apply to the Director to classify the certificate as a Type A certificate by submitting an application on a form prescribed by the Director with the initial fee prescribed in R12-15-103(C), and attaching evidence that the certificate meets the requirements of R12-15-704(H)(1).

**B.** At least one certificate holder shall sign the application for classification of a certificate as a Type A certificate. If the applicant is not a natural person, the applicant's authorized officer, managing member, partner, trust officer, trustee, or other person who performs similar decision-making functions for the applicant shall sign the application. If the applicant submits a letter, signed by the applicant and dated within 90 days of the date the application is submitted, authorizing a representative to submit applications for permits regarding the land to be included in the certificate, the authorized representative may sign the application on behalf of the applicant.

**C.** If the applicant demonstrates that the requirements of R12-15-704(H)(1) are met, the Director shall classify the certificate as a Type A certificate and issue a Type A certificate to each certificate holder.

**Historical Note**

Adopted effective February 7, 1995 (Supp. 95-1). Section repealed; new Section made by final rulemaking at 12 A.A.R. 3475, effective September 12, 2006 (Supp. 06-3). Amended by exempt rulemaking at 16 A.A.R. 1205, effective June 15, 2010 (Supp. 10-2). Amended by exempt rulemaking at 16 A.A.R. 1950, effective September 10, 2010 (Supp. 10-3). Amended by final rulemaking at 17 A.A.R. 659, effective June 4, 2011 (Supp. 11-2).

**R12-15-708. Material Plat Change; Application for Review**

**A.** A certificate or a water report is applicable to the original plat for which the certificate or water report was issued and to a revised plat, unless the plat changes are material according to subsections (C) and (D).

**B.** If a plat is revised after the Director issues a certificate or a water report and the changes to the plat are material according to subsection (C) or (D), the holder may:
1. Apply for a new certificate or water report for the revised plat,
2. Use the original plat for which the certificate or water report was issued, or
3. Revise the plat so that any changes are not material according to subsections (C) and (D).

**C.** Changes to the plat for which a certificate or a water report has been issued are material if any of the following apply:
1. The 100-year water demand for the revised plat equals the 100-year water demand for the certificate or water report and the number of lots on the plat has increased by more than:
   a. For subdivisions of six to 10 lots: one lot;
   b. For subdivisions of 11 to 499 lots: 10%, rounding up to the nearest whole number; or
   c. For subdivisions of 500 lots or more: 50 lots.
2. The 100-year water demand for the revised plat exceeds the estimated water demand for the certificate or water report, unless all of the following apply:
   a. The 100-year water demand for the revised plat does not exceed the estimated water demand for the certificate or water report by more than 10%, rounding to the nearest whole acre-foot, or by more than 25 acre-feet per year, whichever is less;
   b. The 100-year water demand is not greater than the supply demonstrated to be physically, continuously, and legally available at the time of issuance of the certificate or water report, and that water supply remains physically, continuously, and legally available; and
   c. For a certificate, one of the following applies:
      i. The subdivision is enrolled as a member land in the CAGRD;
      ii. Groundwater is not included as a source of supply; or
      iii. The subdivision is located in the Pinal AMA and the 100-year water demand for the revised plat will not exceed the sum of the amount of the groundwater allowance and the amount of any extinguishment credits pledged to the cer-

tificate, including extinguishment credits pledged after the certificate was issued.

d. The number of lots on the revised plat has not increased by more than:
   i. For subdivisions of six to 10 lots: one lot;
   ii. For subdivisions of 11 to 499 lots: 10%, rounding up to the nearest whole number; or
   iii. For subdivisions of 500 or more: 50 lots.

3. For a certificate, additional land is included in the plat, unless all of the following apply:
   a. The land included in the original plat for which the certificate was issued is located in a master-planned community;
   b. The outer boundaries of the master-planned community have not expanded;
   c. If the land included in the original plat for which the certificate was issued is enrolled as a member land in the CAGRD, the additional land has also been enrolled in the CAGRD; and
   d. A certificate has been issued for the additional land.

**D.** Changes to a portion of a plat are not material if one of the following applies:
1. The changes to the portion of the plat being reviewed are not material according to subsection (C) when compared to the equivalent portion of the plat for which the certificate was issued;
2. The changes to the entire revised plat are not material according to subsection (C) when compared to the entire plat for which the certificate was issued; or
3. For a partial assignment pursuant to R12-15-705 or R12-15-706, the plat for the portion of the subdivision retained by the certificate holder could be configured so that changes to the total number of lots and the estimated water demand for the entire subdivision, including the portion under consideration, are not material according to subsection (C). For purposes of this subsection, the Director may require the applicant to submit evidence demonstrating whether changes to the plat are material. However, the Director shall not require the applicant to submit a plat for the retained portion of a subdivision, unless the materiality of changes to the plat cannot be determined with any other evidence.

**E.** A person may apply for a review of a revised plat to determine whether any changes to the plat are material as follows:
1. The applicant shall submit an application on a form prescribed by the Director with the initial fee required by R12-15-103(C), and shall attach the revised plat.
2. The Director shall review the revised plat and the plat for which the certificate or water report was originally issued to determine whether any changes are material according to the criteria in subsections (C) and (D).
3. The Director shall issue a letter to the applicant stating whether any changes to the plat are material and identifying which changes, if any, are material. If the Director determines that the changes to the plat are not material, the Director's letter shall state that the certificate or water report is applicable to the revised plat.

**Historical Note**

Adopted effective February 7, 1995 (Supp. 95-1). Section repealed; new Section made by final rulemaking at 12 A.A.R. 3475, effective September 12, 2006 (Supp. 06-3). Amended by exempt rulemaking at 16 A.A.R. 1205, effective June 15, 2010 (Supp. 10-2). Amended by exempt rulemaking at 16 A.A.R. 1950, effective September 10, 2010 (Supp. 10-3). Amended by final rulemaking at 17 A.A.R. 659, effective June 4, 2011 (Supp. 11-2). Amended by final expedited rulemaking at 28 A.A.R. 909 (May 6, 2022), with an immediate effective date of April 11, 2022 (Supp. 22-2).

**R12-15-709. Certificate of Assured Water Supply; Revocation**

**A.** The Director may revoke a certificate if an assured water supply does not exist.

**B.** The Director shall not revoke a certificate if any of the residential lots within the plat have been sold.

**C.** If the Director determines that a certificate should be revoked, the Director shall provide for an administrative hearing, in accordance with A.R.S. Title 41, Chapter 6, Article 10. To determine whether a certificate should be revoked, the Director shall use the standards in place at the time the original application was submitted for the certificate.

**Historical Note**

Adopted effective February 7, 1995 (Supp. 95-1). Section repealed; new Section made by final rulemaking at 12 A.A.R. 3475, effective September 12, 2006 (Supp. 06-3).

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

**A.** A municipal provider applying for a designation of assured water supply shall submit an application on a form prescribed by the Director with the fee required by R12-15-103(C) and provide the following:
1. The applicant's current demand;
2. The applicant's committed demand;
3. The applicant's projected demand for the proposed term of the designation;
4. If the applicant is seeking a reduction in the estimated water demand because gray water reuse systems will be installed, sufficient information for the Director to determine the appropriate reduction in demand;
5. The proposed term of the designation, which shall not be less than two years;
6. Evidence that the criteria in subsection (E) are met; and
7. Any other information that the Director determines is necessary to decide whether an assured water supply exists for the municipal provider.

**B.** An application for a designation shall be signed by:
1. If the applicant is a city or town, the city or town manager or a person employed in an equivalent position. The application shall also include a resolution of the governing body of the city or town, authorizing that person to sign the application; or
2. If the applicant is a private water company, the applicant's authorized officer, managing member, partner, trust officer, trustee, or other person who performs similar decision-making functions for the applicant.

**C.** The Director shall give public notice of an application for designation in the same manner as provided for certificates in A.R.S. § 45-578. For an application to modify a designation of assured water supply to which subsection (G) applies, the physical availability of the groundwater and stored water to be recovered outside the area of impact of storage sought to be included in the designation shall not be grounds for an objection.

**D.** After a complete application is submitted, the Director shall review the application and associated evidence to determine:
1. The annual volume of water physically, continuously, and legally available for at least 100 years;

2. The term of the designation, which shall not be less than two years;
3. The applicant's estimated water demand. If the applicant demonstrates that gray water reuse systems will be installed, the Director shall reduce the estimated water demand for the subdivision by the volume the Director determines is likely to be saved through the gray water reuse systems;
4. The applicant's groundwater allowance; and
5. Whether the applicant has demonstrated compliance with all requirements in subsection (E).

**E.** The Director shall designate the applicant as having an assured water supply if the applicant demonstrates all of the following:
1. Sufficient supplies of water are physically available to meet the applicant's estimated water demand, according to the criteria in R12-15-716 or as provided in subsection (G), (H) or (I) of this Section;
2. Sufficient supplies of water are continuously available to meet the applicant's estimated water demand, according to the criteria in R12-15-717;
3. Sufficient supplies of water are legally available to meet the applicant's estimated water demand, according to the criteria in R12-15-718;
4. The proposed sources of water are of adequate quality, according to the criteria in R12-15-719;
5. The applicant has the financial capability to construct adequate delivery, storage, and treatment works in a timely manner according to the criteria in R12-15-720;
6. Any proposed groundwater use is consistent with the management plan in effect at the time of the application, according to the criteria in R12-15-721; and
7. Any proposed use of groundwater withdrawn within an AMA is consistent with the management goal, according to the criteria in R12-15-722.

**F.** The Director shall review an application for a designation of assured water supply pursuant to the licensing time-frame provisions in R12-15-401.

**G.** For an application seeking to modify a designation of assured water supply that does not include a volume of groundwater or stored water recovered outside the area of impact pursuant to subsection (H) or (I) of this Section, the Director shall not review the physical availability of the volume of groundwater and stored water to be recovered outside the area of impact sought to be included in the designation if the total volume of those sources sought to be included in the designation does not exceed the total volume of those sources included in the previous designation of assured water supply that are required to be accounted for pursuant to A.A.C. R12-15-716(B)(3)(c)(ii), minus the sum of the following:
1. The volume of groundwater withdrawn by the applicant since the previous designation of assured water supply order issuance date; and
2. The volume of stored water recovered outside the area of impact by the applicant since the previous designation of assured water supply order issuance date.

**H.** For a new application for a designation of assured water supply in the Phoenix and Pinal Active Management Areas, a volume of groundwater and stored water recovered outside the area of impact, as calculated in subsection (H)(1), (2) and (3) of this Section, shall be deemed physically available if the Director determines that a New Alternative Water Supply included in the application meets the requirements in R12-15-716 through R12-15-720. The volume of groundwater and stored water recovered outside the area of impact shall be calculated as follows:
1. Add the total volume of groundwater withdrawn and stored water recovered outside the area of impact within the service area of applicant during the calendar year 2023 to the estimated groundwater and stored water recovered outside the area of impact demand for unbuilt portions of issued certificates of assured water supply as of 2023 that are or will be within the service area of the applicant, and multiply the sum by 100;
2. Multiply 25 percent of each New Alternative Water Supply included in the designation by 100; and
3. Subtract the total volume calculated in subsection (H)(2) of this Section from the total volume calculated in subsection (H)(1).
4. The Director shall use the annual report submitted by the municipal provider for calendar year 2023, as verified by the Director, for purposes of this calculation.

**I.** For an application seeking to modify a designation of assured water supply that includes a volume of groundwater and stored water recovered outside the area of impact pursuant to subsection (H) of this Section, the following apply:
1. The 100-year volume calculated pursuant to subsection (H) of this Section shall be reduced by the volume of groundwater withdrawn and stored water recovered outside the area of impact by the applicant since the previous designation order issuance date; and
2. The 100-year volume calculated pursuant to subsection (H) of this Section shall be further reduced by 25 percent of the 100-year volume of each New Alternative Water Supply included in any modified designation but not included in the previous designation.

**J.** The Director shall not include any additional sources of groundwater withdrawn from the AMA or stored water recovered outside the area of impact in the AMA in a designation of assured water supply that includes a volume of groundwater and stored water recovered outside the area of impact pursuant to subsection (H) or (I) of this Section.

**K.** An applicant that includes a volume of groundwater or stored water recovered outside the area of impact pursuant to subsection (H) or (I) of this Section must be enrolled as a member service area with the CAGRD.

**Historical Note**

Adopted effective February 7, 1995 (Supp. 95-1). Section repealed; new Section made by final rulemaking at 12 A.A.R. 3475, effective September 12, 2006 (Supp. 06-3). Amended by exempt rulemaking at 16 A.A.R. 1205, effective June 15, 2010 (Supp. 10-2). Amended by exempt rulemaking at 16 A.A.R. 1950, effective September 10, 2010 (Supp. 10-3). Amended by final rulemaking at 17 A.A.R. 659, effective June 4, 2011 (Supp. 11-2). Amended by final expedited rulemaking at 28 A.A.R. 909 (May 6, 2022), with an immediate effective date of April 11, 2022 (Supp. 22-2). Amended by final rulemaking at 30 A.A.R. 3751 (December 13, 2024), with an immediate effective date of November 25, 2024 (Supp. 24-4).

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

**A.** A designated provider shall include in the annual report required by A.R.S. § 45-632 the following information for the preceding calendar year:
1. The designated provider's committed demand;

2. The demand at build-out for customers with which the designated provider has entered into an agreement to serve water, other than committed demand;
3. A report regarding the designated provider's compliance with water quality requirements;
4. The depth-to-static water level of all wells from which the designated provider withdrew water; and
5. Any other information the Director may reasonably require to determine whether the designated provider continues to meet the criteria for a designation of assured water supply.

**B.** If there is a change of ownership, the subsequent owner of a designated provider shall notify the Director in writing of the change in ownership within 90 days.

**C.** The Director shall review a designation at least every 15 years following issuance of the designation to determine whether the designation should be modified or revoked. To determine whether the designation should be modified or revoked, the Director shall use the standards in place at the time of review.

**D.** The Director may modify a designation for good cause, including a merger, division of the designated provider, or a change in ownership of the designated provider. A designation that includes a volume of groundwater pursuant to R12-15-710(H) or (I) shall be for an initial term of no greater than 15 years.

**E.** A designated provider may request a modification of the designation at any time pursuant to R12-15-710.

**F.** The Director may revoke a designation if:
1. After notifying the designated provider and initiating a review of the designated provider's status, the Director determines that the designated provider has less water, according to the criteria in R12-15-710(E), than the amount required for a 100-year supply for the provider's:
   a. Current demand,
   b. Committed demand, and
   c. Projected demand during the next two calendar years;
2. The designated provider fails to construct adequate delivery, storage, and treatment works in a timely manner;
3. ADEQ or another governmental entity with equivalent jurisdiction has determined, after notice and an opportunity for a hearing, that the designated provider is in significant noncompliance with A.A.C. Title 18, Chapter 4 and is not taking action to resolve the noncompliance; or
4. The designated provider has violated its management plan requirements for two or more consecutive calendar years, and one of the following applies:
   a. The provider fails to amend its water use plan in a manner that the Director determines will achieve compliance, or
   b. The provider fails to sign a stipulated agreement to remedy the violation.

**G.** If the Director determines that a designation of assured water supply should be revoked, the Director shall provide for an administrative hearing, in accordance with A.R.S. Title 41, Chapter 6, Article 10.

**H.** If a designated provider's designated status terminates, the provider may apply for re-designation at anytime after termination.

**I.** Notwithstanding any other provision in this Article, a decision and order of the Director designating a city, town, or private water company as having an assured water supply is not affected by this Article solely because the rule numbers cited in the decision and order may have changed after the effective date of the decision and order.

**J.** During the term of the designation, a designated provider may request an expedited modification of the designation to include additional water supplies that do not include groundwater or stored water recovered outside the area of impact from an AMA. The Director shall review only the following for an expedited modification under this subsection:
1. The proposed current, committed and projected demands under the current term of the designation; and
2. The assured water supply requirements for the additional water supply pursuant to R12-15-710(I), if applicable, and R12-15-716 through R12-15-722.

**Historical Note**

Adopted effective February 7, 1995 (Supp. 95-1). Section repealed; new Section made by final rulemaking at 12 A.A.R. 3475, effective September 12, 2006 (Supp. 06-3). Amended by final rulemaking at 30 A.A.R. 3751 (December 13, 2024), with an immediate effective date of November 25, 2024 (Supp. 24-4).

**R12-15-712. Analysis of Adequate Water Supply**

**A.** A person proposing to develop land outside an AMA that will not be served by a designated provider may apply for an analysis of adequate water supply before applying for a water report. An applicant for an analysis must be the owner of the land that is the subject of the application or have the written consent of the owner. The commissioner of the Arizona State Land Department may apply for an analysis for land owned by the state of Arizona outside an AMA or may consent to the inclusion of such land in an application.

**B.** An applicant for an analysis shall submit an application on a form prescribed by the Director with the initial fee required by R12-15-103(C), and attach the following:
1. A title report, condition of title report, limited search title report, or recorded deed, dated within 90 days of the date the application is submitted to the Director, demonstrating the ownership of the land that is the subject of the application;
2. A description of the development, including:
   a. A map of the land uses included in the development,
   b. A list of water supplies proposed to be used by the development,
   c. A summary of land use types included in the development, and
   d. An estimate of the water demand for the land uses included in the development; and
3. Evidence that the applicant has complied with subsection (E) of this Section.

**C.** An applicant shall sign the application for an analysis. If an applicant is not a natural person, the applicant's authorized officer, managing member, partner, trust officer, trustee, or other person who performs similar decision-making functions for the applicant shall sign the application. If the applicant submits a letter, signed by the applicant and dated within 90 days of the date the application is submitted, authorizing a representative to submit applications for permits regarding the land that is the subject of the water report, the authorized representative may sign the application on the applicant's behalf.

**D.** After a complete application is submitted, the Director shall determine the estimated water demand of the development.

**E.** The Director shall issue an analysis if an applicant demonstrates one or more of the following:

1. Sufficient supplies of water are physically available to meet all or part of the estimated water demand of the development for 100 years, according to the criteria in R12-15-716;
2. Sufficient supplies of water are continuously available to meet the estimated water demand of the development for 100 years, according to the criteria in R12-15-717;
3. Sufficient supplies of water are legally available to meet the estimated water demand of the development for 100 years, according to the criteria in R12-15-718;
4. The proposed sources of water are of adequate quality, according to the criteria in R12-15-719.

**F.** For 10 years after the Director issues an analysis, or a longer period allowed under subsections (H) or (I) of this Section:
1. If groundwater is a source of supply in the analysis and the applicant demonstrates that groundwater is physically available under subsection (E)(1), the Director shall consider that supply of groundwater reserved for the use of the proposed development in subsequent determinations of physical availability pursuant to R12-15-716(B).
2. If an analysis holder applies for a water report for a subdivision located on land included in the analysis, the Director shall presume that a criterion demonstrated in the analysis remains satisfied with respect to the subdivision, unless the Director has received new evidence demonstrating that the criterion is not satisfied. If the Director issues the water report, the Director shall reduce the volume of groundwater reserved pursuant to subsection (F)(1) of this Section by the amount of the estimated water demand for the water report that will be met with groundwater.

**G.** The Director shall reduce the amount of water considered reserved for use of the development upon request by the analysis holder. If the analysis holder requesting a reduction is not the person to whom the analysis was issued, the Director shall reduce the amount of reserved groundwater only if the person to whom the analysis was issued or that person's designee consents to the request for reduction. The person to whom the analysis was issued shall notify the Director in writing of the person's designee for purposes of this subsection.

**H.** The analysis holder may apply to the Director for a five-year extension of the time period in subsection (F) of this Section by submitting an application on a form prescribed by the Director no earlier than 36 months before the end of the time period and no later than 30 days before the end of the time period. If an extension is granted, the analysis holder may apply to the Director for an additional five-year extension by submitting an application on a form prescribed by the Director no earlier than 36 months before the end of the extended time period and no later than 30 days before the end of the extended time period. The Director shall extend the time period for no more than two successive five-year periods under this subsection if the analysis holder demonstrates one of the following:
1. The analysis holder has made a substantial capital investment in developing the land included in the analysis.
2. The analysis holder has made material progress in developing the land included in the analysis.
3. Progress in developing the land included in the analysis has been delayed for reasons outside the control of the analysis holder.

**I.** After the Director grants two five-year extensions pursuant to subsection (H) of this Section, the Director may extend the time period for additional five-year periods if the analysis holder files a timely application pursuant to subsection (H) of this Section and demonstrates one of the criteria in subsections (H)(1), (2), or (3) of this Section.

**J.** The Director shall review an application for an analysis or an application for an extension pursuant to subsections (H) or (I) of this Section pursuant to the licensing time-frame provisions in R12-15-401.

**Historical Note**

Adopted effective February 7, 1995 (Supp. 95-1). Section repealed; new Section made by final rulemaking at 12 A.A.R. 3475, effective September 12, 2006 (Supp. 06-3). Amended by exempt rulemaking at 16 A.A.R. 1205, effective June 15, 2010 (Supp. 10-2). Amended by exempt rulemaking at 16 A.A.R. 1950, effective September 10, 2010 (Supp. 10-3). Amended by final rulemaking at 17 A.A.R. 659, effective June 4, 2011 (Supp. 11-2).

**R12-15-713. Water Report**

**A.** An application for a water report shall be filed by the current owner of the land that is the subject of the application.

**B.** An applicant for a water report shall submit an application on a form prescribed by the Director with the initial fee required by R12-15-103(C), and provide the following:
1. A title report, condition of title report, limited search title report, or recorded deed, dated within 90 days of the date the application is filed and demonstrating that the applicant is the owner of the land that is the subject of the application;
2. A plat of the subdivision;
3. An estimate of the 100-year water demand for the subdivision;
4. A list of all proposed sources of water that will be used by the subdivision;
5. If the applicant is seeking a finding that the subdivision has an adequate water supply, evidence that the criteria in subsection (E) are met; and
6. Any other information that the Director reasonably determines is necessary to decide whether an adequate water supply exists for the subdivision.

**C.** Each applicant shall sign the application for a water report. If an applicant is not a natural person, the applicant's authorized officer, managing member, partner, trust officer, trustee, or other person who performs similar decision-making functions for the applicant shall sign the application. If an applicant submits a letter, signed by the applicant and dated within 90 days of the date the application is submitted, authorizing a representative to submit applications for permits regarding the land to be included in the water report, the authorized representative may sign the application on the applicant's behalf.

**D.** After a complete application is submitted, the Director shall review the application and associated evidence to determine:
1. The estimated water demand of the subdivision,
2. Whether the applicant has demonstrated all of the requirements in subsection (E).

**E.** The Director shall determine that the subdivision has an adequate water supply if the applicant demonstrates all of the following:
1. Sufficient supplies of water are physically available to meet the estimated water demand of the subdivision, according to the criteria in R12-15-716;
2. Sufficient supplies of water are continuously available to meet the estimated water demand of the subdivision, according to the criteria in R12-15-717;

3. Sufficient supplies of water are legally available to meet the estimated water demand of the subdivision, according to the criteria in R12-15-718;
4. The proposed sources of water will be of adequate quality, according to the criteria in R12-15-719;
5. The applicant has the financial capability to construct adequate delivery, storage, and treatment works for the subdivision according to the criteria in R12-15-720.

**F.** The Director shall issue a water report to the applicant that states whether the applicant has complied with the requirements in subsection (E).

**G.** The Director shall review an application for a water report pursuant to the licensing time-frame provisions in R12-15-401.

**H.** The Director may review or modify a water report if the Director receives new evidence regarding the criteria in subsection (E). The Director shall not modify a water report pursuant to this subsection if any of the residential lots included in the plat have been sold. To determine whether a water report should be modified pursuant to this subsection, the Director shall use the standards in place at the time the original application was submitted for the water report. If the Director modifies a water report, the Director shall:
1. Provide for an administrative hearing pursuant to A.R.S. Title 41, Chapter 6, Article 10; and
2. Notify the Arizona Department of Real Estate.

**I.** An owner of land that is the subject of a water report may request a modification of the water report at any time by submitting an application in accordance with subsection (B). To determine whether a water report should be modified pursuant to this Section, the Director shall use the standards in place at the time of review.

**J.** A water report is subject to the provisions of R12-15-708.

**K.** An owner of a subdivision that is located within a mandatory adequacy jurisdiction and that will be served Colorado River water by a municipal provider may apply for an exemption from the requirement to obtain an adequate water supply determination from the director or a commitment of water service from a designated provider according to A.R.S. § 45-108.03(A)(1)(b) by submitting an application on a form prescribed by the Director and demonstrating that the criteria in subsection (K)(2) are met. Upon receiving an application according to this subsection, the Director shall:
1. Review the application according to the licensing time frame provisions in R12-15-401.
2. Determine whether the applicant has demonstrated that all of the following apply:
   a. Sufficient supplies of water will not be legally available to meet the estimated water demand of the subdivision in a timely manner because the municipal provider will serve Colorado River water to the subdivision and the municipal provider does not currently have the legal right to serve the Colorado River water to the subdivision;
   b. The municipal provider currently has an entitlement to Colorado River water, according to the criteria in R12-15-718(G);
   c. The municipal provider will have the legal right to serve the Colorado River water to the subdivision within 20 years;
   d. An interim water supply will be used to serve the subdivision until the municipal provider has the legal right to serve the Colorado River water to the subdivision and the interim water supply meets all of the criteria in subsection (E), except that the supply will be available for the interim period and not for 100 years; and
   e. When the municipal provider has the legal right to serve the Colorado River water to the subdivision, the Colorado River water supply will meet all of the criteria in subsection (E).
3. If the Director determines that the criteria of subsection (K)(2) are met, issue a letter to the applicant, the platting authority, and the Arizona Department of Real Estate stating that the owner is exempt from the requirement to obtain an adequate water supply determination from the director or a commitment of water service from a designated provider.

**L.** An owner of a subdivision that is located within a mandatory adequacy jurisdiction and that will be served by a water supply project under construction may apply for an exemption from the requirement to obtain an adequate water supply determination from the director or a commitment of water service from a designated provider according to A.R.S. § 45-108.03(A)(1)(a) by submitting an application on a form prescribed by the Director and demonstrating that the criteria in subsection (L)(2) are met. Upon receiving an application according to this subsection, the Director shall:
1. Review the application according to the licensing time frame provisions in R12-15-401.
2. Determine whether the applicant has demonstrated that all of the following apply:
   a. Sufficient supplies of water will not be available to meet the estimated water demand of the subdivision in a timely manner because the physical works for delivering water to the subdivision are not complete;
   b. The physical works for delivering water to the subdivision are under construction and will be completed within 20 years;
   c. An interim water supply will be used to serve the subdivision until the physical works for delivering water to the subdivision are fully constructed and the interim water supply meets all of the criteria in subsection (E), except that supply will be available for the interim period and not for 100 years; and
   d. When the physical works for delivering water to the subdivision are fully constructed, the water supply will meet all of the criteria in subsection (E).
3. If the Director determines that the criteria of subsection (L)(2) are met, issue a letter to the applicant, the platting authority, and the Arizona Department of Real Estate stating that the owner is exempt from the requirement to obtain an adequate water supply determination from the director or a commitment of water service from a designated provider.

**Historical Note**

Adopted effective February 7, 1995 (Supp. 95-1). Section repealed; new Section made by final rulemaking at 12 A.A.R. 3475, effective September 12, 2006 (Supp. 06-3). Amended by exempt rulemaking at 16 A.A.R. 1205, effective June 15, 2010 (Supp. 10-2). Amended by exempt rulemaking at 16 A.A.R. 1950, effective September 10, 2010 (Supp. 10-3). Amended by final rulemaking at 17 A.A.R. 659, effective June 4, 2011 (Supp. 11-2). Amended by final expedited rulemaking at 28 A.A.R. 909 (May 6, 2022), with an immediate effective date of April 11, 2022 (Supp. 22-2).

**R12-15-714. Designation of Adequate Water Supply**

**A.** A municipal provider applying for a designation of adequate water supply shall submit an application on a form prescribed by the Director with the initial fee required by R12-15-103(C), and the following:
1. The applicant's current demand;
2. The applicant's committed demand;
3. The applicant's projected demand for the proposed term of the designation;
4. The proposed term of the designation, which shall not be less than two years;
5. Evidence that the criteria in subsection (E) of this Section are met; and
6. Any other information that the Director determines is necessary to decide whether an adequate water supply exists for the municipal provider.

**B.** A city or town, other than a municipal provider, that is applying for a designation shall submit an application on a form prescribed by the Director with the initial fee required in R12-15-103(C), and provide the following:
1. The current demand of the applicant's service area;
2. The committed demand of the applicant's service area;
3. The projected demand of the applicant's service area for the proposed term of the designation;
4. The proposed term of the designation, which shall not be less than two years; and
5. Evidence that the requirements in A.R.S. § 45-108(D) are met.

**C.** An application for a designation shall be signed by:
1. If the applicant is a city or town, the city or town manager or a person employed in an equivalent position. The application shall also include a resolution of the governing body of the city or town, authorizing that person to sign the application; or
2. If the applicant is a private water company, the applicant's authorized officer, managing member, partner, trust officer, trustee, or other person who performs similar decision-making functions for the applicant.

**D.** After a complete application is submitted, the Director shall review the application and associated evidence to determine:
1. The annual volume of water that is physically, continuously, and legally available for at least 100 years;
2. The term of the designation, which shall not be less than two years;
3. The estimated water demand for the applicant's service area for 100 years; and
4. Whether the applicant has demonstrated compliance with all requirements in subsection (E) or (F) of this Section.

**E.** The Director shall designate the applicant has having an adequate water supply pursuant to subsection (A) of this Section if the applicant demonstrates all of the following:
1. Sufficient supplies of water are physically available to meet the applicant's estimated water demand, according to the criteria in R12-15-716;
2. Sufficient supplies of water are continuously available to meet the applicant's estimated water demand, according to the criteria in R12-15-717;
3. Sufficient supplies of water are legally available to meet the applicant's estimated water demand, according to the criteria in R12-15-718;
4. The proposed sources of water are of adequate quality, according to the criteria in R12-15-719; and
5. The applicant has the financial capability to construct adequate delivery, storage, and treatment works in a timely manner according to the criteria in R12-15-720.

**F.** The Director shall issue a designation pursuant to subsection (B) of this Section if the applicant demonstrates that the requirements of A.R.S. § 45-108(D) are met.

**G.** The Director shall review an application for a designation of adequate water supply pursuant to the licensing time-frame provisions in R12-15-401.

**Historical Note**

Adopted effective February 7, 1995 (Supp. 95-1). Section repealed; new Section made by final rulemaking at 12 A.A.R. 3475, effective September 12, 2006 (Supp. 06-3). Amended by exempt rulemaking at 16 A.A.R. 1205, effective June 15, 2010 (Supp. 10-2). Amended by exempt rulemaking at 16 A.A.R. 1950, effective September 10, 2010 (Supp. 10-3). Amended by final rulemaking at 17 A.A.R. 659, effective June 4, 2011 (Supp. 11-2).

**R12-15-715. Designation of Adequate Water Supply; Annual Report Requirements, Review, Modification, Revocation**

**A.** By March 31 of each calendar year, a designated provider shall submit the following information for the preceding calendar year on a form provided by the Director:
1. The designated provider's committed demand;
2. The demand at build-out for customers with which the designated provider has entered into an agreement to serve water, other than committed demand;
3. A report regarding the designated provider's compliance with water quality requirements;
4. The depth-to static water level of all wells from which the designated provider withdrew water;
5. A report regarding volume of water withdrawn, diverted, or received from each source for delivery to customers;
6. Any other information the Director may reasonably require to determine whether the designated provider continues to meet the criteria for a designation of adequate water supply.

**B.** If there is a change of ownership, the subsequent owner of a designated provider shall notify the Director in writing of the change in ownership within 90 days.

**C.** The Director shall review a designation at least every 15 years following issuance of the designation to determine whether the designation should be modified or revoked.

**D.** The Director may modify a designation for good cause, including a merger, division of the designated provider, or a change in ownership of the designated provider. A designated provider may request a modification of the designation at any time pursuant to R12-15-714. To determine whether the designation should be modified, the Director shall use the standards in place at the time of review.

**E.** The Director may revoke a designation if:
1. After notifying the designated provider and initiating a review of the designated provider's status, the Director deter mines that the designated provider has less water, according to the criteria in R12-15-714(E), than the amount required for a 100-year supply for the provider's:
   a. Current demand,
   b. Committed demand, and
   c. Projected demand for the next two calendar years;
2. The designated provider fails to construct adequate delivery, storage, and treatment works in a timely manner; or
3. ADEQ or another governmental entity with equivalent jurisdiction has determined, after notice and an opportunity for a hearing, that the designated provider is in sig-

nificant noncompliance with A.A.C. Title 18, Chapter 4 and is not taking action to resolve the noncompliance.

**F.** To determine whether the designation should be revoked, the Director shall use the standards in place at the time of review. If the Director determines that a designation of adequate water supply should be revoked, the Director shall provide for an administrative hearing, in accordance with A.R.S. Title 41, Chapter 6, Article 10.

**G.** If a designated provider's designated status terminates, the provider may apply for re-designation at anytime after termination.

**H.** Notwithstanding any other provision in this Article, a decision and order of the Director designating a city, town, or private water company as having an assured water supply is not affected by this Article solely because the rule numbers cited in the decision and order may have changed after the effective date of the decision and order.

**Historical Head**

Adopted effective February 7, 1995 (Supp. 95-1). Section repealed; new Section made by final rulemaking at 12 A.A.R. 3475, effective September 12, 2006 (Supp. 06-3).

**R12-15-716. Physical Availability**

**A.** The volume of a proposed source of water that is physically available to an applicant for a determination of assured water supply or a determination of adequate water supply is the amount determined by the Director to be physically available pursuant to subsections (B) through (L) of this Section.

**B.** If the proposed source is groundwater, the applicant shall submit a hydrologic study, using a method of analysis approved by the Director, that accurately describes the hydrology of the affected area. Except as provided in subsection (D) of this Section, the Director shall determine that the proposed volume of groundwater will be physically available for the proposed use if both of the following apply:

1. The groundwater will be withdrawn as follows:
   a. Except as provided in subsection (B)(1)(b) of this Section, from wells owned by the applicant or the proposed municipal provider that are located within the service area of the applicant or the proposed municipal provider or from proposed wells that the Director determines are likely to be constructed for future uses of the applicant or the proposed municipal provider.
   b. If the application is for a dry lot development, from wells that the Director determines are likely to be constructed on individual lots.
2. Except as provided in subsection (C) of this Section, the groundwater will be withdrawn from depths that do not exceed the applicable maximum 100-year depth-to-static water level according to the following:

| Type and location of development | Maximum 100-year depth-to-static water level |
|---|---|
| a. Developments in Phoenix, Tucson, or Prescott AMAs, except dry lot developments | 1000 feet below land surface |
| b. Developments in Pinal AMA, except dry lot developments | 1100 feet below land surface |
| c. Developments outside AMAs, except dry lot developments | 1200 feet below land surface |
| d. Dry lot developments | 400 feet below land surface |

3. The Director shall calculate the projected 100-year depth-to-static water level by adding the following for the area where groundwater withdrawals are proposed to occur:
   a. The depth-to-static water level on the date of application.
   b. The projected declines caused by existing uses, using the projected decline in the 100-year depth-to-static water level 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 before 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 occurring historically, the Director may determine projected declines using a model rather than evidence of past declines.
   c. The projected decline in the depth-to-static water level during the 100-year period after the date of application, calculated by adding the projected decline from each of the following that are not accounted for in subsection (B)(3)(b) of this Section:
      i. The estimated water demand of issued certificates and water reports that will be met with groundwater or stored water recovered outside the area of impact of the stored water, not including the demand of subdivided lots included in abandoned plats;
      ii. The estimated water demand of designations that will be met with groundwater or stored water recovered outside the area of impact of the stored water; and
      iii. The groundwater reserved for developments for which the Director has issued an analysis pursuant to R12-15-703 or R12-15-712.
   d. The projected decline in depth-to-static water level that the Director projects will result from the applicant's proposed use over a 100-year period.

**C.** The Director shall lower the maximum 100-year depth-to-static water level requirement specified in subsection (B)(2) of this Section for an applicant seeking a determination of adequate water supply if the applicant demonstrates both of the following:

1. Groundwater is available at the lower depth; and
2. The applicant has the financial capability to obtain the groundwater at the lower depth, according to the criteria in R12-15-720.

**D.** If the proposed source is groundwater that will be withdrawn from a groundwater basin outside an AMA and transported into an AMA, the Director shall determine that the proposed volume of groundwater will be physically available if both of the following apply:

1. The groundwater will be withdrawn from wells owned by the applicant or the proposed municipal provider or from proposed wells that the Director determines are likely to be constructed for the future uses of the applicant or the proposed municipal provider.
2. Withdrawal of the groundwater will comply with any depth-to-static water level criteria, decline rate criteria, and volume limitation criteria prescribed by statute. If there are no applicable depth-to-static water level criteria prescribed by statute, withdrawal of the groundwater

shall comply with the depth-to-static water level criteria in subsection (B)(2) of this Section.

**E.** Subject to subsection (L) of this Section, if the proposed source of water is surface water, other than CAP water, or Colorado River water, the Director shall determine the annual volume of water that is physically 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 at the point of diversion as limited by the capacity of the diversion works; except that if the applicant demonstrates that an alternative source of water will be physically available during times of shortage in the proposed surface water supply, the Director shall determine the annual volume of water available 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. The Director shall determine the firm yield or median flow as follows:

1. By calculating the firm yield or median flow at the point of diversion based on at least 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
2. By calculating the firm yield or median flow at the point of diversion using a hydrologic model that projects the firm yield or median flow, taking into account at least 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 before the date of application, the Director shall require the applicant to submit evidence, as applicable, in accordance with this subsection.

**F.** Subject to subsection (L) of this Section, if the proposed source of water is CAP water, the Director shall determine the annual volume of water that is physically available for the proposed use as follows:

1. If the applicant or the proposed municipal provider has a non-declining, long-term municipal and industrial subcontract for CAP water, calculate 100% of the annual amount of water established in the subcontract.
2. If the applicant has a lease for Indian priority CAP water, calculate 100% of the annual amount of water established in the lease.
3. If the applicant has a subcontract for CAP water other than a non-declining, long-term municipal and industrial subcontract or a lease for Indian priority CAP water:
   a. If the applicant submits evidence of sufficient backup water supplies, calculate 100% of the annual amount of water established in the subcontract. The applicant may establish backup water supplies by one or more of the following:
      i. A drought response plan;
      ii. Long-term storage credits;
      iii. A contract for water with a multi-county water conservation district; or
      iv. Evidence of other backup supplies that are physically, continuously, and legally available.
   b. If the applicant does not submit evidence of sufficient backup water supplies pursuant to subsection (F)(3)(a) of this Section, calculate the percentage of the annual amount of water established in the subcontract that reasonably reflects the reliability of the applicant's CAP water supply.

**G.** Subject to subsection (L) of this Section, if the proposed source of water is Colorado River water, the Director shall determine the annual volume of water that is physically available for the proposed use as follows:

1. If the priority of the contract for Colorado River water provides reliability equal to or better than CAP municipal and industrial water, calculate 100% of the annual amount of water established in the contract.
2. If the contract for Colorado River water provides reliability that is less than CAP municipal and industrial water:
   a. If the applicant submits evidence of sufficient backup water supplies, calculate 100% of the annual amount of water in the contract. The applicant may establish backup water supplies by one or more of the following:
      i. A drought response plan;
      ii. Long-term storage credits;
      iii. A contract for water with a multi-county water conservation district; or
      iv. Evidence of other backup supplies that are physically, continuously, and legally available.
   b. If the applicant does not submit evidence of sufficient backup water supplies pursuant to subsection (G)(2)(a) of this Section, calculate the percentage of the annual amount of water established in the contract that reasonably reflects the reliability of the applicant's Colorado River water supply.

**H.** Subject to subsection (I) of this Section, if the proposed source of water is effluent, the Director shall determine the annual volume of water that will be physically available by evaluating the current, metered production or the projected production of effluent. The volume of effluent that is physically available shall not include the following:

1. If the effluent will be delivered directly from a wastewater treatment plant, the volume of effluent that exceeds the applicant's estimated water demand that will be met with effluent; and
2. The volume of effluent that does not comply with any applicable water quality requirements for the proposed use of the effluent.

**I.** If the proposed source of water is stored water to be recovered from recovery wells, the Director shall determine the volume of water that is physically available for the proposed use as follows:

1. If the stored water is represented by long-term storage credits in existence on the date of application, the amount that is physically available is the amount that may be recovered pursuant to the credits in a manner consistent with A.R.S. Title 45, Chapter 3.1, subject to subsection (I)(3) of this Section.
2. If the applicant proposes to use long-term storage credits that do not exist on the date of application or recover stored water on an annual basis pursuant to A.R.S. § 45-851.01, the Director shall evaluate the following in determining whether to include the proposed credits or the water proposed to be stored and recovered annually in the amount of water that is physically available for the applicant's proposed use:
   a. The terms of a contract to obtain water to store in a storage facility;
   b. The physical, continuous, and legal availability of the water proposed to be stored;

c. The presence of an existing storage facility that will be available for use for the proposed storage;
d. The existence of all required permits of an adequate duration; and
e. Whether recovery of the stored water will comply with subsection (I)(3) of this Section.

3. If the applicant proposes to recover the stored water from recovery wells located outside the area of impact of storage, the stored water will be considered physically available only if sufficient water exists for the withdrawals consistent with both of the following:
a. The maximum 100-year depth-to-static water level requirements established in subsection (B)(2) of this Section; and
b. Any criteria for the withdrawals prescribed in the management plan in effect at the time of the application.

**J.** If the applicant will obtain the source of water through a water exchange agreement, the Director shall determine that the water is physically available for the proposed use if the applicant submits evidence that the source of water the applicant or the applicant's customers will use will be physically available in accordance with the terms of this Section.

**K.** In the case of two or more pending, conflicting, complete and correct applications for determinations of assured water supply or determinations of adequate water supply, the Director shall give priority to the application with the earliest priority date. The priority date of an application for a determination of assured water supply or determination of adequate water supply shall be the date that a complete and correct application is filed with the Director. The Director shall consider an application complete and correct if it contains all the information required and the Director verifies that the information is accurate.

**L.** For a certificate applicant that proposes to use surface water, the Director shall determine that the proposed source is physically available only if the applicant demonstrates one of the following:
1. The land that is the subject of the application is a member land of the CAGRD.
2. The applicant has independently obtained the surface water supply.
3. The proposed municipal provider would satisfy the criteria in R12-15-722 if the municipal provider were subject to those requirements.

**Historical Note**

Adopted effective February 7, 1995 (Supp. 95-1). Section repealed; new Section made by final rulemaking at 12 A.A.R. 3475, effective September 12, 2006 (Supp. 06-3).

**R12-15-717. Continuous Availability**

**A.** The Director shall determine that an applicant will have sufficient supplies of water that will be continuously available for 100 years if the applicant submits sufficient evidence that adequate delivery, storage, and treatment works will be in place in a timely manner to make the water available to the applicant or the applicant's customers for 100 years and the applicant meets any applicable requirements in subsections (B) through (G) of this Section.

**B.** If the proposed source of water is groundwater, the applicant shall demonstrate that wells of a sufficient capacity will be constructed in a timely manner to serve the proposed uses on a continuous basis for 100 years.

**C.** If the proposed source of water is surface water other than CAP water or Colorado River water, the applicant shall demonstrate that a continuous supply will exist because of one or more of the following:
1. The projected volume to be diverted from the source is perennial at the point of diversion;
2. 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;
3. The applicant has presented evidence of supplies of other sources of water that the Director has determined will be physically, continuously, and legally available to supplement the applicant's proposed surface water supplies;
4. The applicant or the proposed municipal provider will withdraw surface water from wells of sufficient capacity to meet the applicant's estimated water demand on a continuous basis for 100 years; or
5. The applicant has submitted a drought response plan that the Director has determined will conserve or augment a volume of water equal to the volume of water that is subject to drought.

**D.** If the proposed source of water is CAP water or Colorado River water, the applicant shall demonstrate that a continuous supply is available because of one or more of the following:
1. Adequate storage facilities will be available to the applicant in a timely manner to store water when a volume of CAP water or Colorado River water is not available to meet the applicant's water demands;
2. The applicant has presented evidence of supplies of other sources of water that the Director has determined will be physically, continuously, and legally available to the applicant to supplement the proposed CAP water or Colorado River water supplies; or
3. The applicant has submitted a drought response plan that the Director has determined will conserve or augment a volume of water equal to the volume subject to drought.

**E.** If the proposed source of water is effluent, the applicant shall demonstrate that the capability to use the effluent to meet the demands of the proposed use will not be affected by any fluctuations in the supply of the effluent.

**F.** If the proposed source of water is stored water to be recovered from recovery wells, the applicant shall demonstrate that recovery wells of a sufficient capacity will be constructed in a timely manner to serve the proposed use on a continuous basis for 100 years.

**G.** If an applicant will obtain the source of water through a water exchange agreement, the applicant shall demonstrate that the source of water the applicant or the applicant's customers will use will be continuously available in accordance with the terms of this Section.

**Historical Note**

Adopted effective February 7, 1995 (Supp. 95-1). Amended by emergency rulemaking at 11 A.A.R. 2706, effective June 29, 2005 for 180 days (Supp. 05-2). Emergency renewed for 180 days at 12 A.A.R. 144, effective December 23, 2005 (Supp. 05-4). Emergency expired. Section repealed; new Section made by final rulemaking at 12 A.A.R. 3475, effective September 12, 2006 (Supp. 06-3).

**R12-15-718. Legal Availability**

**A.** The Director shall determine that an applicant will have sufficient supplies of water that will be legally available for at least

100 years if the applicant submits all of the applicable information required by this Section.

**B.** If the applicant is an applicant for a certificate or a water report, the applicant shall submit the following, as applicable:
1. A Notice of Intent to Serve agreement between the owner of the land to be included in the subdivision and the proposed municipal provider, stating the proposed municipal provider's intent to serve the subdivision;
2. If the proposed municipal provider is a city or town, evidence indicating that the proposed subdivision is located within the incorporated limits of the city or town or evidence of the legal right of the city or town to serve water to the subdivision outside the city or town's incorporated limits; or
3. If the proposed municipal provider is a private water company, one of the following:
   a. Evidence that the proposed municipal provider has a certificate of convenience and necessity approved by the Arizona Corporation Commission and the subdivision is located within the geographic area described in the certificate of convenience and necessity or any other area in which the Arizona Corporation Commission authorizes the private water company to serve water;
   b. Evidence that the proposed municipal provider has an order preliminary issued by the Arizona Corporation Commission authorizing the municipal provider to provide water service and the proposed subdivision is located within the area described in the order preliminary; or
   c. Evidence that the proposed municipal provider is not a public service corporation regulated by the Arizona Corporation Commission.

**C.** If the applicant is a private water company applying for a designation, the applicant shall submit evidence that the applicant has a certificate of convenience and necessity approved by the Arizona Corporation Commission, or has been issued an order preliminary by the Arizona Corporation Commission for a certificate of convenience and necessity, authorizing the applicant to serve the proposed use.

**D.** If a proposed source of water is groundwater to be withdrawn within an AMA, the applicant shall submit evidence that the applicant or the proposed municipal provider has one or more of the following:
1. A service area right;
2. An applicable non-irrigation grandfathered right to withdraw groundwater, in an amount sufficient to serve the proposed use; or
3. A pending notice of intent to establish a new service area and all of the following apply:
   a. The notice of intent to establish a new service area identifies the proposed subdivision,
   b. The applicant or the proposed municipal provider has obtained a permit for any wells used to establish the service area right,
   c. The proposed municipal provider has obtained a water right or recovery well permit to establish the service area right, and
   d. The water right is of sufficient volume and duration to meet the estimated water demand of the proposed subdivision until the anticipated date of issuance of a service area right.

**E.** If a proposed source of water is surface water other than CAP water or Colorado River water:
1. The applicant shall submit evidence that the applicant or the proposed municipal provider has a certificated surface water right, decreed water right, or a pre-1919 claim for the proposed source. If the applicant or the proposed municipal provider does not hold a surface water right or claim, but will receive water pursuant to a water right or claim that is appurtenant to the land that is the subject of the application, the applicant shall submit evidence of the water right or claim and evidence that the water right or claim may neither be legally withheld nor severed and transferred by the right holder or claimant.
2. 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, the applicant shall submit one of the following:
   a. Evidence that the surface water supply has been used pursuant to the applicable water right or claim within the five years before the date of application;
   b. Evidence that a court has determined that the right has not been abandoned; or
   c. Evidence that the non-use would not have resulted in an abandonment of the right pursuant to A.R.S. § 45-189.
3. The Director shall determine that the volume of water that is legally available pursuant to a certificated surface water right, a decreed water right, or a pre-1919 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 that is legally available based on the adjudicated amount of water.

**F.** Subject to subsections (M) and (N) of this Section, if a proposed source of water is CAP water, the applicant shall submit evidence that the applicant or the proposed municipal provider has entered into a subcontract with a multi-county water conservation district for the proposed volume of CAP water. The Director shall presume that a 50-year long-term, non-declining municipal and industrial subcontract is sufficient evidence of the legal availability of the volume of CAP water specified in the subcontract for 100 calendar years.

**G.** Subject to subsections (M) and (N) of this Section, if a proposed source of water is Colorado River water, the applicant shall submit evidence of one of the following:
1. The applicant or the proposed municipal provider has a contract with the United States Secretary of the Interior for the proposed supply; or
2. The applicant has obtained an allocation of Colorado River water from an entity to which all of the following apply:
   a. The entity holds a contract for Colorado River water with the United States Secretary of the Interior;
   b. The entity provides Colorado River water to the proposed municipal provider;
   c. The entity has allocated a sufficient volume of the Colorado River water to the subdivision; and
   d. The area that the entity may serve, described in the contract with the United States Secretary of the Interior, includes the subdivision.

**H.** If a proposed source of water is effluent, the applicant shall submit evidence that the applicant or the proposed municipal provider has the legal right to use the effluent.

**I.** If the applicant will obtain a proposed source of water through a written contract other than a water exchange agreement, a contract between a certificate 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 applicant shall submit evidence that the person providing the water under the contract has a legal right to the water in accordance with the terms of this Section and that the terms of the contract will ensure that the proposed source of water will be delivered to the applicant or to the proposed subdivision. 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. The Director shall determine the quantity of water legally available based on the volume established in the contract.

**J.** If the applicant will obtain a proposed source of water through a water exchange agreement, the applicant shall submit evidence that the water exchange agreement satisfies the requirements of A.R.S. Title 45, Chapter 4.

**K.** If the Director can determine the proposed source of water to be physically and continuously available only because of the use of storage facilities by the applicant or by the proposed municipal provider, the applicant shall submit evidence of the applicant's or the proposed municipal provider's legal right to store water in the storage facilities.

**L.** If the applicant proposes to use long-term storage credits, the applicant shall submit evidence that the applicant or the proposed municipal provider has the legal right to use the credits under A.R.S. Title 45, Chapter 3.1.

**M.** If a proposed supply of water is Colorado River water or CAP water leased from an Indian community, the applicant shall submit evidence that the water leased has a priority equal to or higher than CAP municipal and industrial water, evidence that the Indian community is expressly authorized by an Act of Congress to lease the water for use off Indian community lands, evidence of the lease, and evidence of one of the following:

1. The proposed water supply is available under the lease for at least 100 years from any time during the year in which the applicant submits the application.
2. The term of the lease has less than 100 years remaining in the year in which the applicant submits the application and a supplemental water supply, together with the leased water, provides a 100-year water supply. The applicant shall demonstrate that the supplemental water supply is physically, continuously, and legally available and, if such supplemental supply is groundwater, that use of the groundwater is consistent with the management goal of the AMA. If the supplemental supply is water recovered through the use of long-term storage credits, the applicant shall also submit the following, as applicable:
   a. If the applicant is to use the long-term storage credits before the beginning of the lease term, evidence that the applicant or the proposed municipal provider has obtained a recovery well permit that allows the applicant or the proposed municipal provider to recover water pursuant to the long-term storage credits; or
   b. If the long-term storage credits will be accrued in the future, evidence that the applicant or the proposed municipal provider will accrue the long-term storage credits within 20 years after the effective date of the designation, certificate, or water report by storing the water under an issued water storage permit at a permitted storage facility and that no more than 20 years of the applicant's supplemental water supply will be provided by the long-term storage credits.

**N.** If the Director previously determined that Colorado River water or CAP water leased from an Indian community was legally available to a designated provider for 100 years, the Director shall determine that the designated provider continues to have a legally available supply of water for 100 years for the annual amount of water available under the lease if:

1. The lease has at least 50 years remaining in its term or the lease has at least 40 years remaining in its term and the designated provider submits evidence to the Director of active and ongoing negotiations with the Indian community to renew or re-negotiate the lease; and
2. One of the following applies:
   a. No more than 15% of the total water supplies that the designated provider establishes as physically, continuously, and legally available during any year are obtained through leases with Indian communities;
   b. Groundwater will be physically, continuously, and legally available to the designated provider at the end of the lease term to substitute for the leased water for the remainder of the 100-year period, and the projected use of groundwater is consistent with the management goal of the AMA. For purposes of this subsection, the designated provider may demonstrate that the proposed use is consistent with the management goal by entering into a written agreement with the Director under which the designated provider agrees to replace through replenishment or underground storage any groundwater used at the end of the lease term if groundwater use is not consistent with the management goal. The written agreement shall provide that specific performance is the only remedy in the event of default;
   c. A non-groundwater source of water will be physically, continuously, and legally available at the end of the lease term to substitute for the leased water for the remainder of the 100-year period; or
   d. The designated provider's governing board or council submits a resolution requesting that the designated provider be allowed to increase its projected use of Indian lease water from 15%, as allowed by subsection (N)(2)(a) of this Section, to 20%, and the Director finds that all of the following apply:
      i. No more than 20% of the total water supplies that the designated provider establishes as physically, continuously, and legally available during any year are obtained through leases with Indian communities;
      ii. No more than 15% of the total water supplies that the designated provider establishes as physically, continuously, and legally available during any year are obtained through any single lease with an Indian community; and
      iii. The designated provider does not meet the requirements of subsections (N)(2)(a), (b), or (c) of this Section.

**Historical Note**

Adopted effective February 7, 1995 (Supp. 95-1). Section repealed; new Section made by final rulemaking at 12 A.A.R. 3475, effective September 12, 2006 (Supp. 06-3).

**R12-15-719. Water Quality**

**A.** Except as provided in subsection (B) of this Section, when reviewing an application for a determination of assured water

supply or a determination of adequate water supply, the Director shall determine that the water supply is of adequate quality if one of the following applies:

1. The applicant certifies on the application that the applicant or the proposed municipal provider will be regulated by ADEQ, or another governmental entity with equivalent jurisdiction, as a public water system pursuant to A.R.S. § 49-351, et seq., unless ADEQ, or another governmental entity with equivalent jurisdiction, has determined, after notice and an opportunity for a hearing, that the public water system is in significant noncompliance with A.A.C. Title 18, Chapter 4 and is not taking action to resolve the noncompliance; or
2. The applicant has submitted results of a lab analysis demonstrating that the water meets water quality requirements in accordance with A.A.C. Title 18, Chapter 4, or that the water will meet these requirements after treatment that is required by law. The lab analysis shall be based on water withdrawn from a well representative of the well or wells from which water will be withdrawn for the proposed use, conducted in compliance with sample collection and analysis requirements in A.A.C. Title 18, Chapter 4, and completed within 60 days of the date the application is submitted to the Director. If ADEQ waives any of the water quality or sample collection and analysis requirements in A.A.C. Title 18, Chapter 4, the Director shall not require the applicant to meet the waived requirements.

**B.** If a well or a proposed well from which water will be withdrawn for the proposed use is located within one mile of a WQARF site or Superfund site, the Director shall determine that the water supply is of adequate quality only if the applicant submits a contaminant migration and mitigation analysis, demonstrating that the water supply will continue to meet the requirements in A.A.C. Title 18, Chapter 4 for 100 years. The contaminant migration and mitigation analysis may include the impact of any mitigation or treatment, including mitigation or treatment required pursuant to a consent decree.

**Historical Note**

Adopted effective February 7, 1995 (Supp. 95-1). Section repealed; new Section made by final rulemaking at 12 A.A.R. 3475, effective September 12, 2006 (Supp. 06-3).

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

**A.** The Director shall determine that an applicant for a certificate or a water report has the financial capability to construct adequate delivery, storage, and treatment works if the applicant demonstrates one or more of the following:

1. The applicant will submit its final plat to a qualified platting authority;
2. The applicant has constructed adequate delivery, storage, and treatment works, and water service is available to each lot; or
3. The applicant has posted a performance bond with the platting authority for the entire cost of adequate delivery, storage, and treatment works.

**B.** Upon receiving evidence that a platting authority has established standards for proof of financial capability to construct adequate delivery, storage, and treatment works, pursuant to A.R.S. § 9-463.01(C)(8) or A.R.S. § 11-806.01(G), the Director shall classify the platting authority as a qualified platting authority. The Director shall maintain a list of qualified platting authorities.

**C.** The Director shall determine that an applicant for a designation has the financial capability to construct adequate delivery, storage, and treatment works if the applicant demonstrates one or more of the following for each of those facilities:

1. The applicant has constructed adequate delivery, storage, and treatment works;
2. The applicant has entered into written agreements requiring a potential developer to construct adequate delivery, storage, and treatment works;
3. The applicant has submitted evidence demonstrating that financing mechanisms are in place to construct adequate delivery, storage, and treatment works in a timely manner;
4. If the applicant is a city or town, the applicant has adopted a five year capital improvement plan that provides for the construction, or the commencement of construction, of adequate delivery, storage, and treatment works in a timely manner, and has submitted a certification by the applicant's chief financial officer that finances are available to implement that portion of the five-year plan; or
5. If the applicant is a private water company, the applicant has received approval from the Arizona Corporation Commission for financing the construction of adequate delivery, storage, and treatment works.

**Historical Note**

Adopted effective February 7, 1995 (Supp. 95-1). Section repealed; new Section made by final rulemaking at 12 A.A.R. 3475, effective September 12, 2006 (Supp. 06-3). Amended by final rulemaking at 30 A.A.R. 3751 (December 13, 2024), with an immediate effective date of November 25, 2024 (Supp. 24-4).

**R12-15-721. Consistency with Management Plan**

**A.** The Director shall determine whether a designation applicant's projected use of groundwater withdrawn within an active management area is consistent with the management plan as follows:

1. If the applicant is providing water to customers as of the date of application, the applicant's projected water use is consistent with the management plan if either of the following apply:
   a. The applicant is in compliance with its applicable management plan requirements in the most recent calendar year for which data is available before the date of application; or
   b. The applicant has signed a stipulation and consent order that is in effect on the date of the application, or that becomes effective during the time of review of the application, to remedy non-compliance with the management plan requirements and the applicant is in compliance with the terms of the stipulation and consent order.
2. If the applicant has not commenced serving water to customers as of the date of application, the applicant shall submit a water use plan that demonstrates to the Director that compliance with management plan requirements will be achieved through the use of conservation or augmentation measures.
3. If the applicant has a pending request for an administrative review or variance from its management plan requirements, the Director shall not make a finding regarding compliance with this Section until the Director

has issued a final decision and order on the request or the request has been withdrawn.

**B.** The Director shall determine that a certificate applicant's projected use of groundwater withdrawn within an AMA is consistent with the management plan if the applicant submits a water use plan for the subdivision that includes both of the following:
1. Information demonstrating that compliance with management plan requirements will be achieved through conservation or augmentation measures; and
2. All information required to calculate the water requirements for each proposed water use.

**C.** A certificate applicant for a subdivision of 50 or fewer lots is exempt from the requirements of this rule.

**Historical Note**
Adopted effective February 7, 1995 (Supp. 95-1). Section repealed; new Section made by final rulemaking at 12 A.A.R. 3475, effective September 12, 2006 (Supp. 06-3).

**R12-15-722. Consistency with Management Goal**

**A.** For the Phoenix, Prescott, or Tucson AMAs, the Director shall calculate the volume of groundwater that may be used consistent with the management goal of the AMA in which the proposed use is located for at least 100 years by adding the following:
1. The amount of the groundwater allowance, according to R12-15-724(A), R12-15-726(A), or R12-15-727(A).
2. The amount of any extinguishment credits pledged to the certificate or designation, according to R12-15-724(B), R12-15-726(B), or R12-15-727(B).
3. Any groundwater that is consistent with the achievement of the management goal pursuant to A.R.S. Title 45, Chapter 2.

**B.** The Director shall determine that a proposed groundwater use in the Phoenix, Prescott, or Tucson AMA is consistent with the management goal of the AMA if the volume calculated in subsection (A) is equal to or greater than the portion of the applicant's estimated water demand to be met with groundwater.

**C.** For a certificate in the Pinal AMA, the Director shall calculate the volume of groundwater that may be used consistent with the management goal of the AMA for at least 100 years by adding the following:
1. The amount of the groundwater allowance, according to R12-15-725(A)(1).
2. The amount of any extinguishment credits pledged to the certificate for a grandfathered right that was extinguished on or after January 1, 2019, according to R12-15-725(B), except that annual reported use of such extinguishment credits to make groundwater use consistent with the management goal is limited to the following percentages of groundwater use from the sixth year after certificate issuance:

| Years After Certificate Issuance | Percentage of Total Groundwater Use that May Be Made Consistent with the Pinal AMA Management Goal with Extinguishment Credits Pledged to Certificate |
|---|---|
| Years Six through Ten | 75% |
| Years Eleven through Fifteen | 50% |
| Years Sixteen through Twenty | 25% |
| Years Twenty-one and After | 0% |

3. The amount of any extinguishment credits pledged to the certificate for a grandfathered right that was extinguished on or after October 1, 2007 and before January 1, 2019.
4. The amount of any extinguishment credits pledged to the certificate for a grandfathered right that was extinguished before October 1, 2007. The Director shall calculate the amount of the extinguishment credits by multiplying the annual amount of the credits by 100.
5. Any groundwater that is consistent with achievement of the management goal pursuant to A.R.S. Title 45, Chapter 2.

**D.** For a certificate in the Pinal AMA, the Director shall determine that the proposed groundwater use is consistent with the management goal of the AMA if the volume calculated in subsection (C) is equal to or greater than the portion of the applicant's estimated water demand to be met with groundwater.

**E.** For a designation in the Pinal AMA, the Director shall calculate the volume of groundwater that may be used consistent with the management goal of the Pinal AMA on an annual basis for at least 100 years by adding the following for each year during the 100-year period:
1. The amount of the groundwater allowance, according to R12-15-725(A)(2). If any of the groundwater allowance is not used during a year, the unused groundwater allowance shall not be added to the volume calculated under this subsection for the following year.
2. The amount of any extinguishment credits pledged to the designation for a grandfathered right that was extinguished on or after January 1, 2019, divided by the number of years remaining in which the credits may be used pursuant to R12-15-725(B). These credits shall be included in the calculation only for those years in which the credits may be used. If any of the extinguishment credits were originally pledged to a certificate and are being used to support the municipal provider's designation pursuant to R12-15-723(G)(2), the extinguishment credits shall not be limited by the percentages in subsection (C)(2) of this section.
3. The amount of any extinguishment credits pledged to the designation for a grandfathered right that was extinguished on or after October 1, 2007 and before January 1, 2019, divided by 100. Extinguishment credits for a grandfathered right that was extinguished on or after October 1, 2007 and before January 1, 2019 may be used in any year.
4. The annual amount of any extinguishment credits pledged to the designation for a grandfathered right that was extinguished before October 1, 2007. The following shall apply if any of the extinguishment credits are not used during a calendar year:
   a. If the extinguishment credits were pledged to the designation before October 1, 2007, any extinguishment credits not used during a calendar year shall be added to the volume calculated under this subsection for the following calendar year.
   b. If the extinguishment credits are pledged to the designation on or after October 1, 2007, any of the extinguishment credits not used during a calendar year shall not be added to the volume calculated under this subsection for the following calendar year, except that if the extinguishment credits were originally pledged to a certificate before October 1, 2007 and are used to support the municipal pro-

vider's designation pursuant to R12-15-723(G)(2), any of the extinguishment credits not used during a calendar year shall be added to the volume calculated under this subsection for the following calendar year.

5. Any groundwater that is consistent with the achievement of the management goal pursuant to A.R.S. Title 45, Chapter 2.

**F.** For a designation in the Pinal AMA, the Director shall determine that the proposed groundwater use is consistent with the management goal of the Pinal AMA if the volume calculated in subsection (E) for each year during the 100-year period is equal to or greater than the portion of the applicant's annual estimated water demand to be met with groundwater.

**G.** Upon application, the following volumes of groundwater used by an applicant are considered consistent with the management goal:

1. If the Director determines that a surface water supply is physically available under R12-15-716 and the volume of the supply actually available 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 is accounted for under subsection (A), (C), or (E), withdrawn within the AMA that, when combined with the available surface water supply, is equal to or less than the drought volume.
2. Any volume of groundwater withdrawn within a portion of an AMA that is exempt from conservation requirements under A.R.S. Title 45 due to waterlogging. The Director shall review the application of this exclusion on a periodic basis, not to exceed 15 years.
3. Remedial groundwater that is consistent with the management goal according to the requirements of R12-15-729.

**H.** An applicant for a certificate of assured water supply for a dry lot subdivision of 20 lots or fewer is exempt from the requirements of this Section.

**Historical Note**

Adopted effective February 7, 1995 (Supp. 95-1). Section repealed; new Section made by final rulemaking at 12 A.A.R. 3475, effective September 12, 2006 (Supp. 06-3). Amended by final rulemaking at 13 A.A.R. 1394, effective October 1, 2007 (Supp. 07-2). Amended by final rulemaking at 24 A.A.R. 3578, effective January 1, 2019 (Supp. 18-4). At the request of the Department R12-15-722(A)(2) through (5) have been removed since they were not part of the amendments made to this Section in Supp. 18-4; subsections R12-15-722(A)(2) through (3) as amended at 13 A.A.R. 1394 have been restored (Supp. 19-2).

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

**A.** Except as provided in subsection (D), the owner of a grandfathered right may extinguish the right in exchange for extinguishment credits by submitting the following:

1. A notarized statement of extinguishment of a grandfathered right on a form provided by the Director;
2. The grandfathered right number;
3. If the right being extinguished is a Type 1 non-irrigation grandfathered right or an irrigation grandfathered right, evidence of ownership of the land to which the grandfathered right is appurtenant;
4. If the grandfathered right is located in the Prescott AMA, evidence that 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; and
   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;
5. If the right being extinguished is an irrigation grandfathered right, evidence that the development of the land to which the right is appurtenant is not completed; and
6. Any additional information the Director may reasonably require to process the extinguishment.

**B.** The Director shall calculate the amount of extinguishment credits pursuant to R12-15-724(B), R12-15-725(B), R12-15-726(B) or R12-15-727(B). The Director shall notify the owner of the amount of extinguishment credits in writing. If the owner is extinguishing only a portion of the right, the Director shall issue a new certificate of grandfathered right for the remainder of the right.

**C.** A Type 1 non-irrigation grandfathered right or an irrigation grandfathered right may be extinguished in whole or in part. A Type 2 non-irrigation grandfathered right may be extinguished only in whole.

**D.** The following rights may not be extinguished in exchange for extinguishment credits:

1. An irrigation grandfathered right that is appurtenant to land that has been physically developed for a non-irrigation use. The Director shall not consider the land to be physically developed until the development is completed.
2. A Type 1 non-irrigation grandfathered right, if the Director determines that the holder is likely to continue to receive groundwater from an undesignated municipal provider for the same use pursuant to the provider's service area right or pursuant to a groundwater withdrawal permit.
3. A Type 2 non-irrigation grandfathered right that was issued based on the withdrawal of groundwater for mineral extraction or processing or for the generation of electrical energy.
4. On or after January 1, 2025, any grandfathered right that is in the Phoenix, Prescott, or Tucson AMAs.
5. A Type 1 non-irrigation grandfathered right that was requested to be included by a city or town in the Tucson AMA in the determination made under A.R.S. § 45-463(F).

**E.** The owner of extinguishment credits may pledge the credits to a certificate or to a designation before the certificate or designation is issued by submitting with the application for the certificate or designation a notice of intent to pledge extinguishment credits on a form provided by the Director. The extinguishment credits shall be pledged to the certificate or designation upon issuance of the certificate or designation.

**F.** The owner of extinguishment credits may pledge the credits to a certificate or to a designation after the certificate or designation is issued by submitting a notice of intent to pledge extinguishment credits on a form provided by the Director. The Director shall notify the owner of the extinguishment credits and the certificate holder or designated provider that the credits have been pledged to the certificate or designation.

**G.** Extinguishment credits that have not been pledged to a certificate or designation may be conveyed within the same AMA.

Extinguishment credits pledged to a certificate or designation shall not be conveyed to another person, except that:

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

**H.** The Director shall review a statement of extinguishment of a grandfathered right and a notice of intent to pledge extinguishment credits pursuant to the licensing time-frame provisions in R12-15-401.

**I.** A person may apply to the Director on or before December 31, 2015 for the restoration of all or a portion of an irrigation grandfathered right extinguished under this Section during calendar year 2005, 2006 or 2007 if all of the following conditions are met:

1. The person owns the land to which the right or portion of the right was appurtenant;
2. The land to which the right or portion of the right was appurtenant is physically capable of being irrigated and the infrastructure for delivering water to the land for irrigation purposes remains intact and is operable;
3. The person holds extinguishment credits that were issued for the extinguishment of a grandfathered right in the AMA in which the land is located and that have not been pledged to a certificate or designation under subsection (E) or (F) in the following amount, as applicable:
   a. If the person seeks to restore the entire irrigation grandfathered right, an amount of extinguishment credits equal to the amount of extinguishment credits issued by the Director in exchange for extinguishment of the irrigation grandfathered right; or
   b. If the person seeks to restore a portion of the irrigation grandfathered right, an amount of extinguishment credits equal to the result obtained by multiplying the percentage of the right sought to be restored by the amount of extinguishment credits issued by the Director in exchange for the extinguishment of the right.

**J.** An application to restore all or a portion of an irrigation grandfathered right under subsection (I) shall be on a form provided by the Director and include all of the following:

1. A fee of $250.00;
2. The irrigation grandfathered right number of the right sought to be restored;
3. If a certificate of extinguishment credits was issued by the Director for the extinguishment credits described in subsection (I)(3), the original certificate or an affidavit stating that the certificate is lost;
4. A copy of a deed showing that the applicant owns the land to which the right or portion of the right sought to be restored was appurtenant and, if the application seeks to restore only a portion of the right, the legal description of the land to which that portion of the right was appurtenant;
5. A certification by the applicant that the conditions described in subsection (I) are met; and
6. An agreement in writing that if the right or portion of the right is restored, the flexibility account for the land to which the right or portion of the right is appurtenant shall have an account balance of zero at the beginning of the calendar year in which the right or portion of the right is restored and that any credits registered to the flexibility account after the right is restored may not be conveyed or sold to any person, including the applicant.

**K.** The Director shall approve an application to restore all or a portion of an irrigation grandfathered right submitted under subsection (I) if the application includes the fee and the information required under subsection (J) and the Director determines that the information is correct. If the Director approves an application to restore all or a portion of an irrigation grandfathered right, all of the following apply:

1. The irrigation water duty for the land to which the right or portion of the right is restored shall be the same as it was when the right was extinguished, unless the irrigation water duty is changed in a management plan adopted after the right was extinguished or is modified pursuant to A.R.S. § 45-575;
2. The flexibility account for the land to which the right or portion of the right is appurtenant shall have an account balance of zero at the beginning of the calendar year in which the right or portion of the right is restored and any credits registered to the flexibility account after the right is restored may not be conveyed or sold to any person, including the applicant.
3. The applicant shall forfeit the extinguishment credits described in subsection (I)(3); and
4. The restored irrigation grandfathered right may be extinguished in exchange for extinguishment credits under this Section. For purposes of calculating the amount of extinguishment credits under R12-15-724(B), R12-15-725(B), R12-15-726(B) or R12-15-727(B), the calendar year of extinguishment is the calendar year in which the restored irrigation grandfathered right is extinguished.

**L.** The Director shall review an application to restore an irrigation grandfathered right under subsection (I) pursuant to the licensing time-frame provisions in R12-15-401. The application shall have an administrative completeness review time-frame of 30 days, a substantive review time-frame of 90 days, and an overall time-frame of 120 days.

**Historical Note**

Adopted effective February 7, 1995 (Supp. 95-1). Section repealed; new Section made by final rulemaking at 12 A.A.R. 3475, effective September 12, 2006 (Supp. 06-3). Amended by final rulemaking at 13 A.A.R. 1394, effective October 1, 2007 (Supp. 07-2). Amended by final rulemaking at 17 A.A.R. 1989, effective September 13, 2011 (Supp. 11-3). Amended by final rulemaking at 24 A.A.R. 3578, effective January 1, 2019 (Supp. 18-4).

Amended by final rulemaking at 30 A.A.R. 3751 (December 13, 2024), with an immediate effective date of November 25, 2024 (Supp. 24-4).

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

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

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

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

2. If the application is for a designation and the applicant provided water to its customers prior to February 7, 1995, multiply 7.5 by the total volume of water provided by the applicant to its customers from any source during calendar year 1994, consistent with the municipal conservation requirements established for the applicant pursuant to Section 5-103(A)(1) of the Second Management Plan for the Phoenix AMA.
3. If the application is for a designation and the applicant commenced providing water to its customers on or after February 7, 1995, the applicant's groundwater allowance is zero acre-feet, except as provided in subsection (A)(4) of this Section.
4. If the application is for a designation that includes a volume of groundwater or stored water recovered outside the area of impact pursuant to R12-15-710(H), the groundwater allowance shall be calculated as follows:
   a. The applicant may select either of the following calculations if the volume does not exceed the applicant's 2023 unreplenished groundwater deliveries multiplied by 100:
      i. Multiply 30 by the total groundwater deliveries during the calendar year 2023 to customers not enrolled as a member land in the CAGRD; or
      ii. Multiply 20 by the total water deliveries from any source during the calendar year 2023 to customers not enrolled as a member land in the CAGRD.
   b. Add the remaining groundwater allowance for each issued certificate of assured water supply that is or will be within the service area of the applicant to the volume calculated under subsection (A)(4)(a) of this Section.
   c. The Director shall use the annual report submitted by the municipal provider for calendar year 2023, as verified by the Director, for purposes of this calculation.
5. For each calendar year of a designation, the Director shall calculate the volume of incidental recharge for a designated provider within the Phoenix AMA and add that volume to the designated provider's groundwater allowance. The Director shall calculate the volume of incidental recharge by multiplying the provider's total water use from any source in the previous calendar year by the standard incidental recharge factor of 4%. A designated provider may apply for a variance from the standard incidental recharge factor as provided in A.R.S. § 45-566.01(E)(1). The Director may establish a different incidental recharge factor for the designated provider if the provider demonstrates to the satisfaction of the Director that the ratio of the average annual amount of incidental recharge expected to be attributable to the provider during the management period, to the average amount of water expected to be withdrawn, diverted, or received for delivery by the provider for use within its service area during the management period, is different than 4%.

**B.** The Director shall calculate the extinguishment credits for the extinguishment of a grandfathered right in the Phoenix AMA as follows:

1. For the extinguishment of a type 2 non-irrigation grandfathered right, multiply the number of acre-feet indicated on the certificate by the difference between 2025 and the calendar year of extinguishment.
2. For the extinguishment of all or part of an irrigation grandfathered right, or all or part of a type 1 non-irrigation grandfathered right, multiply 1.5 acre-feet per acre by the number of irrigation acres associated with the extinguished irrigation grandfathered right or the number of acres to which the extinguished type 1 non-irrigation grandfathered right is appurtenant, and then multiply the product by the difference between 2025 and the calendar year of extinguishment, except that:
   a. If only a portion of an irrigation grandfathered right or a type 1 non-irrigation grandfathered right is extinguished, the Director shall include in the calculation only those acres associated with the portion of the right that is extinguished; and
   b. If an extinguished irrigation grandfathered right has a debit balance in the corresponding flexibility account established under A.R.S. § 45-467, the Director shall subtract the amount of the debit from the amount of the extinguishment.

**Historical Note**

Adopted effective February 7, 1995 (Supp. 95-1). Section repealed; new Section made by final rulemaking at 12 A.A.R. 3475, effective September 12, 2006 (Supp. 06-3). Amended by final rulemaking at 30 A.A.R. 3751 (December 13, 2024), with an immediate effective date of November 25, 2024 (Supp. 24-4).

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

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

1. If the application is for a certificate:
   a. If the certificate application is filed before January 1, 2019, multiply the annual estimated water demand for the proposed subdivision by 10.
   b. If the certificate application is filed on or after January 1, 2019, the groundwater allowance shall be zero.
2. If the application is for a designation:
   a. If the applicant was designated as having an assured water supply as of October 1, 2007:
      i. Multiply the applicant's service area population as of October 1, 2007 by 125 gallons per capita per day and multiply the product by 365 days. The service area population shall be determined using the methodology set forth in Section 5-

103(D) of the Third Management Plan for the Pinal AMA.

ii. Convert the number of gallons determined in subsection (A)(2)(a)(i) into acre-feet by dividing the number by 325,851 gallons.

iii. Determine the number of residential lots within plats that were recorded as of October 1, 2007 but not served water as of that date, and to which the applicant commenced water service by January 1, 2010.

iv. Multiply the number of lots determined in subsection (A)(2)(a)(iii) by 0.35 acre-foot per lot.

v. Add the volume from subsection (A)(2)(a)(ii) and the volume from subsection (A)(2)(a)(iv) of this Section.

b. If the applicant provided water to its customers before October 1, 2007 but was not designated as having an assured water supply as of that date, and a complete and correct application for designation was filed before January 1, 2012, multiply the applicant's service area population as of October 1, 2007 by 125 gallons per capita per day and multiply the product by 365 days. The service area population shall be determined using the methodology in Section 5-103(D) of the Third Management Plan for the Pinal AMA.

c. If the applicant provided water to its customers before October 1, 2007 but was not designated as having an assured water supply as of that date, and a complete and correct application for designation was filed on or after January 1, 2012, the applicant's groundwater allowance is zero acre-feet, except as provided in subsection (A)(2)(e) of this Section.

d. If the applicant commenced providing water to its customers on or after October 1, 2007, the applicant's groundwater allowance is zero acre-feet, except as provided in subsection (A)(2)(e) of this Section.

e. If the application is for a designation that includes a volume of groundwater or stored water recovered outside the area of impact pursuant to R12-15-710(H), the groundwater allowance shall be calculated as follows: The applicant may select either of the following calculations if the volume does not exceed the applicant's 2023 unreplenished groundwater deliveries multiplied by 100:

i. Multiply 30 by the total groundwater deliveries during the calendar year 2023 to customers not enrolled as a member land in the CAGRD;

ii. Multiply 20 by the total water deliveries from any source during the calendar year 2023 to customers not enrolled as a member land in the CAGRD;

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

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

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

**B.** The Director shall calculate the extinguishment credits for extinguishing a grandfathered right in the Pinal AMA as follows.

1. The Director shall calculate the initial volume of extinguishment credits for the extinguishment of a grandfathered right in the Pinal AMA as follows:

a. For the extinguishment of a type 2 non-irrigation grandfathered right, multiply the number of acre-feet indicated on the certificate of grandfathered right by 100.

b. For the extinguishment of all or part of an irrigation grandfathered right, or all or part of a type 1 non-irrigation grandfathered right, multiply 1.5 acre-feet by the number of irrigation acres associated with the extinguished irrigation grandfathered right or the number of acres to which the extinguished type 1 non-irrigation grandfathered right is appurtenant, and then multiply that product by 100, except that:

i. If only a portion of an irrigation grandfathered right or a type 1 non-irrigation grandfathered right is extinguished, only those acres associated with the portion of the right that is extinguished shall be included in the calculation; and

ii. If an extinguished irrigation grandfathered right has a debit balance in the corresponding flexibility account established under A.R.S. § 45-467, the amount of the debit shall be subtracted from the amount of the extinguishment credits.

2. For grandfathered rights extinguished in the Pinal active management area on or after January 1, 2019, if the amount of the extinguishment credits remaining unused in the fifth, tenth, fifteenth, and twentieth year after the year of extinguishment is greater than an amount calculated by multiplying the initial volume of extinguishment credits by the applicable percentage shown in the table below, the amount of unused credits shall be reduced to

an amount calculated by multiplying the initial volume of extinguishment credits by the applicable percentage:

| Year After Extinguishment | Percentage |
|---|---|
| Fifth | 75% |
| Tenth | 50% |
| Fifteenth | 25% |
| Twentieth | 0% |

3. For purposes of subsection (B)(2), the amount of extinguishment credits remaining unused shall be the initial volume of extinguishment credits issued for the extinguishment of the right, less:
   a. The amount of any of the extinguishment credits previously pledged to a certificate of assured water supply or designation of assured water supply pursuant to R12-15-723, subsections (E) or (F) and reported to the Department as having been used; and
   b. The amount of any previous reductions made to the extinguishment credits pursuant to subsection (B)(2).

**Historical Note**

Adopted effective February 7, 1995 (Supp. 95-1). Section repealed; new Section made by final rulemaking at 12 A.A.R. 3475, effective September 12, 2006 (Supp. 06-3). Section repealed; new Section made by final rulemaking at 13 A.A.R. 1394, effective October 1, 2007 (Supp. 07-2). Amended by final rulemaking at 15 A.A.R. 1979, effective January 2, 2010 (Supp. 09-4). Amended by final rulemaking at 19 A.A.R. 4174, effective December 3, 2013 (Supp. 13-4). Amended by final rulemaking at 24 A.A.R. 3578, effective January 1, 2019 (Supp. 18-4). Amended by final rulemaking at 30 A.A.R. 3751 (December 13, 2024), with an immediate effective date of November 25, 2024 (Supp. 24-4).

**R12-15-725.01. Repealed**

**Historical Note**

New Section made by final rulemaking at 19 A.A.R. 4174, effective December 3, 2013; with automatic repeal date of September 15, 2014 (Supp. 13-4). Section amended with automatic repeal, removed by final rulemaking at 20 A.A.R. 2673; effective September 12, 2014 (Supp. 14-3). Repealed by final rulemaking at 24 A.A.R. 3578, effective January 1, 2019 (Supp. 18-4).

**R12-15-725.02. Repealed**

**Historical Note**

New Section made by final rulemaking at 19 A.A.R. 4174, effective September 15, 2014 (Supp. 13-4). Repealed by final rulemaking at 20 A.A.R. 2673, effective September 12, 2014 (Supp. 14-3).

**R12-15-726. Prescott AMA Calculation of Groundwater Allowance and Extinguishment Credits**

**A.** The Director shall calculate the groundwater allowance for a certificate or designation in the Prescott AMA as follows:
1. If the application is for a certificate of assured water supply, the Director shall:
   a. Subtract the year of application from 2025,
   b. Multiply the number determined in subsection (A)(1)(a) by the applicant's annual estimated water demand, and
   c. Divide that product by two. The minimum volume that may be calculated in this subsection is zero acre-feet.
2. If the application is for a designation of assured water supply:
   a. Except as provided in subsections (A)(3) and (A)(5), if the applicant was in existence as of January 12, 1999, and the application is filed before calendar year 2026, the Director shall:
      i. Multiply by 100 the largest volume of groundwater determined by the Director to have been withdrawn by the applicant from within the Prescott AMA for use within the applicant's service area in any calendar year from 1995 through 1998, consistent with the municipal conservation requirements applicable under the second management plan for the Prescott active management area;
      ii. Determine the volume of the applicant's total water demand, from any source, for 1999, consistent with the municipal 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 2014, consistent with the municipal conservation requirements established for the applicant in the management plan in effect on the date of application;
      iv. Subtract the volume calculated in subsection (A)(2)(a)(ii) from the volume calculated in subsection (A)(2)(a)(iii) and then multiply the difference by 26;
      v. Divide the product obtained in subsection (A)(2)(a)(iv) by two;
      vi. If any residential groundwater uses, including residential groundwater uses served by an exempt well, in existence on August 21, 1998, have been replaced by permanent water service from the applicant after August 21, 1998, multiply one-half acre-foot of groundwater by the number of housing units receiving the service and then multiply that product by 100;
      vii. 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 before the date of the application;
      viii. Multiply the volume of groundwater withdrawn by the applicant from within the Prescott active management area in 1999 by the number of calendar years in the period beginning with 1999 and ending with the calendar year before the date of application;
      ix. Subtract from the volume calculated in subsection (A)(2)(a)(vii) the volume calculated in subsection (A)(2)(a)(viii). The volume calculated in this subsection shall not be less than zero; and
      x. Add the volumes calculated in subsections (A)(2)(a)(i), (A)(2)(a)(v), and (A)(2)(a)(vi),

and then subtract from the sum the volume calculated in subsection (A)(2)(a)(ix).

b. If the applicant did not exist as of January 12, 1999, or the date of application occurs after calendar year 2025, the groundwater allowance is zero acre-feet, except that if any residential groundwater uses, including residential groundwater uses served by an exempt well, in existence on August 21, 1998, have been replaced by permanent water service from the applicant after August 21, 1998, the groundwater allowance is a volume of groundwater computed by multiplying one-half acre-foot of groundwater by the number of housing units receiving the service and multiplying that product by 100.

3. For the purpose of determining the groundwater allowance under subsection (A)(2)(a), at the request of the applicant, the Director shall replace the volume of groundwater calculated in subsection (A)(2)(a)(ii) through (v) with the amount of groundwater necessary for the applicant to serve the residential lots described in subsection (A)(4):
   a. To compute this amount of groundwater, the Director shall:
      i. 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; and
      ii. Multiply the product in subsection (A)(3)(a)(i) by the number of residential lots described in subsection (A)(4), and then multiply that product by 100.
   b. The Director shall not include the amount computed in subsection (A)(3)(a) within the amount of groundwater that the applicant may use under subsection (A)(2)(a) until a final plat for the lots has been recorded.
4. The Director shall include residential lots that will be served by the applicant in the calculation made under subsection (A)(3) if the lots meet all of the following criteria:
   a. A preliminary plat for the lots was submitted to the city, town, or county on or before August 21, 1998, and the final plat is subsequently recorded;
   b. The lots were not being served water on or before August 21, 1998; and
   c. Any one of the following applies:
      i. The lots were included within an application for certificate of assured water supply that was filed before August 21, 1998, the Director determined that the application was complete and correct as of August 21, 1998, and the Director subsequently issued a certificate of assured water supply for the lots.
      ii. A preliminary plat for the lots was approved by a city, town, or county on or before August 21, 1998. At the time the preliminary plat was approved, the subdivider of the lots obtained a written commitment of water service from a municipal provider that was designated as having an assured water supply and the provider demonstrated to the satisfaction of the Director that sufficient water is physically available to serve the lots under the criteria in R12-15-716.
5. For the purpose of determining the groundwater allowance under subsection (A)(2)(a), if the applicant makes the request described in subsection (A)(3), the Director shall replace the volume of groundwater calculated in subsection (A)(2)(a)(viii) with an amount of groundwater calculated as follows. The Director shall:
   a. Determine the number of calendar years in the period beginning with 1999 and ending with the calendar year before 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 the applicant's service area in any calendar year from 1995 through 1998, consistent with the municipal conservation requirements applicable under the second management plan for the Prescott active management area;
   b. Determine the average dwelling occupancy within the applicant's service area and multiply that average dwelling occupancy by an amount of groundwater calculated by multiplying 150 gallons per capita per day by 365 days;
   c. For each year in the period beginning with 1999 and ending with the calendar year before the date of application, determine the number of the residential lots that meet the criteria in subsection (A)(4) and were served water by the applicant as of July 1 of the relevant year and add the number of these residential lots determined for each year;
   d. Multiply the volume of groundwater calculated in subsection (A)(5)(b) by the number of residential lots in subsection (A)(5)(c); and
   e. Add the volumes of groundwater from subsections (A)(5)(a) and (A)(5)(d).

**B.** The Director shall calculate the extinguishment credits for extinguishing a grandfathered right in the Prescott AMA as follows:
1. For the extinguishment of a type 2 non-irrigation grandfathered right, multiply the number of acre-feet indicated on the certificate by the difference between 2025 and the calendar year of extinguishment.
2. For the extinguishment of an irrigation grandfathered right or a type 1 non-irrigation grandfathered right:
   a. Through December 31, 2010:
      i. If the irrigation acres associated with the extinguished right were irrigated for at least four of the six calendar years preceding January 1, 2000, multiply 1.5 acre-feet per acre by the number of irrigation acres associated with the extinguished right or the number of acres to which the extinguished right is appurtenant and multiply that product by 25.
      ii. If the irrigation acres associated with the extinguished right were not irrigated for at least four of the six calendar years preceding January 1, 2000, multiply 1.5 acre-feet per acre by the number of irrigation acres associated with the extinguished right or the number of acres to which the extinguished right is appurtenant and multiply the product by the difference between 2025 and the year in which the statement of intent to extinguish is filed.

b. After December 31, 2010, multiply 1.5 acre-feet per acre by the number of irrigation acres associated with the extinguished right or the number of acres to which the extinguished right is appurtenant and multiply the product by the difference between 2025 and the year in which the statement of intent to extinguish is filed.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 3475, effective September 12, 2006 (Supp. 06-3).

**R12-15-727. Tucson AMA Calculation of Groundwater Allowance and Extinguishment Credits**

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

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

| MANAGEMENT PERIOD | ALLOCATION FACTOR |
|---|---|
| Third | 8 |
| Fourth | 4 |
| Fifth | 2 |
| After Fifth | 0 |

2. If the application is for a designation and the applicant provided water to its customers before February 7, 1995, multiply 15 by the total volume of water provided by the applicant to its customers from any source during calendar year 1994, consistent with the municipal conservation requirements established for the applicant pursuant to Section 5-103(A)(1) of the Second Management Plan for the Tucson AMA.
3. If the application is for a designation and the applicant commenced providing water to its customers on or after February 7, 1995, the applicant's groundwater allowance is zero acre-feet.
4. For each calendar year of the designation, the Director shall calculate the volume of incidental recharge for a designated provider within the Tucson AMA and add that volume to the designated provider's groundwater allowance. The Director shall calculate the volume of incidental recharge by multiplying the provider's total water use from any source in the previous calendar year by the standard incidental recharge factor of 4%. A designated provider may apply for a variance from the standard incidental recharge factor as provided in A.R.S. § 45-566.01(E)(1). The Director may establish a different incidental recharge factor for the designated provider if the provider demonstrates to the satisfaction of the Director that the ratio of the average annual amount of incidental recharge expected to be attributable to the provider during the management period, to the average amount of water expected to be withdrawn, diverted, or received for delivery by the provider for use within its service area during the management period, is different than 4%.

**B.** The Director shall calculate the extinguishment credits for the extinguishment of a grandfathered right in the Tucson AMA as follows:

1. For the extinguishment of a type 2 non-irrigation grandfathered right, multiply the number of acre-feet indicated on the certificate by the difference between 2025 and the calendar year of extinguishment.
2. For the extinguishment of all or part of an irrigation grandfathered right, or all or part of a type 1 non-irrigation grandfathered right, multiply 1.5 acre-feet per acre by the number of irrigation acres associated with the extinguished irrigation grandfathered right or the number of acres to which the extinguished type 1 non-irrigation grandfathered right is appurtenant, and then multiply the product by the difference between 2025 and the calendar year of extinguishment, except that:
   a. If only a portion of an irrigation grandfathered right or a type 1 non-irrigation grandfathered right is extinguished, the Director shall include in the calculation only those acres associated with the portion of the right that is extinguished; and
   b. If an extinguished irrigation grandfathered right has a debit balance in the corresponding flexibility account established under A.R.S. § 45-467, the Director shall subtract the amount of the debit from the amount of the extinguishment.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 3475, effective September 12, 2006 (Supp. 06-3).

**R12-15-728. Reserved**

**R12-15-729. Remedial Groundwater; Consistency with Management Goal**

**A.** Use of remedial groundwater by a municipal provider before January 1, 2050, is deemed consistent with the management goal of the AMA in which the remedial groundwater is withdrawn and is excluded when determining compliance with management goal requirements in this Article if all of the following apply:

1. The Director determines that the remedial groundwater use is consistent with the management goal under subsection (F) or (H) or the remedial groundwater use is consistent with the management goal under subsection (J); and
2. The municipal provider complies with the metering and reporting requirements in subsection (K).

**B.** A municipal provider that is using remedial groundwater or that has agreed in a consent decree or other document approved by ADEQ or the EPA to use remedial groundwater may apply to the Director for a determination that the municipal provider's use of the remedial groundwater is consistent with the management goal of the active management area by submitting an application on a form provided by the Director with the information required in subsection (D) before January 1, 2010.

**C.** A municipal provider filing an application under subsection (B) for remedial groundwater use associated with a treatment plant in operation before June 15, 1999, may request an increase in the project's annual authorized volume at the time the application is filed. The Director shall grant the request and increase the annual authorized volume up to the maximum treatment capacity of the treatment plant if the municipal provider submits evidence that an increase in the annual authorized volume is necessary to further the purpose of the remedial action project and that the increase is not in violation of the consent decree or other document approved by ADEQ or the EPA for the remedial action project.

**D.** An applicant shall provide the following with an application submitted under subsection (B):

1. A document evidencing ADEQ's or EPA's approval of the municipal provider's withdrawal and use of remedial

groundwater, such as a remedial action plan, record of decision, or consent decree;
2. The volume of remedial groundwater that will be withdrawn and used annually by the municipal provider and the purpose for which the remedial groundwater will be used;
3. The time period during which the remedial groundwater will be withdrawn and used by the municipal provider;
4. A reference to the annual authorized volume provided in the document submitted pursuant to subsection (D)(1) or, if the document submitted pursuant to subsection (D)(1) does not specify the annual authorized volume for the project, the annual authorized volume claimed by the municipal provider and a written justification for that volume;
5. If the approved remedial action project is currently operating, the volume of remedial groundwater withdrawn pursuant to the project for each year before the year in which the application is filed;
6. The designated provider or certificate to which the remedial groundwater will be pledged;
7. If the municipal provider is requesting an increase in the annual authorized volume of the project pursuant to subsection (C), evidence that the increase is necessary to further the purpose of the remedial action project and that the increase is not in violation of the consent decree or other document approved by ADEQ or the EPA for the project;
8. The name and telephone number of a person the Department may contact regarding the application; and
9. Any other information reasonably required to assist the Director in making the determination under subsection (F).

**E.** After receiving an application under subsection (B), the Director shall determine that the application is complete and correct if it contains all the information required in subsection (D) and the Director verifies that the information is accurate. If the Director determines that the application is complete and correct, the Director shall assign a priority date to the application according to the following:
1. If the Director determines that the application was complete and correct when filed, the priority date of the application is the date the application was filed.
2. If the Director determines that the application was not complete or correct when filed because of minor deficiencies, the Director shall notify the applicant of the deficiencies in writing and give the applicant 30 days to correct the deficiencies. If the applicant submits the necessary information to correct the deficiencies within 30 days after the date of the notice, the priority date of the application is the date the application was filed.
3. If the Director determines that the application was not complete or correct when filed and that the deficiencies are not minor, the Director shall notify the applicant of the deficiencies and give the applicant at least 60 days to submit the necessary information to correct the deficiencies. If the applicant submits the necessary information to correct the deficiencies within the time allowed by the Director, the priority date of the application is the date the applicant submits the necessary information to correct the deficiencies.

**F.** The Director shall approve a complete and correct application filed under subsection (B) if the Director determines that the applicant will use remedial groundwater before January 1, 2050. If the Director approves a municipal provider's application, the Director shall calculate the amount of remedial groundwater use that is consistent with the management goal of the AMA as follows:
1. The Director shall determine the total annual amount of remedial groundwater use in all AMAs that is deemed to be consistent with the management goal under this subsection and subsections (H) and (I) for applications with a priority date earlier than the priority date of the municipal provider's application.
2. If the amount determined in subsection (F)(1) is less than 65,000 acre-feet and the difference between those amounts is equal to or greater than the municipal provider's authorized remedial groundwater use during the year, the amount of remedial groundwater use by the municipal provider that is deemed to be consistent with the management goal during the year is the amount of the municipal provider's authorized remedial groundwater use during the year.
3. If the amount determined in subsection (F)(1) is less than 65,000 acre-feet and the difference between those amounts is less than the municipal provider's authorized remedial groundwater use during the year, the amount of remedial groundwater use by the municipal provider that is deemed consistent with the management goal during the year is the amount of the municipal provider's authorized remedial groundwater use during the year up to the difference between the amount determined in subsection (F)(1) and 65,000 acre-feet, plus a percentage of the municipal provider's authorized remedial groundwater use during the year that exceeds the difference. The percentage is 50 percent for calendar years 2000 through 2009, 25 percent for calendar years 2010 through 2019, and 10 percent for calendar years 2020 through 2024.
4. If the amount determined in subsection (F)(1) is equal to or greater than 65,000 acre-feet, the amount of remedial groundwater use by the municipal provider that is deemed consistent with the management goal during the year is a percentage of the municipal provider's authorized remedial groundwater use during the year. The percentage is 50 percent for calendar years 2000 through 2009, 25 percent for calendar years 2010 through 2019, and 10 percent for calendar years 2020 through 2024.

**G.** If the Director determines that remedial groundwater use by a municipal provider is consistent with the management goal of the active management area under subsection (F), the determination shall apply to remedial groundwater used by the municipal provider between the priority date of the application and January 1, 2050.

**H.** If, before the effective date of this Section, a municipal provider filed an application with the Director requesting that the Director determine that the provider's use of remedial groundwater according to an approved remedial action project is consistent with the management goal of the active management area under Laws 1997, Ch. 287, § 52, as amended by Laws 1999, Ch. 295, § 50, the following shall apply:
1. If the Director approved the application before the effective date and determined the annual amount of remedial groundwater use by the applicant that will be considered consistent with the management goal, the Director's determination shall apply after the effective date and the Director shall include the annual amount of remedial groundwater use determined by the Director to be consis-

tent with the management goal in the total amount of remedial groundwater determined in subsection (F)(1).

2. If the Director did not approve the application before the effective date, the Director shall process the application under subsections (E) and (F). If the Director approves the application, the Director's determination shall apply to remedial groundwater withdrawn and used by the municipal provider according to the approved remedial action project from the priority date of the application until January 1, 2050.

**I.** A municipal provider that is using remedial groundwater that has been determined by the Director to be consistent with the management goal under subsection (F) or (H) may apply to the Director for an increase in the annual authorized volume of the approved remedial action project as follows:

1. The applicant shall submit an application on a form provided by the Director.
2. The Director shall determine that the application is complete and correct if it contains all of the required information and the Director verifies that the information is accurate.
3. If the Director determines that an application filed under this subsection is complete and correct, the Director shall assign a priority date to the application using the criteria in subsection (E).
4. The Director shall approve the application if the municipal provider submits information that demonstrates one of the following:
   a. The annual authorized volume of the approved remedial action project has been increased in a consent decree or other document approved by ADEQ or the EPA; or
   b. An increase is necessary to further the purpose of the approved remedial action project, and the increase is not in violation of the consent decree or other document approved by ADEQ or the EPA for the project.
5. If the Director approves the application, the Director shall determine the additional annual amount of remedial groundwater use by the municipal provider that is deemed consistent with the management goal of the active management area, using the criteria in subsections (F) and (G). The Director shall include the annual amount of remedial groundwater use determined by the Director to be consistent with the management goal under this subsection in the total amount of remedial groundwater determined in subsection (F)(1).

**J.** Until January 1, 2050, use of remedial groundwater by a municipal provider during a year is deemed consistent with the management goal of the AMA in which the remedial groundwater was withdrawn without approval of the Director under subsection (F) or (H) if:

1. The total annual amount of remedial groundwater withdrawn from all wells according to the approved remedial action project does not exceed 250 acre-feet; and
2. If remedial groundwater withdrawals according to the approved remedial action project commenced before June 15, 1999, the municipal provider notified the Director in writing of the volume and duration of the anticipated withdrawals on or before August 15, 1999. If remedial groundwater withdrawals according to the approved remedial action project commenced on or after June 15, 1999, the municipal provider gave written notice of the volume and duration of the anticipated withdrawals on or before August 15, 1999, or before the date the withdrawals commenced, whichever is later. If the municipal provider gives notice after the effective date of this Section, the municipal provider shall include or attach all of the following:
   a. A copy of a document evidencing ADEQ's or EPA's approval of the municipal provider's withdrawal and use of remedial groundwater, such as a remedial action plan, record of decision, or consent decree;
   b. The volume of remedial groundwater that will be withdrawn and used annually by the municipal provider and the purpose for which the remedial groundwater will be used;
   c. The time period during which the remedial groundwater will be withdrawn and used by the municipal provider;
   d. If the approved remedial action project is currently operating, the volume of remedial groundwater withdrawn according to the project for each year before the year in which the application is filed;
   e. The designated provider or certificate of assured water supply to which the remedial groundwater will be pledged; and
   f. The name and telephone number of a person the Department may contact regarding the exemption.

**K.** A municipal provider withdrawing remedial groundwater that has been determined to be consistent with the management goal under subsection (F) or (H) or that is consistent with the management goal under subsection (J) shall meter the remedial groundwater withdrawals separately from groundwater withdrawn pursuant to another groundwater withdrawal authority. The municipal provider shall include in its annual reports, filed under A.R.S. § 45-632, the amount of remedial groundwater withdrawn during the reporting year that is consistent with the management goal under this Section and the purposes for which the remedial groundwater was used.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 3475, effective September 12, 2006 (Supp. 06-3). Amended by final expedited rulemaking at 28 A.A.R. 909 (May 6, 2022), with an immediate effective date of April 11, 2022 (Supp. 22-2).

**R12-15-730. Repealed**

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 3475, effective September 12, 2006 (Supp. 06-3). Section repealed by exempt rulemaking at 16 A.A.R. 1205, effective June 15, 2010 (Supp. 10-2). New Section made by exempt rulemaking at 16 A.A.R. 1950, effective September 10, 2010 (Supp. 10-3). Section repealed by final rulemaking at 17 A.A.R. 659, effective June 4, 2011 (Supp. 11-2).

## ARTICLE 8. WELL CONSTRUCTION AND LICENSING OF WELL DRILLERS

**R12-15-801. Definitions**

In addition to the definitions set forth in A.R.S. §§ 45-101, 45-402, and 45-591 and in R12-15-202, the following words and phrases in this Article shall have the following meanings, unless the context otherwise requires:

1. "Annular space" means the space between the outer well casing and the borehole wall. An annular space also means the space between an inner well casing and outer well casing.

2. "Aquifer" means an underground formation capable of yielding or transmitting usable quantities of water.
3. "Artesian aquifer" means an aquifer which is overlain by a confining formation and which contains groundwater under sufficient pressure for the water to rise above the top of the aquifer.
4. "Artesian well" means a well that penetrates an artesian aquifer.
5. "Bentonite" means a colloidal clay composed mainly of sodium montmorillonite, a hydrated aluminum silicate.
6. "Cap" means a tamper-resistant, watertight steel plate of at least one-quarter inch thickness on the top of all inside and outside casings of a well.
7. "Casing" means the tubing or pipe installed in the borehole during or after drilling to support the sides of the well and prevent caving.
8. "Confining formation" means the relatively impermeable geologic unit immediately overlying an artesian aquifer.
9. "Consolidated formation" means a naturally occurring geologic unit through or into which a well is drilled, having a composition, density, and thickness which will provide a natural hydrologic barrier.
10. "Department" means the Arizona Department of Water Resources.
11. "Director" means the Director of the Arizona Department of Water Resources.
12. "Drilling card" means a card which is issued by the Director to the well drilling contractor or single well licensee designated in the notice of intent or permit, authorizing the well drilling contractor or licensee to drill the specific well or wells in the specific location as noticed or permitted.
13. "Exploration well" means a well drilled in search of geophysical, mineralogical or geotechnical data.
14. "Flowing artesian well" means an artesian well in which the pressure is sufficient to cause the water to rise above the land surface.
15. "Grout" or "cement grout" means cement mixed with no more than 50% sand by volume, and containing no more than six gallons of water per 94 pound sack of cement.
16. "Mineralized water" means any groundwater containing over 3000 milligrams per liter (mg/l) of total dissolved solids or containing any of the following chemical constituents above the indicated concentrations:

| Constituent | Concentration (mg/l) |
|---|---|
| Arsenic | 0.05 |
| Barium | 1.0 |
| Cadmium | 0.01 |
| Chromium (total) | 0.05 |
| Fluoride | 4.0 |
| Lead | 0.05 |
| Mercury | 0.002 |
| Nitrate (as N) | 10.0 |
| Selenium | 0.01 |
| Silver | 0.05 |

17. "Monitor well" means a well designed and drilled for the purpose of monitoring water quality within a specific depth interval.
18. "Open well" means a well which is not equipped with either a cap or a pump.
19. "Perforations" means a series of openings in a casing, made either before or after installation of the casing, to permit the entrance of water into the well.
20. "Piezometer well" means a well that is designed and drilled for the purpose of monitoring water levels within a specific depth interval.
21 "Pitless adaptor" means a commercially manufactured watertight unit or device designed for attachment to a steel well casing which permits discharge from the well below the land surface and allows access into the well casing while preventing contaminants from entering the well.
22. "Polluted water" means water whose chemical, physical, biological, or radiological integrity has been degraded through the artificial or natural infusion of chemicals, radionuclides, heat, biological organisms, or mineralogical or other extraneous matter.
23. "Pressure grouting" means a process by which a grout is confined within the borehole or casing of a well by the use of retaining plugs, packers, or a displacing fluid by which sufficient pressure is applied to drive the grout into and within the annular space or interval to be grouted.
24. "Qualifying party" means a partner, officer, or employee of a well drilling contractor, who has significant supervisory responsibilities and who has been designated to take the licensing examination for that well drilling contractor.
25. "Single well license" means a license issued to a person which allows the drilling or modification of a single exempt well on land owned by that person.
26 "Vadose zone well" means a well constructed in the interval between the land surface and the top of the static water level.
27. "Vault" means a tamper-resistant watertight structure used to complete a well below the land surface.
28. "Well abandonment" means the modification of the structure of a well by filling or sealing the borehole so that water may not be withdrawn or obtained from the well.
29. "Well drilling" means the construction or repair of a well, or the modification, except for abandonment, of a well, regardless of whether compensation is involved, including any deepening or additional perforating, any addition of casing or change to existing casing construction, and any other change in well construction not normally associated with well maintenance, pump replacement, or pump repair.
30. "Well drilling contractor" means an individual, public or private corporation, partnership, firm, association, or any other public or private organization or enterprise that holds a well driller's license pursuant to A.R.S. § 45-595(B).

**Historical Note**
Adopted effective March 5, 1984 (Supp. 84-2). Amended effective June 18, 1990 (Supp. 90-2).

**R12-15-802. Scope of Article**
This Article shall apply to man-made openings in the earth through which water may be withdrawn or obtained from beneath the surface of the earth, including all water wells, monitor wells and piezometer wells. It shall also apply to geothermal wells to the extent provided by A.R.S. § 45-591.01, and all exploration wells and grounding or cathodic protection holes greater than 100 feet in depth. However, this Article shall not apply to the following:

1. Man-made openings in the earth not commonly considered to be wells, such as construction and mining blast

holes, underground mines and mine shafts, open pit mines, tunnels, septic tank systems, caissons, basements, and natural gas storage cavities.

2. Injection wells and vadose zone wells which are subject to regulation by the Arizona Department of Environmental Quality.
3. Oil, gas, and helium wells drilled pursuant to the provisions of A.R.S. Title 27.
4. Drilled boreholes in the earth less than 100 feet in depth which are made for purposes other than withdrawing or encountering groundwater, such as exploration wells and grounding or cathodic protection holes; except that in the event that groundwater is encountered in the drilling of a borehole, this Article shall apply.

**Historical Note**

Adopted effective March 5, 1984 (Supp. 84-2). Amended effective June 18, 1990 (Supp. 90-2).

**R12-15-803. Well Drilling and Abandonment Requirements; Licensing and Supervision Requirements**

**A.** A person shall not drill or abandon a well, or cause a well to be drilled or abandoned, in a manner which is not in compliance with A.R.S. Title 45, Chapter 2, Article 10, and the rules adopted thereunder.

**B.** A person, other than a single well licensee or a bona fide employee of a well drilling contractor, shall not engage in well drilling or abandonment without first securing a well drilling license in accordance with R12-15-804, R12-15-805 and R12-15-806.

**C.** A qualifying party of a well drilling contractor shall provide direct and personal supervision of the contractor's employees to ensure that all wells are constructed and abandoned in accordance with this Article.

**Historical Note**

Adopted effective March 5, 1984 (Supp. 84-2). Section 12-15-803 amended and the text of former Section R12-15-804 renumbered to subsections (B) and (C) and amended effective June 18, 1990 (Supp. 90-2).

**R12-15-804. Application for well drilling license**

**A.** An applicant for a well drilling license shall submit a verified application of a form prescribed and furnished by the Director which contains the following information:

1. A designation of the classification of license sought by the applicant.
2. If the applicant is an individual, the individual's name, address and telephone number.
3. If the applicant is a partnership, the names, addresses, and telephone numbers of all partners, with a designation of any limited partners.
4. If the applicant is a corporation, association or other organization, the names, addresses and telephone numbers of the directors and of the president, vice president, secretary and treasurer, or the names, addresses and telephone numbers of the functional equivalent of such officers.
5. The address or location of the applicant's place of business, the mailing address if it is different from the applicant's place of business, and if applicant is a corporation, the state in which it is incorporated.
6. The name, address and telephone number of each qualifying party, the qualifying party's relationship to the applicant, and a detailed history of each qualifying party's supervisory responsibilities and well drilling experience, including previous employers, job descriptions, duties and types of equipment utilized.
7. The names, addresses and telephone numbers of three persons not members of each qualifying party's immediate family, who can attest to each qualifying party's good character and reputation, experience in well drilling, and qualifications for licensing.
8. Such additional information relevant to the applicant's or qualifying party's experience and qualifications in well drilling as the Director may require.

**B.** An applicant shall notify the Director in writing of any change in the information contained in the application within 30 days after such change.

**C.** The Director shall not issue a license under this Article if the applicant or a qualifying party lacks good character and reputation.

**D.** Prior to the issuance of a license, a qualifying party shall demonstrate three years of experience, dealing specifically with the type of drilling for which the applicant is applying for a license. This experience requirement may be reduced if the Director finds that the qualifying party has clearly and convincingly demonstrated a high degree of understanding and knowledge of well drilling techniques for the type of drilling for which the applicant is applying for a license. In no case, however, shall the practical experience requirement be less than two years.

**Historical Note**

Adopted effective March 5, 1984 (Supp. 84-2). Former Section R12-15-804 renumbered to R12-15-803(B) and (C), new Section R12-15-804 adopted effective June 18, 1990 (Supp. 90-2).

**R12-15-805. Examination for Well Drilling License**

**A.** The Director shall offer an examination for a well drilling license no less than six times yearly. The examination shall be administered to those eligible applicants whose applications were submitted at least 20 days prior to the date of the examination. The examination shall consist of a section on legal requirements, a section on general knowledge and one or more of six specialized sections. The section on legal requirements shall test the qualifying party's knowledge of A.R.S. Title 45, Chapter 2, Article 10, and the rules adopted thereunder. The section on general knowledge shall test the qualifying party's knowledge of general hydrologic concepts, principles, and practices in the well construction industry, and shall test knowledge of groundwater protection, pollution, water quality and public health effects. The specialized sections shall test the qualifying party's knowledge in the following classifications:

1. Cable tool drilling in rock and unconsolidated material.
2. Air rotary drilling in rock and unconsolidated material.
3. Mud rotary drilling in rock and unconsolidated material.
4. Reverse rotary drilling in rock and unconsolidated material.
5. Jetting and driving wells in unconsolidated material.
6. Boring and augering in unconsolidated material.

**B.** Only the qualifying party, Department personnel, and persons having the express permission of the Director shall be permitted in the examination room while the examination is in progress. The qualifying party shall not bring books or notes into the examination room, or communicate by any means whatsoever while the examination is in progress without the express permission of the presiding examiner. The qualifying party shall not leave the examination room while the examination is in progress without first obtaining the permission of the pre-

siding examiner. The Director may disqualify an applicant for violation of this subsection.

**C.** To obtain a well drilling license, a qualifying party of the applicant shall pass the section on legal requirements, the section on general knowledge, and one or more specialized sections. Each section of the examination shall be graded separately. The passing grade on each section shall be 70 percent.

**D.** No person may take the examination more than twice during any 12 months.

**E.** The Director may exempt a qualifying party from taking the section on general knowledge, and one or more of the specialized sections, if the qualifying party provides proof of passing an equivalent examination given by the National Ground Water Association.

**Historical Note**

Adopted effective March 5, 1984 (Supp. 84-2). Section repealed, new Section adopted effective June 18, 1990 (Supp. 90-2). Amended by final rulemaking at 13 A.A.R. 3022, effective October 6, 2007 (Supp. 07-3).

**R12-15-806. License Fee; Issuance and Term of Licenses; Renewal; Display of License**

**A.** The fee for a well driller's license shall be $50.00.

**B.** Upon submittal of the license fee and satisfactory completion of an examination, the Director shall issue the applicant a well drilling license. The license shall be numbered and shall state the specialized classifications of drilling activities for which the applicant is qualified and licensed. The applicant shall be licensed in only those classifications for which the qualifying party has passed the specialized sections of the examination. If the qualifying party subsequently passes other specialized sections, the applicant's license shall be amended. The applicant shall pay a fee of $50.00 for the amendment of a well driller's license.

**C.** A well drilling contractor shall notify the Director in writing within 30 days of the date on which the well drilling contractor no longer has a qualifying party for one or more of its specialized drilling classifications. Upon such notification, the Director may revoke or suspend part or all of the well drilling license of the well drilling contractor and require a new qualifying party to take and pass the examination.

**D.** A well drilling license shall expire each year on June 30th, unless renewed pursuant to subsection (E).

**E.** A person may renew a well drilling license by submitting an application for renewal on forms prescribed and furnished by the Director and a fee of $50.00. If the application and renewal fee are postmarked on or before June 30, the well drilling contractor may operate as a licensee until actual issuance of the renewal license. A license which has expired may be reactivated and renewed within one year of its expiration by filing the required application and a reactivation fee of $50.00. If a license has been expired for one or more years for failure to renew, the well drilling contractor shall apply for a new license and repeat the examination.

**F.** A well drilling contractor shall prominently display the well drilling license number on all well drilling rigs owned or operated by the contractor in this state. Good quality paint or commercial decal numbers shall be used in placing each identification number on the drilling rig. The license number shall not be inscribed in crayon, chalk, pencil, or other temporary markings.

**Historical Note**

Adopted effective March 5. 1984 (Supp. 84-2). Amended effective June 18, 1990 (Supp. 90-2). Amended by exempt rulemaking at 16 A.A.R. 1205, effective June 15, 2010 (Supp. 10-2). Amended by exempt rulemaking at 16 A.A.R. 1950, effective September 10, 2010 (Supp. 10-3). Amended by final rulemaking at 17 A.A.R. 659, effective June 4, 2011 (Supp. 11-2).

**R12-15-807. Single Well License**

**A.** An applicant for a single well license pursuant to A.R.S. § 45-595(D) shall submit a verified application on forms prescribed and furnished by the Director, which shall include:

1. The name and address of the applicant.
2. The location of the well and whether the applicant owns the land.
3. The type of drill rig to be used and the owner of the rig.
4. The proposed design of the well or method of abandonment.
5. The names of any people who will be assisting the applicant in the drilling or abandonment of the well, and whether the applicant will compensate them for their efforts.
6. The applicant's experience, if any, in well drilling or abandonment.
7. Such other information as the Director may require relevant to the applicant's experience and qualifications in well drilling or abandonment.

**B.** The Director shall offer the single well examination no less than six times yearly and shall administer the examination to those eligible applicants whose applications were submitted at least 20 days prior to the date of the examination.

**C.** The single well examination shall be of a form prescribed and furnished by the Director and shall test the applicant's knowledge of abandonment techniques, or those minimum well construction requirements and drilling techniques applicable to the proposed design of the well. The passing grade on the sections of the examination dealing with construction requirements and drilling techniques, respectively, shall be 70 percent.

**D.** Rule R12-15-805 relating to testing procedures shall be fully applicable.

**E.** Applicants who twice fail the examination shall wait a minimum of 90 days before re-testing.

**F.** Upon passing the examination, the applicant shall be issued a single well license, authorizing the applicant to drill or abandon one exempt well at the location specified in the application. The license shall be valid for a period of one year from issuance.

**Historical Note**

Adopted effective March 5, 1984 (Supp. 84-2). Amended effective June 18, 1990 (Supp. 90-2).

**R12-15-808. Revocation of License**

The Director may revoke, suspend, or place on probationary status a well drilling license issued pursuant to R12-15-806, or a single well license, for good cause, including:

1. Intentionally making a misstatement of fact on any filing with the Department.
2. Violating any provision of A.R.S. Title 45, Chapter 2, Article 10, and the rules promulgated thereunder, or aiding and abetting in such a violation.

**Historical Note**

Adopted effective March 5, 1984 (Supp. 84-2). Amended effective June 18, 1990 (Supp. 90-2). Section number

corrected (Supp. 93-1).

**R12-15-809. Notice of Intention to Drill**

A notice of intention to drill required to be filed pursuant to A.R.S. § 45-596 shall be signed by the owner or lessee of the property upon which the well is to be drilled.

**Historical Note**

Adopted effective March 5, 1984 (Supp. 84-2).

**R12-15-810. Authorization to Drill**

**A.** A well drilling contractor or single well licensee may commence drilling a well only if the well drilling contractor or licensee has possession of a drilling card at the well site issued by the Director in the name of the well drilling contractor or licensee, authorizing the drilling of the specific well in the specific location.

**B.** In extraordinary situations not requiring a permit but only a notice of intention to drill, the Director may grant a request by telephone for emergency authorization of commencement of drilling prior to the actual receipt by the well driller of the drilling card. Within seventy-two hours after such a request is granted, the well driller shall file a written statement indicating the nature and reasons for the request, and the date, time and Department employee granting the request, and the well owner shall file a notice of intent to drill if such a notice has not previously been filed.

**Historical Note**

Adopted effective March 5, 1984 (Supp. 84-2). Amended effective June 18, 1990 (Supp. 90-2). Amended to correct typographical error under A.A.C. R1-1-109 (Supp. 01-2). Amended by final rulemaking at 13 A.A.R. 3022, effective October 6, 2007 (Supp. 07-3).

**R12-15-811. Minimum Well Construction Requirements**

**A.** Well casing

1. Casing shall be of a sufficient strength and wall thickness to hold the borehole open and survive any necessary grouting. A person shall use only steel or thermoplastic casing in the construction of a well, unless the person has received a variance from the Director pursuant to R12-15-820. The well casing or an extension of the casing shall extend a minimum of one foot above ground level. When installing a pitless adaptor, the casing may be terminated below ground level for aesthetic reasons or freeze protection purposes. Casing made of, or which has been exposed to, hazardous or potentially harmful materials, such as asbestos, shall not be used.
2. All well casing joints or overlaps shall be made watertight to prevent the degradation of the water supply by the migration of inferior quality water. Except as provided in subsection (H), any openings in the casing that will be above the water level in the well, such as bar holes, cracks or perforations, shall be completely plugged or sealed.
3. Thermoplastic casing shall be installed in an oversized drillhole without driving. Thermoplastic casing shall conform with ATSM International Standard Specification F480-14 (2014), which is incorporated herein by reference and is on file with the Department. Rivets or screws used in the casing joints shall not penetrate the inside of the casing.
4. Steel casing shall be new or in like-new condition, free from pits or breaks, and shall conform with ASTM International Standard Specification A53/53M-20 (2020), A139/139M-16 (2016) or A312/312M-20 (2021), whichever is applicable, all of which are incorporated herein by reference and are on file with the Department.
5. Copies of the ASTM International standard specifications references to in subsections (B)(3) and (4) may be obtained from the Department of Water Resources, 1110 W. Washington Street, Suite 300, Phoenix, AZ 85007; and from the American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959. This Section does not include any later amendments or editions of those standard specifications.

**B.** Surface seal

1. Except as provided in subsections (B)(2) and (4), and R12-15-817(B)(1), all wells shall be constructed with a surface seal as herein provided. The seal shall consist of steel casing, one foot of which shall extend above ground level, and cement grout placed in one continuous application from the bottom of the zone to be grouted to the land surface. If a pitless adaptor is utilized, the cement grout may terminate at the bottom of the pitless adaptor. The minimum length of the steel casing shall be 20 feet. The minimum annular space between the casing and the borehole for placement of grout shall be one and one-half inches. Curing additives, such as calcium chloride, shall not exceed ten percent of the total volume of grout. Bentonite as an additive shall not exceed five percent of the total volume. The minimum length of the surface seal shall be 20 feet. Any annular space between the outer casing and an inner casing shall be completely sealed to prevent contamination of the well.
2. All hand-dug wells shall be constructed with a watertight curbing extending, at a minimum, from one foot above the natural ground level to the static water level, or into the confining formation if the aquifer is artesian. The curbing shall consist of poured cement grout or casing surrounded by cement grout. Concrete block with cement grout and rock with cement grout may also be used. The poured cement grout shall not be less than six inches thick. If casing is to be used, the minimum annular space between the casing and the borehole shall be three inches. Hand-dug wells shall be sealed at the surface with a watertight, tamper-resistant cover to prevent contaminants from entering the well.
3. All wells constructed by jetting or driving shall have cement grout placed in the annular space to a minimum depth of six feet. The minimum annular space between the casing and the borehole for placement of the grout shall be one and one-half inches.
4. All horizontal wells, to prevent leakage, shall be constructed with a surface seal consisting of steel casing and cement grout extending a minimum of ten feet into the land surface.

**C.** Access port. Every well with casing four inches in diameter or larger shall be equipped with a functional watertight access port with a minimum diameter of one-half inch so that the water level or pressure head in the well can be monitored at all times.

**D.** Gravel packed wells

1. If a gravel pack has been installed, the annular space between the outer casing and the inner casing shall be sealed, either by welding a cap at the top or by filling with cement grout from the bottom of the outer casing to the surface.
2. If a gravel tube is installed, it shall be sealed with a cap.

**E.** Vents. All vents installed in the well casing shall open downward and be screened to prevent the entrance of foreign material.

**F.** Removal of drilling materials
1. In constructing a water well, the well driller shall take all reasonable precautions to protect the producing aquifer from contamination by drilling materials. Upon completion of the well, the well driller shall remove all foreign substances and materials introduced into the aquifer or aquifers during well construction. For purposes of this subsection, "substances and materials" means all drilling fluids, filter cake, lost circulation materials, and any other organic or inorganic substances.
2. Materials known to present a health hazard, such as chrome-based mud thinners, asbestos products, and petroleum-based fluids, shall not be used as construction, seal or fill materials or drilling fluids.
3. Drilling fluids and cuttings shall be contained in a manner which prevents discharge into any surface water.

**G.** Repair of existing wells
1. If, in the repair of a well, the old casing is withdrawn, the well shall be recased in conformance with these rules.
2. If an inner casing is installed to prevent leakage of undesirable water into a well, the annular space between the casings shall be completely sealed by packers, casing swedging, pressure grouting or other methods which will prevent the movement of water between the casings.

**H.** Monitor wells
1. A monitor well may be screened up to ten feet above the highest seasonal static water level of record for the purpose of monitoring contaminants.
2. A monitor well shall be identified as such on the vault cover or at the top of the steel casing. Identification information shall include the well registration number.

**I.** Completion at the surface. In areas of traffic or public rights-of-way, wells may be constructed below the land surface in a vault. All other requirements in this Article shall apply.

**Historical Note**
Adopted effective March 5, 1984 (Supp. 84-2). Amended effective June 18, 1990 (Supp. 90-2). The reference to R12-14-817(B)(1) in subsection (B)(1) corrected to read R12-15-817(B)(1) (Supp. 93-1). Amended by final rulemaking at 11 A.A.R. 5395, effective February 4, 2006 (Supp. 05-4). Amended by final expedited rulemaking at 28 A.A.R. 266 (January 28, 2022), with an immediate effective date of January 5, 2022 (Supp. 22-1).

**R12-15-812. Special Aquifer Conditions**

**A.** Artesian wells
1. The well casing shall extend into the confining formation immediately overlying the artesian aquifer and shall be grouted from a minimum of ten feet into the confining formation to the land surface to prevent surface leakage into and subsurface leakage from the artesian aquifer.
2. If leaks occur adjacent to the well or around the well casing, within 30 days the well shall be completed with the seals, packers, or casing and grouting necessary to eliminate such leakage or the well shall be abandoned according to R12-15-816.
3. If the well flows at land surface, the well shall be equipped with a control valve, or suitable alternative means of completely controlling the flow, which must be available for inspection at the well site at all times.

**B.** Mineralized or polluted water. In all water-bearing geologic units containing mineralized or polluted water as indicated by available data, the borehole shall be cased and grouted so that contamination of the overlying or underlying groundwater zones will not occur.

**Historical Note**
Adopted effective March 5, 1984 (Supp. 84-2). Amended effective June 18, 1990 (Supp. 90-2).

**R12-15-813. Unattended Wells**

All wells, when unattended during well drilling, shall be securely covered for safety purposes and to prevent the introduction of foreign substances into the well.

**Historical Note**
Adopted effective March 5, 1984 (Supp. 84-2). Section number corrected (Supp. 93-1).

**R12-15-814. Disinfection of Wells**

A well drilling contractor shall disinfect any well from which the water to be withdrawn is intended to be utilized for human consumption or culinary purposes without prior treatment before removing the drill rig from the well site in accordance with the requirements contained in Engineering Bulletin No. 8, "Disinfection of Water Systems," issued by the Arizona Department of Health Services in August 1978, and Engineering Bulletin No. 10, "Guidelines for the Construction of Water Systems," issued by the Arizona Department of Health Services in May 1978, both of which are incorporated by reference and are on file with the Office of the Secretary of State. Copies of the Engineering Bulletins referred to in this Section may be obtained with this Chapter at the Office of the Secretary of State of the State of Arizona, State Capitol, West Wing, Phoenix, Arizona 85007, and from the Department of Water Resources, 1110 W. Washington Street, Suite 300, Phoenix, AZ 85007. This Section does not include any later amendments or editions of those Bulletins.

**Historical Note**
Adopted effective March 5, 1984 (Supp. 84-2). Amended effective June 18, 1990 (Supp. 90-2). Amended by final rulemaking at 11 A.A.R. 5395, effective February 4, 2006 (Supp. 05-4). Amended by final expedited rulemaking at 28 A.A.R. 266 (January 28, 2022), with an immediate effective date of January 5, 2022 (Supp. 22-1).

**R12-15-815. Removal of Drill Rig from Well Site**

The drilling rig shall not be removed from the well site unless the well is in one of the following conditions:
1. Constructed in full conformance with R12-15-811 and R12-15-812 and either sealed with a cap or equipped with a pump.
2. Abandoned in accordance with R12-15-816.

**Historical Note**
Adopted effective March 5, 1984 (Supp. 84-2). Amended effective June 18, 1990 (Supp. 90-2).

**R12-15-816. Abandonment**

**A.** Well abandonment shall be performed only by a licensed well drilling contractor or single well licensee.

**B.** Except as provided in subsection (F) of this Section, the owner of a well shall file a notice of intent to abandon the well prior to abandonment, on a form prescribed and furnished by the Director, which shall include:
1. The name and mailing address of the person filing the notice.

2. The legal description of the land upon which the well proposed to be abandoned is located and the name and mailing address of the owner of the land.
3. The legal description of the location of the well on the land.
4. The depth, diameter and type of casing of the well.
5. The well registration number.
6. The materials and methods to be used to abandon the well.
7. When abandonment is to begin.
8. The name and well drilling license number of the well drilling contractor or single well licensee who is to abandon the well.
9. The reason for the abandonment.
10. Such other information as the Director may require.

**C.** The Director shall, upon receipt of a proper notice of intent to abandon, mail a well abandonment authorization card to the designated well drilling contractor or single well licensee.

**D.** Except as described in subsection (F) of this Section, a well drilling contractor or single well licensee may commence abandoning a well only if the driller has possession of an abandonment card at the well site, issued by the Director in the name of the driller, authorizing the abandonment of that specific well or wells in that specific location.

**E.** Within 30 days after a well is abandoned pursuant to this Section, the well drilling contractor or single well licensee shall file with the Director a Well Abandonment Completion Report on a form prescribed and furnished by the Director which shall include the date the abandonment of the well was completed and such other information as the Director may require.

**F.** In the course of drilling a new well, the well may be abandoned without first filing a notice of intent to abandon and without an abandonment card. If the well is abandoned pursuant to this subsection without first filing a notice of intent to abandon and without an abandonment card, the well drilling contractor or single well licensee shall provide the following information in the Well Abandonment Completion Report:
1. The legal description of the land upon which the well was abandoned and the name and mailing address of the owner of the land.
2. The legal description of the location of the well on the land.
3. The depth, diameter and type of casing of the well prior to abandonment.
4. The well registration number.
5. The materials and methods used to abandon the well.
6. The name and well drilling license number of the well drilling contractor or single well licensee who abandoned the well.
7. The date of completion of the abandonment of the well.
8. The reason for the abandonment.
9. Such other information as the Director may require.

**G.** The abandonment of a well shall be accomplished through filling or sealing the well so as to prevent the well, including the annular space outside the casing, from being a channel allowing the vertical movement of water.

**H.** A well drilling contractor or single well licensee shall construct a surface seal for a well that does not penetrate an aquifer, as follows:
1. If the casing is removed from the top 20 feet of the well, a cement grout plug shall be set extending from two feet below the land surface to a minimum of 20 feet below the land surface, and the well shall be backfilled above the top of the cement grout plug to the original land surface.
2. If the casing is not removed from the top 20 feet of the well, a cement grout plug shall be set extending from the top of the casing to a minimum of 20 feet below the land surface and the annular space outside the casing shall be filled with cement from the land surface to a minimum of 20 feet below the land surface.

**I.** In addition to the surface seal required in subsection (H):
1. A well penetrating a single aquifer system with no vertical flow components shall be filled with cement grout, concrete, bentonite drilling muds, clean sand with bentonite, or cuttings from the well.
2. A well penetrating a single or multiple aquifer system with vertical flow components shall be sealed with cement grout or a column of bentonite drilling mud of sufficient volume, density, and viscosity to prevent fluid communication between aquifers.

**J.** Materials containing organic or toxic matter shall not be used in the abandonment of a well.

**K.** The owner or operator of the well shall notify the Director in writing no later than 30 days after abandonment has been completed. The notification shall include the well owner's name, the location of the well, and the method of abandonment.

**Historical Note**
Adopted effective March 5, 1984 (Supp. 84-2). Amended effective June 18, 1990 (Supp. 90-2). Amended by final rulemaking at 13 A.A.R. 3022, effective October 6, 2007 (Supp. 07-3).

**R12-15-817. Exploration Wells**

**A.** Notification. Prior to drilling one or more exploration wells, the well owner, lessee, or exploration firm shall file a notice of intention to drill on forms provided by the Director. If the notice of intention to drill is filed for the project as a whole, the drilling card shall be issued for the project as a whole.

**B.** Construction and abandonment.
1. If an exploration well which is to be left open for re-entry at a later date encounters groundwater, it shall be cased and capped in accordance with R12-15-811, R12-15-812, and R12-15-822. The minimal length of surface seal shall be either 20 feet, or five feet into the first encountered consolidated formation, whichever is less. If no groundwater is encountered, the well shall be cased, grouted and capped in such a manner so as to prevent contamination of the well bore from the surface.
2. Exploration wells not left open for re-entry shall be abandoned in accordance with R12-15-816.

**C.** Completion report. Within 30 days of project completion, the well owner, lessee, or exploration firm shall submit a project completion report on forms provided by the Director. The report shall include:
1. The exact number of wells drilled.
2. The depth to water encountered or detected, with reference to specific wells.
3. The abandonment method utilized, or construction details if completed for re-entry.
4. Any other information which the Director may require.

**Historical Note**
Adopted effective March 5, 1984 (Supp. 84-2). Amended effective June 18, 1990 (Supp. 90-2).

**R12-15-818. Well Location**

Except for monitor wells and piezometer wells, no well shall be drilled within 100 feet of any septic tank system, sewage disposal area, landfill, hazardous waste facility, storage area of hazardous

materials or petroleum storage areas and tanks, unless authorized in writing by the Director.

**Historical Note**
Adopted effective March 5, 1984 (Supp. 84-2). Amended effective June 18, 1990 (Supp. 90-2).

**R12-15-819. Use of Well as Disposal Site**
No well may be used as a storage or disposal site for sewage, toxic industrial waste, or other materials that may pollute the groundwater, except as authorized by the Arizona Department of Environmental Quality.

**Historical Note**
Adopted effective March 5, 1984 (Supp. 84-2). Amended effective June 18, 1990 (Supp. 90-2).

**R12-15-820. Request for Variance**
**A.** If extraordinary or unusual conditions exist, a well drilling contractor or owner may request a variance from the provisions of this Article.
**B.** The request for variance shall be in writing and shall set forth the location of the well site, the reasons for the request, and the recommended requirements to be applied. The Director may approve the request only if the well drilling contractor or owner has clearly demonstrated that the variance will not adversely affect other water users or the local aquifers.
**C.** A variance shall not be effective until the well drilling contractor or owner receives from the Director a written approval of the variance and a new drilling card stamped "variance issued."

**Historical Note**
Adopted effective March 5, 1984 (Supp. 84-2). Amended effective June 18, 1990 (Supp. 90-2).

**R12-15-821. Special Requirements**
If the Director determines that the literal application of the minimum well construction requirements contained in this Article would not adequately protect the aquifer or other water users, the Director may require that further additional measures be taken, such as increasing the length of the surface seal or increasing the well's minimum distance from a potential source of contamination.

**Historical Note**
Adopted effective March 5, 1984 (Supp. 84-2). Amended effective June 18, 1990 (Supp. 90-2).

**R12-15-822. Capping of Open Wells**
**A.** The owner of an open well shall either install a cap on the well or abandon the well in accordance with R12-15-816. Within five days after capping the well, the owner of the well shall file with the Department a notice of well capping on a form approved by the Director which shall include the following information:
1. The name and address of the well owner.
2. The name and address of the person installing the cap.
3. The well registration number.
4. The legal description of the location of the well.
5. The date the well was capped.
6. The method of capping.
7. The type and diameter of casing.

**B.** If no casing exists in an open well, or if the integrity of the existing casing is insufficient to allow installation of a cap, the well owner shall install a surface seal in accordance with R12-15-811(B) prior to capping.
**C.** The owner of a well on which a cap is installed shall make the cap tamper resistant by welding the cap to the top of the casing by the electric arc method of welding, except that the owner of a well may make the cap tamper resistant by securing the cap to the top of the casing with a lock during temporary periods of well maintenance, modification or repair, not to exceed 30 days, or at any time if the well is a monitor well or piezometer well.

**Historical Note**
Adopted as an emergency effective March 2, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-1). Emergency expired. Readopted without change as an emergency effective June 2, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-2). Emergency expired. Readopted without change as an emergency effective September 5, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3). Emergency expired. Readopted without change as an emergency effective December 1, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-4). Emergency expired. Readopted without change as an emergency effective March 23, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-1). Permanent rule adopted with changes effective June 18, 1990 (Supp. 90-2). Amended by final rulemaking at 13 A.A.R. 3022, effective October 6, 2007 (Supp. 07-3).

**R12-15-823. Reserved**

**R12-15-824. Reserved**

**R12-15-825. Reserved**

**R12-15-826. Reserved**

**R12-15-827. Reserved**

**R12-15-828. Reserved**

**R12-15-829. Reserved**

**R12-15-830. Reserved**

**R12-15-831. Reserved**

**R12-15-832. Reserved**

**R12-15-833. Reserved**

**R12-15-834. Reserved**

**R12-15-835. Reserved**

**R12-15-836. Reserved**

**R12-15-837. Reserved**

**R12-15-838. Reserved**

**R12-15-839. Reserved**

**R12-15-840. Reserved**

**R12-15-841. Reserved**

**R12-15-842. Reserved**

**R12-15-843. Reserved**

**R12-15-844. Reserved**

**R12-15-845. Reserved**

**R12-15-846. Reserved**

**R12-15-847. Reserved**

**R12-15-848. Reserved**

**R12-15-849. Reserved**

**R12-15-850. Evaluation of Notices of Intention to Drill; Notification of Registered Site Locations; Vertical Cross-Contamination Evaluation**

**A.** The Director shall, upon receipt of a complete and correct notice of intention to drill form required under A.R.S. § 45-596, or upon receipt of an application for a permit under A.R.S. § 45-597 through 45-599, identify whether the proposed well will be drilled within a groundwater basin or subbasin in which there exists a site listed on the registry established under A.R.S. § 49-287.01(D). If the proposed well is situated within such a groundwater basin or subbasin, the Director shall notify the applicant and the authorized well drilling contractor in writing of the existence of the site and shall enclose a map indicating the boundaries of all listed sites within the groundwater basin or subbasin. The notification letter shall include the name, address, and telephone number of a Department contact person, along with a reference to the provision in R12-15-851 that requires the applicant to notify the Department in advance of the date drilling of the well will commence. The Department shall also specify in the notification letter whether the applicant is subject to the requirements of R12-15-851.

**B.** The Director shall, upon receipt of a complete and correct notice of intention to drill form required under A.R.S. § 45-596, or upon receipt of an application for a permit under A.R.S. § 45-597 through 45-599, identify whether the proposed well will be drilled within an area where existing or anticipated future groundwater contamination presents a risk of vertical cross-contamination, as defined in A.R.S. § 49-281(15). If the Director determines that the proposed well will be drilled in such an area, and if the Director finds that the requirements of R12-15-811 are insufficient to prevent the risk of vertical cross-contamination, the Director shall establish site-specific requirements pursuant to R12-15-812 and R12-15-821.

**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 469, effective January 3, 2000 (Supp. 00-1).

**R12-15-851. Notification of Well Drilling Commencement**

A well owner who has been issued a drilling card for a notice of intent to drill authorizing the drilling of a well located within a site listed on the registry established under A.R.S. § 49-287.01, shall provide written notice to the Director indicating the date drilling will commence. The well owner shall coordinate with the contracted well driller to ensure that the Department receives proper notification under this Section. This notification shall consist of a letter or facsimile transmission received by the Department at least 2 business days before drilling commences at the well site. The Department shall use notification letters required by R12-15-850(A) to inform well owners whether they are subject to the requirements of this Section.

**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 469, effective January 3, 2000 (Supp. 00-1).

**R12-15-852. Notice of Well Inspection; Opportunity to Comment**

**A.** At least 30 days before the beginning of a well inspection under A.R.S. § 45-605(A), the Director shall notify in writing all potentially affected well owners of record within a community involvement area established under A.R.S. § 49-289.02 or within other areas that the Director has selected for inspection of wells that may be contributing to vertical cross-contamination. The notices shall include a map of the community involvement area, remedial site, or a subsection of either, that the Department intends to inspect, indicating the location of affected wells of record. The notice shall indicate the approximate date the inspection will start, the approximate duration of the inspection, an access agreement defining what specific activities will occur during a well inspection, and the name, address, and telephone number of a Department contact person.

**B.** Once the Director has given notice of a well inspection under A.R.S. § 45-605(A), potentially affected well owners have 30 days from the date the letter is postmarked to comment on the proposed inspection. The Director, upon receiving a written request, may extend the comment period for a maximum of 30 additional days.

**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 469, effective January 3, 2000 (Supp. 00-1).

## ARTICLE 9. WATER MEASUREMENT

**R12-15-901. Definitions**

In addition to the definitions set forth in A.R.S. §§ 45-101 and 45-402, the following words and phrases shall have the following meanings, unless the context otherwise requires:

1. "Approved measuring device" means an instrument, approved by the Director pursuant to R12-15-903 or R12-15-909(A) which measures the volume or flow rate of water withdrawn, delivered, received, transported, recharged, stored, recovered, or used, and which measurements, when used with an approved measuring method, allow for accurate computation of a volume of water.
2. "Approved measuring method" means a procedure, approved by the Director in R12-15-903 or R12-15-909(A), which, when used with an approved measuring device, will accurately calculate a volume of water.
3. "Flow rate" or "discharge" means the volume of water, including any sediment or other solids that may be dissolved or mixed with it, which passes through a particular reference section in a unit of time.
4. "Measured system" means a system through which water passes for the purpose of withdrawal, delivery, receipt, transportation, recharge, storage, replenishment, recovery or use.
5. "Responsible party" means an irrigation district or a person required by A.R.S. Title 45 or by a permit, rule, or order issued pursuant to A.R.S. Title 45, to use a measuring device or method approved by the Director.

**Historical Note**

Adopted effective December 27, 1982 (Supp. 82-6). Amended effective June 15, 1995 (Supp. 95-2). Amended to correct typographical error under A.A.C. R1-1-109 (Supp. 01-2).

**R12-15-902. Installation of Approved Measuring Devices**

**A.** A responsible party shall install an approved measuring device to monitor the volume of water withdrawn, delivered, transported, recharged, stored, replenished, recovered, and used.

**B.** A responsible party shall install and use a sufficient number of approved measuring devices to allow for the separate monitoring and reporting of the volume of water passing through the measured system pursuant to the following categories of rights:

1. Irrigation grandfathered rights,
2. Non-irrigation grandfathered rights,
3. Service area rights,
4. Groundwater withdrawal permits, and
5. Recovery well permits or water storage permits.

This subsection does not require separate measuring devices for rights within each category unless otherwise required by A.R.S. Title 45, a permit, rule, or order pursuant to that Title.

**C.** An approved measuring device which measures groundwater withdrawals shall be installed as close to the wellhead as is practical, consistent with the manufacturer's instructions. An approved measuring device which measures another point in the measured system shall be installed as close as is practical to the point of delivery, receipt, transportation, recharge, storage, replenishment, recovery, or use which the device is intended to measure, consistent with the manufacturer's instructions.

**Historical Note**
Adopted effective December 27, 1982 (Supp. 82-6). Amended effective June 15, 1995 (Supp. 95-2). Amended to correct typographical error under A.A.C. R1-1-109 (Supp. 01-2).

**R12-15-903. Approved Water Measuring Devices and Methods**

**A.** Any measuring device is approved by the Director if it is installed, maintained, and used in accordance with the manufacturer's recommendations, and if it meets the accuracy requirements set forth in R12-15-905(A).

**B.** An approved measuring device shall be used with an approved measuring method set forth in R12-15-903(C) or an alternative measuring method approved by the Director as provided in R12-15-909(A).

**C.** The following water measuring methods are approved by the Director:

1. Totalizing measuring method: This method requires an approved measuring device which continuously records the volume of water passing through the measured system;
2. Electrical consumption measuring method: This method requires measurements of either pipeflow rates or open-channel flow rates used in combination with electrical energy records;
3. Natural gas consumption measuring method: This method requires measurements of either pipe flow rates or open channel flow rates used in combination with natural gas energy records;
4. Hour meter measuring method: This method requires measurements of either pipe flow rates or open-channel flow rates used in combination with hour meter readings;
5. Elapsed time of flow method: This method requires measurements of flow rates used in combination with elapsed time of the flow. This method may be used only by a responsible party who receives water from an open channel or by a person or entity who delivers water in an open channel to one or more grandfathered rightholders or permit holders, if it is not possible to use the electrical or gas consumption measurement methods or hour meter measuring method.

**Historical Note**
Adopted effective December 27, 1982 (Supp. 82-6). Amended effective June 15, 1995 (Supp. 95-2).

**R12-15-904. Water Measuring Method Reporting Requirements**

**A.** A responsible party using one of the water measuring methods described in R12-15-903 shall file, with the annual report required by A.R.S. Title 45 and on a form prescribed by the Director, the following information, unless that information has not changed from that submitted in the annual report filed in the previous calendar year.

1. The approved measuring method used;
2. The type of approved measuring device used;
3. The make, model, and size of the approved measuring device used.

**B.** Except as provided in R12-15-904(B)(5) and R12-15-909(B) and (D), a responsible party shall file with the annual report the information required in subsection (A) of this Section and the following information on a form prescribed by the Director:

1. Totalizing measuring method:
   a. The initial totalizing meter reading for the reporting year taken prior to the first use of the measured system during the reporting year;
   b. The end totalizing meter reading for the year taken subsequently to the last use of the measured system during the reporting year;
   c. The units in which the water is measured;
   d. Whether the power meter serves uses other than the pump motor or engine;
   e. An estimate of the amount of any water passing through the measured system during measuring device malfunctions;
   f. If the well is in operation for more than a 30-day period, the results of a minimum of two flow-rate measurements per reporting year taken under normal system operating conditions. The responsible party shall not submit the results of the flow-rate measurements with the annual report unless a meter malfunction continues longer than 72 hours during the reporting year;
   g. The installation or overhaul date of the totalizing meter; and
   h. The name of the energy company supplying energy to the responsible party's measured system, its power account number, meter number, total energy consumption for the year, and the type of energy unit.
2. Electrical consumption measuring method:
   a. The results of a minimum of two flow-rate measurements per reporting year taken at least 30 days apart and under normal system operating conditions or, if the measured system is used during a single period of 30 days or less during the year, the result of one flow-rate measurement taken during that single period in that year under normal system operating conditions;
   b. The dates of the measurements;
   c. The discharges in gallons per minute;
   d. The time, in seconds, of ten cycles of the electric meter disk, power indicator pulse, or an alternative measurement, provided that the alternative means of measurement is approved in advance by the Director;
   e. The inside diameter of the discharge pipe;
   f. The multiplier ($K_r$) and disk constant ($K_h$) of the electric meter; and

g. The name of the energy company supplying energy to the responsible party's measured system, its power account number, meter number, total energy consumption for the year, and the type of energy unit.

3. Natural gas consumption measuring method:
   a. The results of a minimum of two flow-rate measurements per reporting year taken at least 30 days apart and under normal system operating conditions or, if the measured system is used during a single period of 30 days or less during the year, the result of one flow-rate measurement taken during that single period in that year under normal system operating conditions;
   b. The dates of the measurements;
   c. The discharges in gallons per minute;
   d. The amounts of gas per second in cubic feet indicated by the gas meter;
   e. The billing factors (F);
   f. The inside diameter of the discharge pipe; and
   g. The name of the energy company supplying energy to the responsible party's measured system, its power account number, meter number, total energy consumption for the year, and the type of energy unit.
4. Hour meter measuring method:
   a. The results of a minimum of two flow-rate measurements per reporting year taken at least 30 days apart and under normal system operating conditions or, if the measured system is used during a single period of 30 days or less during the year, the result of one flow-rate measurement taken during that single period in that year under normal system operating conditions;
   b. The dates of the measurements;
   c. The discharges in gallons per minute;
   d. The initial hour meter reading for the reporting year taken prior to the first use of the measured system during the reporting year;
   e. The end hour meter reading taken subsequently to the last use of the measured system during the reporting year;
   f. Whether the energy meter serves uses other than the pump motor or engine;
   g. The installation or overhaul date of the hour meter; and
   h. The name of the energy company supplying energy to the responsible party's measured system, its power account number, meter number, total energy consumption for the year, and the type of energy unit.
5. Elapsed time of flow measuring method: A responsible party using this measuring method shall not be required to submit the following information with the annual report but instead shall record and retain it for three years after the reporting year.
   a. The responsible party or agent shall measure and record an initial flow rate taken at the start of flow for each delivery of water;
   b. If the flow rate continues for more than eight hours, a subsequent measured flow-rate measurement shall be taken. If any subsequently measured flow-rate differs by more than 10% from the initial flow rate, and the delivery is not adjusted to conform with the initial flow rate, the responsible party or agent shall record the subsequent flow rate;
   c. The time the flow begins and the time the flow ends for each delivery of water; and
   d. The dates of the measurements.

**C.** A responsible party or person or entity who uses an approved measuring method or an approved alternative water measurement method shall save the records required by subsections (A) and (B) of this Section for three years after the reporting year.

**Historical Note**

Adopted effective December 27, 1982 (Supp. 82-6). Former Section R12-15-904 renumbered to R12-15-905, new Section adopted effective June 15, 1995 (Supp. 95-2). Amended by final rulemaking at 11 A.A.R. 5395, effective February 4, 2006 (Supp. 05-4).

**R12-15-905. Accuracy of Approved Measuring Devices**

**A.** A responsible party shall install, maintain, and use an approved measuring device and method in a manner which will ensure that its measurement error does not exceed 10% of the actual flow rate.

**B.** All measured systems shall be installed or constructed and thereafter maintained so as to allow the Director, using another measuring device, to check readily the accuracy of the measuring device utilized by the responsible party.

**Historical Note**

Adopted effective December 27, 1982 (Supp. 82-6). Former Section R12-15-905 renumbered to R15-15-906, new Section R12-15-905 renumbered from R12-15-904 and amended effective June 15, 1995 (Supp. 95-2).

**R12-15-906. Repair and Replacement of Approved Measuring Devices**

If an approved measuring device fails to perform its designated function for more than 72 hours, the responsible party shall notify the Director of the failure, in writing, within seven calendar days after the discovery of the failure of the device. The reason for such failure shall be stated, as well as the estimated date of return to service of the device. If the malfunction is discovered by the Director and the malfunction does not appear to be the result of an attempt to render the device inaccurate, the Director shall notify the responsible party of the malfunction. The responsible party shall return the measuring device to full service within 30 days of either original notice by the responsible party to the Director or by the Director to the responsible party, unless repair or replacement service or parts are not available. In such case, the responsible party shall notify the Director of the delay within seven days and the reasons for it. The responsible party shall take corrective action in such cases as soon as practical. In all cases, the responsible party shall notify the Director within seven days when the measuring device is returned to full service and shall submit on a form prescribed by the Director estimates of the volume of water, if any, passing through the measured system during the period the measuring device was out of service and a description of the method used to calculate the estimates.

**Historical Note**

Section R12-15-906 renumbered from R12-15-905 and amended effective June 15, 1995 (Supp. 95-2).

**R12-15-907. Calculation of Irrigation Water Deliveries**

If one or more irrigation grandfathered rights receive water by a common distribution system where water is measured with an approved device or method at the point of delivery to the common distribution system, but not at a point of delivery to each irrigation

grandfathered right, each irrigation grandfathered rightholder or agent shall report the water used by either of the following methods:

1. Estimate the amount of water used based on a pro rata share of the acres irrigated, or
2. Estimate the amount of water used based on a combination of the pro rata share of the acres irrigated and the consumptive use of each crop grown.

**Historical Note**
Adopted effective June 15, 1995 (Supp. 95-2).

**R12-15-908. Measurement of Water by One Person on Behalf of Another**
A responsible party shall be liable for any fines, penalties, or other sanctions resulting from the installation, monitoring, use, or accuracy of any measuring device, method, or recordkeeping, notwithstanding that the installation, monitoring, use, or recordkeeping may have been done by an agent of the responsible party.

**Historical Note**
Adopted effective June 15, 1995 (Supp. 95-2).

**R12-15-909. Alternative Water Measuring Devices, Methods, and Reporting**

**A.** A responsible party may use an alternative water measuring device or method that differs from those described in R12-15-903 provided the device or method is approved in advance by the Director. The Director shall approve an alternative water measuring device or method if the device meets the requirements of R12-15-905. The Director may require from the responsible party such information as may be necessary to demonstrate that the alternative device or method meets the requirements of R12-15-905.

**B.** Responsible parties may substitute equivalent information for the information required on the annual report form or use reporting formats that differ from that required in R12-15-904, provided the substituted information or format is approved in advance by the Director.

**C.** Responsible parties may use estimation methods that differ from those described in R12-15-907 provided they are approved in advance by the Director.

**D.** A municipal provider is exempted from the reporting requirements under R12-15-904 and the provisions under R12-15-906 pertaining to notification to the Director of measuring device malfunctions regarding metered service connections, unless required to report by A.R.S. Title 45 or by a permit, rule, or order issued pursuant to A.R.S. Title 45.

**E.** Municipal providers and irrigation districts may notify the Director of measuring device malfunctions at the time of filing the annual report and in a manner that differs from the requirements of R12-15-906, provided the municipal provider or irrigation district implements a schedule of regular maintenance of measuring devices, repairs or replaces malfunctioning measuring devices within seven days of discovery of the malfunction, and the alternative notification is approved in advance by the Director.

**Historical Note**
Adopted effective June 15, 1995 (Supp. 95-2).

## ARTICLE 10. REPORTING REQUIREMENTS FOR ANNUAL REPORTS, ANNUAL ACCOUNTS, OPERATING FLEXIBILITY ACCOUNTS, AND CONVEYANCES OF GROUNDWATER RIGHTS

**R12-15-1001. Definitions**
In addition to the definitions in A.R.S. §§ 45-101 and 45-402, the following words and phrases in this Article have the following meanings, unless the context otherwise requires:

1. "Annual account" means an accounting of water required to be filed pursuant to A.R.S. § 45-468.
2. "Annual report" means an annual report of water withdrawn, delivered, received, transported, recharged, stored, recovered, replenished or used as required by A.R.S. §§ 45-437, 45-467, 45-632, 45-875.01, 45-876.01, 45-877.01, 45-878.01 or 45-1004.
3. "Central Arizona project water" means Colorado River water delivered through the facilities of the central Arizona project, and surface water from any other source conserved and developed by dams and reservoirs in the central Arizona project and lawfully delivered by the United States or a multi-county conservation district.
4. "Decreed or appropriative surface water" means surface water which is delivered or used pursuant to a decreed or appropriative water right, except any such water which is included in central Arizona project water.
5. "Farm" means an area of irrigated land under the same ownership as defined in A.R.S. § 45-402, including the area of land described in a certificate of irrigation grandfathered right, as well as contiguous land that the owner is legally entitled to irrigate only with decreed or appropriative surface water.
6. "Maximum annual groundwater allotment" means the quantity of water in acre-feet obtained by multiplying the number of water duty acres for a farm by the current irrigation water duty for the farm unit.
7. "Normal flow" means water delivered or used pursuant to a right to appropriate an unstored, natural flow of surface water.
8. "Operating flexibility account" means an accounting of water use pursuant to an irrigation grandfathered right as provided in A.R.S. § 45-467.
9. "Responsible party" means a person required by law to file an annual account or annual report.
10. "Spillwater" means surface water, other than Colorado River water, released for beneficial use from storage, diversion, or distribution facilities to avoid spilling that would otherwise occur due to uncontrolled surface water inflows that exceed facility capacity and to which one of the following applies:
    a. The water is released from the facility under written criteria for releasing water to avoid spilling that have been approved in writing by the Director.
    b. The water is released from the facility because an unreasonable risk exists that the storage capacity of the facility will be exceeded within the next 30 days because the facility is near capacity and either the inflow to the facility or the forecast runoff into the facility is equal to or greater than the quantity of water ordered from the facility.
    c. The water is released from the facility because an unreasonable risk exists that the storage capacity of the facility will be exceeded more than 30 days in the future because the forecast runoff into the facility exceeds current unused storage capacity and projected water demand during the forecast period, provided that the Director has made a written finding before the release that the forecast is reasonable.

11. "Surface water right acre" means land to which the owner is legally entitled to apply decreed or appropriative surface water.
12. "Tailwater" means water which, after having been applied to a farm for irrigation purposes,
    a. Is subsequently used for the irrigation of a different farm, without having entered the distribution system of a city, town, private water company or irrigation district, or
    b. Is delivered to an irrigation district in accordance with R12-15-1010. Such water, once having entered the distribution system of the irrigation district, loses its characterization as tailwater.
13. "Water deliverer" means a city, town, private water company or irrigation district delivering a combination of groundwater and any other type of water for irrigation purposes.

**Historical Note**

Adopted effective December 27, 1982 (Supp. 82-6). Section R12-15-1001 renumbered to R12-15-1003, new Section R12-15-1001 adopted effective December 12, 1990 (Supp. 90-4). Amended to correct typographical error under A.A.C. R1-1-109 (Supp. 01-2). Amended by final rulemaking at 11 A.A.R. 5395, effective February 4, 2006 (Supp. 05-4).

**R12-15-1002. Form of Annual Account or Annual Report**

**A.** A person filing an annual account or an annual report shall do so on a form prescribed by the Director, unless the person has requested and received the Director's prior written approval to use an alternative form.

**B.** A person may file both an annual account and an annual report in one document. A person required to file an annual account shall designate in the annual account whether the annual account is being filed also as an annual report.

**Historical Note**

Adopted effective December 12, 1990 (Supp. 90-4).

**R12-15-1003. Accuracy of Annual Reports**

The quantity of water a responsible party reports in an annual report as having been withdrawn, delivered, received, transported, recharged, replenished, stored, recovered, or used during a year shall not deviate from the quantity of water actually withdrawn, delivered, received, transported, recharged, replenished, stored, recovered, or used by the responsible party during the year unless both of the following apply:

1. The deviation is 10 percent or less.
2. The deviation is not the result of an intentional act of misrepresentation by the responsible party.

**Historical Note**

Section R12-15-1003 renumbered from R12-15-1001 effective December 12, 1990 (Supp. 90-4). Amended by final rulemaking at 11 A.A.R. 5395, effective February 4, 2006 (Supp. 05-4).

**R12-15-1004. Annual Reports Filed on Behalf of a Responsible Party**

**A.** A responsible party is liable for any fines, penalties, or other sanctions resulting from or attributable to the filing or content of an annual report filed on behalf of the responsible party by an irrigation district pursuant to A.R.S. § 45-632, or by another person in a form acceptable to the Director.

**B.** If a responsible party has not filed an annual report for a calendar year, and the Department receives an annual report for that calendar year purportedly filed on behalf of the responsible party by an irrigation district pursuant to A.R.S. § 45-632, or by another person in a form acceptable to the Director, there is a rebuttable presumption that the annual report was filed with the responsible party's knowledge, consent, and authorization.

**Historical Note**

Adopted effective December 12, 1990 (Supp. 90-4). Amended to correct typographical error under A.A.C. R1-1-109 (Supp. 01-2). Amended by final rulemaking at 11 A.A.R. 5395, effective February 4, 2006 (Supp. 05-4).

**R12-15-1005. Management Plan Monitoring and Reporting Requirements**

A responsible party who is required by a provision of a management plan to comply with monitoring and reporting requirements shall comply with such requirements and shall include all such information in an annual account or annual report.

**Historical Note**

Adopted effective December 12, 1990 (Supp. 90-4).

**R12-15-1006. Reporting Requirements for Holders of Recovery Well Permits**

A responsible party recovering water during a year pursuant to a recovery well permit shall include in the annual report required by A.R.S. § 45-875.01 the names of any persons, other than non-irrigation customers of cities, towns, private water companies and irrigation districts, to whom the responsible party delivered the recovered water during the year, the quantity of recovered water delivered to each person named, and the uses to which the recovered water was applied. If the recovered water included commingled groundwater, decreed or appropriative surface water other than spillwater, central Arizona project water, effluent or spillwater, the responsible party shall include in the annual report an estimate of the quantity of each type of water delivered to each person named in the annual report or put to a specific use by the responsible party.

**Historical Note**

Adopted effective December 12, 1990 (Supp. 90-4). Amended by final rulemaking at 11 A.A.R. 5395, effective February 4, 2006 (Supp. 05-4).

**R12-15-1007. Reporting Requirements for Annual Account**

A person required to file an annual account pursuant to A.R.S. § 45-468 shall account for water provided to the following classes of users:

1. Cities and towns,
2. Private water companies,
3. Irrigation districts,
4. Dairies,
5. Metal mining facilities,
6. Cattle feed lots,
7. Turf-related facilities,
8. Sand and gravel facilities,
9. Electrical power generation facilities,
10. Other industrial users.

**Historical Note**

Adopted effective December 12, 1990 (Supp. 90-4).

**R12-15-1008. Information Required to Maintain an Operating Flexibility Account**

**A.** A responsible party who withdraws, receives, or uses groundwater during a calendar year pursuant to an irrigation grandfathered right, including any in lieu water received pursuant to a groundwater savings facility permit issued pursuant to A.R.S. § 45-812.01, shall include the following information for the

calendar year in an annual report filed pursuant to A.R.S. § 45-467 or 45-632:

1. The quantity of groundwater withdrawn from each well.
2. The quantity of groundwater withdrawn and delivered to another person for irrigation purposes.
3. The quantity of groundwater received from a city, town, private water company, or irrigation district, including any in lieu water received pursuant to a groundwater savings facility permit issued pursuant to A.R.S. § 45-812.01.
4. The quantity of groundwater received from a person other than a city, town, private water company, or irrigation district, including any in lieu water received pursuant to a groundwater savings facility permit issued pursuant to A.R.S. § 45-812.01.
5. The quantity of effluent received.
6. The quantity of decreed or appropriative surface water received, other than normal flow and spillwater.
7. The quantity of normal flow received.
8. The quantity of spillwater received.
9. The quantity of tailwater used.
10. The quantity of tailwater delivered in accordance with the provisions of R12-15-1010(A), and the farm or irrigation district to which the tailwater was delivered.
11. The quantity of central Arizona project water received.
12. The quantity of any surface water received and not accounted for pursuant to subsections (6) through (11) of this subsection.
13. The number of surface water right acres in the farm to which the irrigation grandfathered right is appurtenant.
14. The quantity of water used for the legal irrigation of acres in the farm to which irrigation grandfathered rights are not appurtenant. If the responsible party omits this information, the Director shall presume that the total amount of water received or used for the irrigation of the farm was applied to acres to which irrigation grandfathered rights are appurtenant.
15. Any other information the Director may reasonably require to accomplish the management goals of the applicable active management area.

**B.** A water deliverer shall include the following information for an accounting period in an annual account filed pursuant to A.R.S. § 45-468:

1. The quantity of groundwater delivered to each farm, including any in lieu water delivered pursuant to a groundwater savings facility permit issued pursuant to A.R.S. § 45-812.01.
2. The quantity of normal flow delivered to each farm.
3. The quantity of spillwater delivered to each farm.
4. The quantity of decreed or appropriative surface water, other than normal flow and spillwater, delivered to each farm.
5. The quantity of central Arizona project water delivered to each farm.
6. The quantity of decreed or appropriative surface water, other than normal flow and spillwater, delivered for use within the service area of the water deliverer, including all farm and non-farm deliveries.
7. The number of surface water right acres within the service area of the water deliverer.
8. The quantity of effluent delivered to each farm.
9. Any other information the Director may reasonably require to accomplish the purposes of A.R.S. § 45-468.

**Historical Note**
Adopted effective December 12, 1990 (Supp. 90-4). Amended by final rulemaking at 11 A.A.R. 5395, effective February 4, 2006 (Supp. 05-4).

**R12-15-1009. Credits to Operating Flexibility Account**

**A.** Except as provided in subsection (B) of this Section and in R12-15-1010, if the total amount of water from all sources other than spillwater used by a farm for irrigation purposes in a calendar year is less than the farm's maximum annual groundwater allotment for the year, the Director shall register the difference as a credit to the farm's operating flexibility account.

**B.** If a farm is within the service area of a water deliverer, the Director shall reduce the credit as calculated pursuant to subsection (A) of this Section by an amount equal to the difference between the farm's pro rata share of the total quantity of decreed or appropriative surface water, other than normal flow or spillwater, delivered by the water deliverer during the year for use within its service area, and the quantity of water actually received by the farm during the year. The Director shall determine the farm's pro rata share by dividing the number of surface water right acres in the farm that are within the service area of the water deliverer by the total number of surface water right acres within the service area of the water deliverer, and multiplying the quotient by the total quantity of decreed or appropriative surface water, other than normal flow or spillwater, delivered by the water deliverer during the year for use within its service area.

**Historical Note**
Adopted effective December 12, 1990 (Supp. 90-4). Amended by final rulemaking at 11 A.A.R. 5395, effective February 4, 2006 (Supp. 05-4).

**R12-15-1010. Operating Flexibility Account; Tailwater**

**A.** When calculating credits or debits to a farm's operating flexibility account for a year, the Director shall exclude from the total amount of water used on the farm during that year the amount of any tailwater that originated on the farm and that was delivered from the farm to another farm or to an irrigation district for irrigation purposes during the year if all of the following apply:

1. Prior to January 1 of the year in which the deliveries of tailwater take place, the Director approves a written plan to measure and record the tailwater deliveries. The plan shall include:
   a. The installation and use of a totalizing water measuring device that will record tailwater deliveries with no greater than a 10 percent margin of error.
   b. Procedures for keeping accurate records of the tailwater deliveries.
   c. A description of how the tailwater will be delivered.
   d. An identification of the farm or irrigation district to which the tailwater will be delivered.
2. The person has measured, recorded, and delivered the tailwater in accordance with the plan approved under subsection (A)(1) of this Section.
3. The tailwater was delivered directly from the farm on which it originated to:
   a. A specified farm that used the tailwater for the legal irrigation of irrigation acres or surface water right acres on that farm, or
   b. A specified irrigation district that delivered the tailwater for the legal irrigation of irrigation acres or surface water right acres within that district.

**B.** A person who delivers tailwater in accordance with subsection (A) of this Section, and a person who directly receives and uses the tailwater pursuant to subsection (A)(3)(a) of this Section, shall account for and report the tailwater as if it were comprised of a mixture of groundwater, decreed and appropriative surface water other than normal flow, central Arizona project water, spillwater, other surface water, and effluent, as applicable, in the same proportions as those types of water comprise the total amount of water other than normal flow received or withdrawn for irrigation use during the calendar year on the farm on which the tailwater originated.

**C.** A person who uses tailwater that has not been delivered and accounted for as provided in subsections (A) and (B) of this Section may credit against the person's use of groundwater in a calendar year the amount of the tailwater used during the calendar year if the use of such tailwater would cause a debit to be incurred. The credit shall be applied only against the person's operating flexibility account debits that otherwise would have been incurred that year and shall not be used to discharge debits from prior years or accumulate credits for future years. For purposes of calculating credits to the person's operating flexibility account, the Director shall treat tailwater as groundwater, unless reported otherwise according to its source.

**D.** An irrigation district that receives tailwater pursuant to subsection (A)(3)(b) shall account for the water in the same manner as other water in the district's distribution system.

**Historical Note**

Adopted effective December 12, 1990 (Supp. 90-4). Amended by final rulemaking at 11 A.A.R. 5395, effective February 4, 2006 (Supp. 05-4).

**R12-15-1011. Statement of Operating Flexibility Account**

**A.** The Director shall annually issue to each owner or user of an irrigation grandfathered right for which a current annual report has been filed a statement of the operating flexibility account setting forth the status of the operating flexibility account for the farm, based on the information submitted in the annual report filed for the right.

**B.** Upon a motion or on the initiative of the Director, the Director may amend a statement of operating flexibility account at any time to correct clerical mistakes or to adjust the balance of the account based on information submitted in an amended or late annual report. The Director shall give written notice of any amendments made pursuant to this subsection to the person to whom the statement of operating flexibility account was issued.

**Historical Note**

Adopted effective December 12, 1990 (Supp. 90-4). Amended by final rulemaking at 11 A.A.R. 5395, effective February 4, 2006 (Supp. 05-4).

**R12-15-1012. Rule of Construction**

Nothing in A.A.C. R12-15-1001 through R12-15-1011 shall be construed to determine the legality of any water use for which an accounting is required under these rules.

**Historical Note**

Adopted effective December 12, 1990 (Supp. 90-4).

**R12-15-1013. Retention of Records for Annual Accounts and Annual Reports**

The responsible party shall keep and maintain, for at least three calendar years following the filing of an annual account or an annual report, all records which may be necessary to verify the information and data contained therein.

**Historical Note**

Adopted effective December 12, 1990 (Supp. 90-4).

**R12-15-1014. Late Filing or Payment of Fees; Extension Penalties**

**A.** An annual account, an annual report, or a request for extension pursuant to subsection (E) of this rule shall be deemed to be filed at the time a complete annual account, a complete annual report or a request for extension is hand-delivered to any Department office, or at the time the envelope in which it is mailed is postmarked.

**B.** Except as provided in subsection (C) of this Section, groundwater withdrawal fees and long-term storage credit recovery fees are deemed paid at the time the fees are hand-delivered to any Department office, or at the time the envelope in which they are mailed is postmarked.

**C.** If any groundwater withdrawal fees or long-term storage credit recovery fees are paid with a negotiable instrument that is not honored and paid upon the Department's initial demand, the fees are deemed paid at the time the Department actually receives the fees in cash or when the negotiable instrument is honored and paid to the Department.

**D.** If an annual account or an annual report filed on or before the date required by the applicable statute is found by the Director to be incomplete, the Director shall notify the responsible party of the inadequacies and allow the responsible party 30 days from the date of the notice to provide the missing information in a form prescribed by the Director. If the responsible party does not provide the missing information within 30 days from the date of the notice, late penalties under A.R.S. §§ 45-437, 45-632, 45-875.01, 45-876.01, 45-877.01, 45-878.01 or 45-1004 shall begin to accrue on the 31st day following the date of the notice. The Director shall not recommend to a court, pursuant to A.R.S. §§ 45-634, 45-635, 45-881.01, 45-882.01, 45-1062 or 45-1063, that civil penalties be imposed through the first 30 days following the date of the notice. However, if the inadequacy included the failure to pay all groundwater withdrawal fees due or all long-term storage credit recovery fees due, late penalties under A.R.S. §§ 45-614 or 45-874.01 shall begin to accrue on April 1, except as provided in subsection (E) of this Section.

**E.** A responsible party required to file an annual account or annual report for a year may request a 30-day extension of the first day of accrual of the late penalties under A.R.S. §§ 45-437, 45-614, 45-632, 45-874.01, 45-875.01, 45-876.01, 45-877.01, 45-878.01 or 45-1004 and of the civil penalties that the Director may recommend that a court impose pursuant to A.R.S. §§ 45-634, 45-635, 45-881.01, 45-882.01, 45-1062 or 45-1063. The request shall be filed no later than the date the annual account or annual report is required to be filed under the applicable statute. The Director shall grant a request for a 30-day extension if good cause is shown. If the Director grants the request, the late penalties and civil penalties shall begin to accrue on the first day after the 30-day extension period, except that if the Director finds that the person making the request presented false or misleading information to the Director and the Director relied on that information in granting the request, the late penalties and civil penalties shall begin to accrue as if the request was not granted. The Director shall not grant an extension to a responsible party who was granted an extension in the preceding calendar year and who subsequently failed to file a complete annual account or annual report and pay all groundwater withdrawal fees and all long-term storage credit recovery fees due within the 30-day extension period.

**Historical Note**
Adopted effective December 12, 1990 (Supp. 90-4). Amended by final rulemaking at 11 A.A.R. 5395, effective February 4, 2006 (Supp. 05-4).

**R12-15-1015. Reporting Requirements for Conveyances of Grandfathered Rights and Groundwater Withdrawal Permits**

**A.** A person who is required by A.R.S. § 45-482 to notify the Director of a conveyance of a grandfathered right shall file a notice of conveyance, on a form prescribed by the Director, within 30 days of the conveyance. All parties to the conveyance may use a single form for the required notice. Except provided in subsection (B) of this rule, the notice of conveyance shall include an accounting of the amount of water withdrawn or received pursuant to that grandfathered right from January 1 to the date of conveyance for that calendar year.

**B.** If the person to whom a grandfathered right is conveyed is unable, because of extraordinary circumstances and good cause shown, to perform the accounting otherwise required by subsection (A) of this rule, the Director may waive the requirement for that person.

**C.** If a person, including a person who is granted a waiver pursuant to subsection (B) of this rule, fails to include the required accounting in a timely filed notice of conveyance pursuant to subsection (A) of this rule, the Director shall determine the amount of groundwater withdrawn or received pursuant to the grandfathered right from January 1 to the date of conveyance for that calendar year. Such a person shall bear the burden, in any subsequent administrative or judicial proceeding, of establishing by clear and convincing evidence that the Director's determination was incorrect.

**D.** A person requesting the Director's approval of a proposed conveyance of a groundwater withdrawal permit pursuant to A.R.S. § 45-520(B) shall include with such request the quantity of groundwater withdrawn pursuant to the groundwater withdrawal permit for that calendar year and all other information required to be submitted pursuant to A.R.S. § 45-632.

**Historical Note**
Adopted effective December 12, 1990 (Supp. 90-4).

**R12-15-1016. Spillwater Reporting by Water Deliverers**

A water deliverer that delivers spillwater during a year shall include the following information in the annual account or annual report submitted by the water deliverer for that year:

1. The total quantity of spillwater delivered for non-irrigation uses during the year.
2. The total quantity of spillwater delivered for irrigation uses during the year.
3. Any other information the Director may reasonably require to determine whether the water qualifies as spillwater under R12-15-1001(10).

**Historical Note**
New Section made by final rulemaking at 11 A.A.R. 5395, effective February 4, 2006 (Supp. 05-4).

**R12-15-1017. Maintenance and Filing of Annual Reports Required by A.R.S. § 45-343**

A community water system required to file an annual report under A.R.S. § 45-343 shall maintain the report on a calendar year basis and shall file the report with the Director no later than June 1 of each year for the preceding calendar year.

**Historical Note**
New Section made by final rulemaking at 11 A.A.R. 5395, effective February 4, 2006 (Supp. 05-4).

## ARTICLE 11. INSPECTIONS AND AUDITS

**R12-15-1101. Inspections**

**A.** For the purpose of this rule, "inspection" means an entry by the Director at reasonable times onto private or public property for any of the following purposes:

1. To obtain factual data or access to records required to be kept under A.R.S. §§ 45-632, 45-879.01, or 45-1004.
2. To inspect a well or another facility for the withdrawal, transportation, use, measurement, or recharge of groundwater under A.R.S. § 45-633.
3. To inspect a facility that is used for the purpose of water storage, stored water recovery, or stored water use under A.R.S. § 45-880.01(A).
4. To inspect a body of water under A.R.S. § 45-135 or to ascertain compliance with A.R.S. Title 45, Chapter 1, Article 3.
5. To inspect or to obtain factual data or access to records pursuant to any Section of A.R.S. Title 45 that requires the Director to adopt rules for conducting inspections, examining records, and obtaining warrants.
6. To inspect facilities used for the withdrawal, diversion, or use of water pursuant to a water exchange under A.R.S. § 45-1061.

**B.** Not less than seven days prior to an inspection, the Director shall mail notice of the inspection by first class letter to the owner, manager or occupant of the property. The notice shall include the statutory authorization and purpose for the inspection. The notice shall specify a date and time certain or a seven-day period within which the inspection may take place. If a request is made before the seven-day period, the Director shall schedule the inspection for a time certain within the seven-day period to allow an opportunity for a representative of the property to be present at the inspection. The notice shall include the name and telephone number of a Department employee who may be contacted to arrange such an appointment.

**C.** Whenever practical, Department employees shall minimize disruptions to on-going operations caused by an inspection.

**D.** If the property is controlled or secured against entry at the time specified in the notice of inspection but consent to the inspection was not denied, the Director shall give a second notice in the manner prescribed in subsection (B) before seeking a search warrant or its equivalent. The second notice shall request that a representative of the property be present at the inspection to accompany Department personnel.

**E.** If the Director gives notice of an inspection and is not permitted to conduct an inspection, the Director may apply for and obtain a search warrant or its equivalent.

**F.** Notice of inspection shall not be required under subsections (B) and (D) of this rule if the Director reasonably believes that notice would frustrate the enforcement of A.R.S. Title 45, or where entry is sought for the sole purpose of inspecting water measuring devices required pursuant to A.R.S. § 45-604.

**G.** The Director shall mail a copy of the report of the inspection either to the person to whom the notice of inspection was directed, or to the owner, manager or occupant of the property if no notice of inspection was given. The report shall include the date of the inspection and a short summary of the findings. If no notice was given, the report shall include an explanation of the reason for determining that notice would not be given, unless providing the explanation would frustrate enforcement of A.R.S. Title 45. An aggrieved person may file with the Director written comments on the report within 30 days after the report is mailed.

**H.** The owner, manager or occupant of the property may waive the provisions for notice contained in this rule.

**I.** The Director shall comply with the requirements of A.R.S. § 41-1009 when conducting inspections under this Section.

**Historical Note**

Adopted effective August 31, 1992 (Supp. 92-3). Amended effective July 22, 1994 (Supp. 94-3). Amended by final rulemaking at 11 A.A.R. 5395, effective February 4, 2006 (Supp. 05-4).

**R12-15-1102. Audits**

**A.** For the purpose of this rule, "representative" means

1. An officer or Director of a corporation subject to the audit,
2. A general partner of a partnership subject to the audit, or
3. A person who appears at an audit and produces a signed authorization to act on behalf of the person subject to the audit.

**B.** This rule applies to audits conducted pursuant to A.R.S. §§ 45-633(C), 45-880.01, and any other Section of A.R.S. Title 45 that authorizes the Director to require a person to appear at the Director's office and produce records and information and that also requires the Director to adopt rules for conducting inspections, examining records, and obtaining warrants.

**C.** No less than 20 days prior to an audit, the Director shall mail notice of the audit by first class letter to the person that is the subject of the audit. The notice shall state the date, time and place of the audit. The notice shall specify the records or information which the person must produce. The notice shall also include the statutory authorization and purpose for the audit and the name and telephone number of a Department employee who may be contacted for further information. The audit shall be held at the Department's offices, unless the Director grants a request to have the audit conducted at a different location.

**D.** The person subject to the audit or a representative shall appear at the scheduled time and shall produce the records and information specified in the notice. The person subject to the audit or a representative may make one request to reschedule the audit, which the Department shall grant if practicable.

**E.** The Director shall mail a copy of the report of the audit to the person subject to the audit. An aggrieved person may file with the Director written comments on the report within 30 days after the report is mailed.

**F.** The person subject to the audit may waive the provisions for notice contained in this rule.

**Historical Note**

Adopted effective August 31, 1992 (Supp. 92-3). Amended effective July 22, 1994 (Supp. 94-3).

## ARTICLE 12. DAM SAFETY PROCEDURES

**R12-15-1201. Applicability**

**A.** This Article applies to any artificial barrier meeting the specifications of A.R.S. § 45-1201(1) as interpreted by R12-15-1204. This Article applies to an application for the construction of a dam and reservoir; an application to reconstruct, repair, alter, enlarge, breach, or remove an existing dam and reservoir, including a breached or damaged dam; operation and maintenance of an existing dam and reservoir; and enforcement. A structure identified in R12-15-1203 is exempt from this Article.

**B.** This Article is applicable to any dam regardless of hazard potential classification, with the following exceptions:

1. R12-15-1208, R12-15-1209, R12-15-1213, R12-15-1221, R12-15-1225, and R12-15-1226 apply only to a dam classified as a high or significant hazard potential dam.
2. R12-15-1210 applies only to a dam classified as a low hazard potential dam. A low hazard potential dam is exempt from R12-15-1208, R12-15-1209, R12-15-1211, R12-15-1213, R12-15-1221, R12-15-1225, and R12-15-1226.
3. R12-15-1211 applies only to a dam classified as a very low hazard potential dam. A very low hazard potential dam is exempt from R12-15-1208, R12-15-1209, R12-15-1210, R12-15-1212, R12-15-1213, R12-15-1215, R12-15-1216, R12-15-1221, R12-15-1225, and R12-15-1226.
4. R12-15-1216(B) applies only to an embankment dam.

**Historical Note**

Adopted effective November 2, 1978 (Supp. 78-6). Former Section R12-15-01 renumbered without change as Section R12-15-1201 effective October 8, 1982 (Supp. 82-5). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 2558, effective June 12, 2000 (Supp. 00-2).

**R12-15-1202. Definitions**

In addition to the definitions provided in A.R.S. § 45-1201, the following definitions are applicable to this Article:

1. "Alteration or repair of an existing dam or appurtenant structure" means to make different from the originally approved construction drawings and specifications or current condition without changing the height or storage capacity of the dam or reservoir, except for ordinary repairs and general maintenance as prescribed in R12-15-1217.
2. "Appurtenant structure" means any structure that is contiguous and essential to the safe operation of the dam including embankments, saddle dikes, outlet works and controls, diversion ditches, spillway and controls, access structures, bridges, and related housing at a dam.
3. "Classification of dams" means the placement of dams into categories based upon an evaluation of the size and hazard potential, regardless of the condition of the dam.
4. "Concrete dam" means any dam constructed of concrete, including arch, gravity, arch-gravity, slab and buttress, and multiple arch dams. A dam that only has a concrete facing is not a concrete dam.
5. "Construction" means any activity performed by the owner or someone employed by the owner that is related to the construction, reconstruction, repair, enlargement, removal, or alteration of any dam, unless the context indicates otherwise. Construction is performed after approval of an application and before issuance of a license.
6. "Dam failure inundation map" means a map depicting the maximum area downstream from a dam that would be flooded in the event of the worst condition failure of the dam.
7. "Department" means the Arizona Department of Water Resources.
8. "Director" means the Director of the Arizona Department of Water Resources or the Director's designee.
9. "Embankment dam" means a dam that is constructed of earth or rock material.
10. "Emergency spillway" means a spillway designed to safely pass the inflow design flood routed through the reservoir. If the flow is controlled by gates, it is a con-

trolled spillway. If the flow is not controlled by gates, it is an uncontrolled spillway.

11. "Engineer" means a Professional Engineer registered and licensed in accordance with A.R.S. Title 32, Chapter 1, with proficiency in engineering and knowledge of dam technology.
12. "Enlargement to an existing dam or appurtenant structure" means any alteration, modification, or repair that increases the vertical height of a dam or the storage capacity of the reservoir.
13. "Flashboards" mean timber, concrete, or steel sections placed on the crest of a spillway to raise the retention water level that may be quickly removed at time of flood either by a tripping device or by designed failure of the flashboards or their supports.
14. "Flood control dam" means a dam that uses all of its reservoir storage capacity for temporary impoundment of flood waters and collection of sediment or debris.
15. "Hazard potential" means the probable incremental adverse consequences that result from the release of water or stored contents due to failure or improper operation of a dam or appurtenances.
16. "Hazard potential classification" means a system that categorizes dams according to the degree of probable incremental adverse consequences of failure or improper operation of a dam or appurtenances. The hazard potential classification does not reflect the current condition of the dam with regard to safety, structural integrity, or flood routing capacity.
17. "Height" means the vertical distance from the lowest elevation of the outside limit of the barrier at its intersection with the natural ground surface to the spillway crest elevation. For the purpose of determining jurisdictional status, the lowest elevation of the outside limit of the barrier may be the outlet pipe invert elevation if the outlet is constructed below natural ground.
18. "Impound" means to cause water or a liquid to be confined within a reservoir and held with no discharge.
19. "Incremental adverse consequences" means under the same loading conditions, the additional adverse consequences such as economic, intangible, lifeline, or human losses, that would occur due to the failure or improper operation of the dam over those that would have occurred without failure or improper operation of the dam.
20. "Inflow design flood" or "IDF" means the reservoir flood inflow magnitude selected on the basis of size and hazard potential classification for emergency spillway design requirements of a dam.
21. "Intangible losses" means incremental adverse consequences to property that are not economic in nature, including property related to social, cultural, unique, or resource-based values, including the loss of irreplaceable and unique historic and cultural features; long-lasting pollution of land or water; or long-lasting or permanent changes to the ecology, including fish and endangered species habitat identified and evaluated by a public natural resource management or protection agency.
22. "Jurisdictional dam" means a barrier that meets the definition of a dam prescribed in A.R.S. § 45-1201 that is not exempted by R12-15-1203 over which the Department of Water Resources exercises jurisdiction.
23. "Levee" means an embankment of earth, concrete, or other material used to prevent a watercourse from spreading laterally or overflowing its banks. A levee is not used to impound water.
24. "License" means license of final approval issued by the Director upon completion or enlargement of a dam under A.R.S. § 45-1209.
25. "Lifeline losses" mean disruption of essential services such as water, power, gas, telephone, or emergency medical services.
26. "Liquid-borne material" means mine tailings or other milled ore products transported in a slurry to a storage impoundment.
27. "Maximum credible earthquake" means the most severe earthquake that is believed to be possible at a point on the basis of geologic and seismological evidence.
28. "Maximum water surface" means the maximum elevation of the reservoir water level attained during routing of the inflow design flood.
29. "Natural ground surface" means the undisturbed ground surface before excavation or filling, or the undisturbed bed of the stream or river.
30. "Outlet works" means a closed conduit under or through a dam or through an abutment for the controlled discharge of the contents normally impounded by a dam and reservoir. The outlet works include the inlet and outlet structures appurtenant to the conduit. Outlet works may be controlled or uncontrolled.
31. "Probable" means likely to occur, reasonably expected, and realistic.
32. "Probable maximum flood" or "PMF" means the flood runoff expected from the most severe combination of critical meteorologic and hydrologic conditions that are reasonably possible in the region, including rain and snow where applicable. 1/2 PMF is that flood represented by the flood hydrograph with ordinates equal to 1/2 the corresponding ordinates of the PMF hydrograph.
33. "Probable maximum precipitation" means the greatest depth of precipitation for a given duration that is theoretically physically possible over a particular size storm area at a particular geographical location at a particular time of year.
34. "Reservoir" means any basin that contains or is capable of containing water or other liquids impounded by a dam.
35. "Residual freeboard" means the vertical distance between the highest water surface elevation during the inflow design flood and the lowest point at the top of the dam.
36. "Restricted storage" means a condition placed on a license by the Director to reduce the storage level of a reservoir because of a safety deficiency.
37. "Saddle dike or saddle dam" means any dam constructed in a topographically low area on the perimeter of a reservoir, required to contain the reservoir at the highest water surface elevation.
38. "Safe" means that a dam has sufficient structural integrity and flood routing capacity to make failure of the dam unlikely.
39. "Safe storage level" means the maximum reservoir water surface elevation at which the Director determines it is safe to impound water or other liquids in the reservoir.
40. "Safety deficiency" means a condition at a dam that impairs or adversely affects the safe operation of the dam.
41. "Safety inspection" means an investigation by an engineer or a person under the direction of an engineer to assess the safety of a dam and determine the safe storage level for a reservoir, which includes review of design

reports, construction documents, and previous safety inspection reports of the dam, spillways, outlet facilities, seepage control and measurement systems, and permanent monument or monitoring installations.

42. "Spillway crest" means the highest elevation of the floor of the spillway along a centerline profile through the spillway.
43. "Storage capacity" means the maximum volume of water, sediment, or debris that can be impounded in the reservoir with no discharge of water, including the situation where an uncontrolled outlet becomes plugged. The storage capacity is reached when the water level is at the crest of the emergency spillway, or at the top of permanently mounted emergency spillway gates in the closed position. Storage capacity excludes dead storage below the natural ground surface.
44. "Surcharge storage" means the additional water storage volume between the emergency spillway crest or closed gates, and the top of the dam.
45. "Total freeboard" means the vertical distance between the emergency spillway crest and the top of the dam.
46. "Unsafe" means that safety deficiencies in a dam or spillway could result in failure of the dam with subsequent loss of human life or significant property damage.

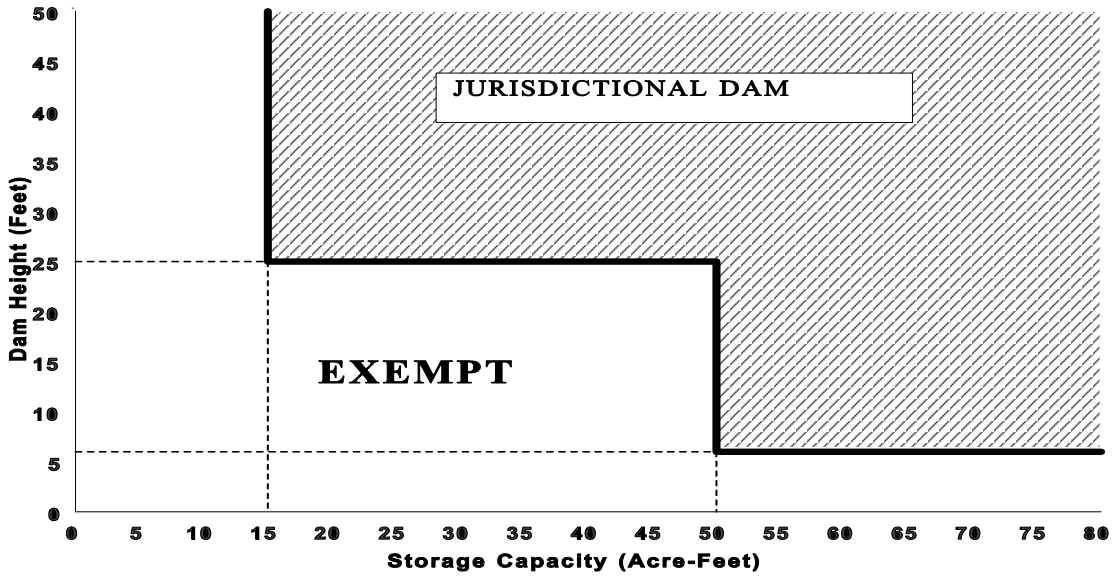
**Historical Note**
Adopted effective November 2, 1978 (Supp. 78-6). Former Section R12-15-02 renumbered without change as Section R12-15-1202 effective October 8, 1982 (Supp. 82-5). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 2558, effective June 12, 2000 (Supp. 00-2). Amended to correct typographical error under A.A.C. R1-1-109 (Supp. 01-2).

**R12-15-1203. Exempt Structures**
The following structures are exempt from regulation by the Department:

1. Any artificial barrier identified as exempt on Table 1 and defined as follows:
   a. Less than 6 feet in height, regardless of storage capacity.
   b. Between 6 and 25 feet in height with a storage capacity of less than 50 acre-feet.
   c. Greater than 25 feet in height with 15 acre-feet or less of storage capacity.
2. A dam owned by the federal government. A dam designed by the federal government for any non-federal entity or person that will subsequently be owned or operated by a person or entity defined as an owner in A.R.S. § 45-1201 is subject to jurisdiction, beginning with design and construction of the dam.
3. A dam owned or operated by an agency or instrumentality of the federal government, if a dam safety program at least as stringent as this Article is applicable to and enforced against the agency or instrumentality.
4. A transportation structure such as a highway, road, or railroad fill that exists solely for transportation purposes. A transportation structure designed, constructed, or modified with the intention of impounding water on an intermittent or permanent basis and meeting the definition of dam in A.R.S. § 45-1201 is subject to jurisdiction.
5. A levee constructed adjacent to or along a watercourse, primarily to control floodwater.
6. A self-supporting concrete or steel water storage tank.
7. An impoundment for the purpose of storing liquid-borne material.
8. A release-contained barrier as defined by A.R.S. § 45-1201(5).

**Historical Note**
Adopted effective November 2, 1978 (Supp. 78-6). Former Section R12-15-03 renumbered without change as Section R12-15-1203 effective October 8, 1982 (Supp. 82-5). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 2558, effective June 12, 2000 (Supp. 00-2).

**Table 1. Exempt Structures**




**Historical Note**

New Table adopted by final rulemaking at 6 A.A.R. 2558, effective June 12, 2000 (Supp. 00-2).

**R12-15-1204. Provision for Guidelines**

The Department may develop and adopt substantive policy statements that serve as dam safety guidelines to aid a dam owner or engineer in complying with this Article. The Department recommends that dam owners and engineers consult design guidelines published by agencies of the federal government, including the U.S. Bureau of Reclamation, the U.S. Army Corps of Engineers, the Natural Resources Conservation Service, and the Federal Energy Regulatory Commission, for the design of concrete, roller compacted concrete, stone masonry, timber, inflatable rubber, and mechanically-stabilized earth dams. The Director may require that other criteria be used or revise any of the specific criteria for the purpose of dam safety. An owner shall obtain advance approval by the Director of design criteria.

**Historical Note**

Adopted effective November 2, 1978 (Supp. 78-6). Former Section R12-15-04 renumbered without change as Section R12-15-1204 effective October 8, 1982 (Supp. 82-5). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 2558, effective June 12, 2000 (Supp. 00-2).

**R12-15-1205. General Responsibilities**

**A.** Each owner is responsible for the safe design, operation, and maintenance of a dam. The owner shall operate, maintain, and regularly inspect a dam so that it does not constitute a danger to human life or property. The owner of a high or significant hazard potential dam shall provide timely warning to the Department and all other persons listed in the emergency action plan of problems at the dam. The owner shall develop and maintain effective emergency action plans and coordinate those plans with local officials as prescribed in R12-15-1221.

**B.** The owner shall conduct frequent observation of the dam, as prescribed in the emergency action plan and as follows:

1. The owner shall increase the frequency of observation when the reservoir is full, during heavy rains or flooding, and following an earthquake.
2. The owner shall report to the Director any condition that threatens the safety of the dam as prescribed in R12-15-1224(A). The owner shall make the report as soon as possible, but not later than 12 hours after discovery of the conditions.
3. If dam failure appears imminent, the owner shall notify the county sheriff or other emergency official immediately.
4. The owner is responsible for the safety of the dam and shall take action to lower the reservoir if it appears that the dam has weakened or is in danger of failing.

**C.** The owner of a dam shall install, maintain, and monitor instrumentation to evaluate the performance of the dam. The Director shall require site-specific instrumentation that the Director deems necessary for monitoring the safety of the dam when failure may endanger human life and property. Conditions that may require monitoring include land subsidence, earth fissures, embankment cracking, phreatic surface, seepage, and embankment movements.

**D.** The owner shall perform timely maintenance and ordinary repair of a dam. The owner shall implement an annual plan to inspect the dam and accomplish the maintenance and ordinary repairs necessary to protect human life and property.

**E.** If a change of ownership of a dam occurs, the new owner shall notify the Department within 15 days after the date of the transaction and provide the mailing address and telephone number where the new owner can be contacted. Within 90 days after the date of the transaction, the new owner shall provide the name and telephone number of the individual or individuals who are responsible for operating and maintaining the dam.

**Historical Note**

Adopted effective November 2, 1978 (Supp. 78-6). Former Section R12-15-05 renumbered without change as Section R12-15-1205 effective October 8, 1982 (Supp. 82-5). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 2558, effective June 12, 2000 (Supp. 00-2).

**R12-15-1206. Classification of Dams**

**A.** Size Classification. Dams are classified by size as small, intermediate, or large. Size is determined with reference to Table 2. An owner or engineer shall determine size by storage capacity or height, whichever results in the larger size.

**B.** Hazard Potential Classification

1. The Department shall base hazard potential classification on an evaluation of the probable present and future incremental adverse consequences that would result from the release of water or stored contents due to failure or improper operation of the dam or appurtenances, regardless of the condition of the dam. The evaluation shall include land use zoning and development projected for the affected area over the 10 year period following classification of the dam. The Department considers all of the following factors in hazard potential classification: probable loss of human life, economic and lifeline losses, and intangible losses identified and evaluated by a public resource management or protection agency.
   a. The Department bases the probable incremental loss of human life determination primarily on the number of permanent structures for human habitation that would be impacted in the event of failure or improper operation of a dam. The Department considers loss of human life unlikely if:
      i. Persons are only temporarily in the potential inundation area;
      ii. There are no residences or overnight campsites; and
      iii. The owner has control of access to the potential inundation area and provides an emergency action plan with a process for warning in the event of a dam failure or improper operation of a dam.
   b. The Department bases the probable economic, lifeline, and intangible loss determinations on the property losses, interruptions of services, and intangible losses that would be likely to result from failure or improper operation of a dam.
2. The 4 hazard potential classification levels are very low, low, significant, and high, listed in order of increasing probable adverse incremental consequences, as prescribed in Table 3. The Director shall classify intangible losses by considering the common or unique nature of features or habitats and temporary or permanent nature of changes.
   a. Very Low Hazard Potential. Failure or improper operation of a dam would be unlikely to result in loss of human life and would produce no lifeline losses and very low economic and intangible losses.

Losses would be limited to the 100 year floodplain or property owned or controlled by the dam owner under long-term lease. The Department considers loss of life unlikely because there are no residences or overnight camp sites.

b. Low Hazard Potential. Failure or improper operation of a dam would be unlikely to result in loss of human life, but would produce low economic and intangible losses, and result in no disruption of lifeline services that require more than cosmetic repair. Property losses would be limited to rural or agricultural property, including equipment, and isolated buildings.

c. Significant Hazard Potential. Failure or improper operation of a dam would be unlikely to result in loss of human life but may cause significant or high economic loss, intangible damage requiring major mitigation, and disruption or impact on lifeline facilities. Property losses would occur in a predominantly rural or agricultural area with a transient population but significant infrastructure.

d. High Hazard Potential. Failure or improper operation of a dam would be likely to cause loss of human life because of residential, commercial, or industrial development. Intangible losses may be major and potentially impossible to mitigate, critical lifeline services may be significantly disrupted, and property losses may be extensive.

3. An applicant shall demonstrate the hazard potential classification of a dam before filing an application to construct. The Department shall review the applicant's demonstration early in the design process at pre-application meetings prescribed in R12-15-1207(D).

4. The Department shall review the hazard potential classification of each dam during each subsequent dam safety inspection and revise the classification in accordance with current conditions.

**Historical Note**

Adopted effective November 2, 1978 (Supp. 78-6). Former Section R12-15-06 renumbered without change as Section R12-15-1206 effective October 8, 1982 (Supp. 82-5). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 2558, effective June 12, 2000 (Supp. 00-2).

**Exhibit A. Repealed**

**Historical Note**

Exhibit repealed by final rulemaking at 6 A.A.R. 2558, effective June 12, 2000; a Historical Note for Exhibit A did not exist before this date (Supp. 00-2).

**Table 2. Size Classification**

| Category | Storage Capacity (acre-feet) | Height (feet) |
|---|---|---|
| Small | 50 to 1,000 | 25 to 40 |
| Intermediate | greater than 1,000 and not exceeding 50,000 | higher than 40 and not exceeding 100 |
| Large | greater than 50,000 | higher than 100 |

**Historical Note**

New Table adopted by final rulemaking at 6 A.A.R. 2558, effective June 12, 2000 (Supp. 00-2).

**Table 3. Downstream Hazard Potential Classification**

| Hazard Potential Classification | Probable Loss of Human Life | Probable Economic, Lifeline, and Intangible Losses |
|---|---|---|
| Very Low | None expected | Economic and lifeline losses limited to owner's property or 100-year floodplain. Very low intangible losses identified. |
| Low | None expected | Low |
| Significant | None expected | Low to high |
| High | Probable - One or more expected | Low to high (not necessary for this classification) |

**Historical Note**

New Table adopted by final rulemaking at 6 A.A.R. 2558, effective June 12, 2000 (Supp. 00-2).

**R12-15-1207. Application Process**

**A.** An applicant shall obtain written approval from the Director before constructing, reconstructing, repairing, enlarging, removing, altering, or breaching a dam. Application requirements differ according to the hazard potential of the dam.

1. To construct, reconstruct, repair, enlarge, or alter a high or significant hazard potential dam, the applicant shall comply with R12-15-1208.
2. To breach or remove a high or significant hazard potential dam, the applicant shall comply with R12-15-1209.
3. To construct, reconstruct, repair, enlarge, alter, breach, or remove a low hazard potential dam, the applicant shall comply with R12-15-1210.
4. To construct, reconstruct, repair, enlarge, alter, breach, or remove a very low hazard potential dam, the applicant shall comply with R12-15-1211.

**B.** An application shall not be filed with the Director under the following circumstances:

1. The dam is exempt under R12-15-1203;
2. A dam owner starts repairs to an existing dam that are necessary to safeguard human life or property and the Director is notified without delay;
3. The owner performs general maintenance or ordinary repairs as prescribed in R12-15-1217(A) or (B); or
4. Breach, removal, or reduction of a very low hazard dam as prescribed in R12-15-1211(C).

**C.** An applicant is not required to comply with a requirement in this Article if the Director finds that, considering the site characteristics and the proposed design, the requirement is unduly burdensome or expensive and is not necessary to protect human life or property. The Director shall consider the size, hazard potential classification, physical site conditions, and applicability of a requirement to a proposed dam. The Director shall state in writing the reason or reasons the applicant is not required to comply with a requirement.

**D.** An applicant shall schedule pre-application conferences with the Department to discuss the requirements of this Article and to resolve issues essential to the design of a dam while the design is in preliminary stages. The Director shall view the dam site during the pre-application process. The following are examples of issues for pre-application conferences: the hazard potential classification, the approximate inflow design flood, the basic design concepts, and any requirements that may be found by the Director to be unduly burdensome or expensive and not necessary to protect human life or safety. In addition,

the applicant may submit preliminary design calculations to the Department for review and comment. The Department shall comment as soon as practicable, depending on the size of the submittal and the current workload.

**E.** The Department shall review applications as follows:

1. Applications will be received by appointment. During this meeting the Department shall make a brief review of the application to determine that the application contains each of the items required by R12-15-1208, R12-15-1209, R12-15-1210, or R12-15-1211.
2. Following receipt of an application submitted under R12-15-1208, R12-15-1209, R12-15-1210, or R12-15-1211, the Director shall complete an administrative review as prescribed in R12-15-401(1) and notify the applicant in writing whether the application is administratively complete. If the application is not administratively complete, the notification shall include a list of additional information that is required to complete the application.
3. After finding the application submitted under R12-15-1208, R12-15-1209, R12-15-1210, or R12-15-1211 administratively complete, the Director shall complete a substantive review as prescribed in R12-15-401(3) and notify the applicant in writing of the Director's approval or disapproval. If during this review period, the Director determines that there are defects in the application that would impact human life and property, a written notice of the defects shall be sent to the applicant.
4. An applicant may request in writing that the Director expedite the review of an application by employing an expert consultant on a contract basis under A.R.S. § 45-104(D). The Director shall establish on-call contracts with expert consultants to facilitate the process of expediting review. The Director may retain a consultant to review all or a portion of the application as necessary to expedite the process in response to an owner's request or to comply with time-frame rules. Before conducting the review, the consultant shall provide the Director and the applicant with a proposed time schedule and cost estimate. If the applicant agrees to the consultant's proposal for an expedited review of an application and the Director employs the consultant, the applicant shall pay to the Department the cost of the consultant's services in addition to the application fees. The Director retains the authority to review and approve, disapprove, or modify the findings and recommendations of the consultant.
5. The Director shall not approve an application in less than 10 days from the date of receipt.
6. If the Director disapproves the application, the Director shall provide the applicant with a statement of the Director's objections.
7. If the Director approves an application, the applicant shall submit in triplicate revised drawings and specifications that incorporate any required changes.
   a. The Director shall return to the applicant 1 set of final construction drawings and specifications with the Department's approval stamp to be retained onsite during construction;
   b. The Director shall retain for permanent state record 1 set of final construction drawings and specifications with the Department's approval stamp; and
   c. The Director shall retain for use by the Department during construction the 3rd set of final construction drawings and specifications with the Department's approval stamp.
8. The Director shall impose conditions and limitations that the Director deems necessary to safeguard human life and property. Examples of the conditions of approval include but are not limited to:
   a. The applicant shall not cover the foundation or abutment with the material of the dam until the Department has been given notice and a reasonable time to inspect and approve them.
   b. The applicant shall start construction within 1 year from the date of approval.
   c. The applicant shall maintain a safe storage level for an existing dam being reconstructed, repaired, enlarged, altered, or breached.

**F.** An approval to construct a new dam or repair, enlarge, alter, breach, or remove an existing dam is valid for 1 year.

1. If construction does not begin within 1 year, the approval is void.
2. Upon written request and good cause shown by the owner, the time for commencing construction may be extended. An applicant shall not start construction before the Director reviews the application for changes and grants approval.

**Historical Note**
New Section adopted by final rulemaking at 6 A.A.R. 2558, effective June 12, 2000 (Supp. 00-2).

**R12-15-1208. Application to Construct, Reconstruct, Repair, Enlarge, or Alter a High or Significant Hazard Potential Dam**

**A.** An application package to construct, reconstruct, repair, enlarge, or alter a high or significant hazard potential dam shall include the following prepared by or under the supervision of an engineer as defined in R12-15-1202(11):

1. A completed application filed in duplicate on forms provided by the Director.
2. A design information summary or checklist of items prepared in duplicate on forms provided by the Director.
3. An initial application fee based on the total estimated project cost and computed in accordance with A.R.S. § 45-1204 and R12-15-104(A)(7).
4. A detailed estimate of project costs. Project costs are all costs associated with construction of the dam and appurtenant works including preliminary investigations and surveys, engineering design, supervision of construction, and any other engineering costs.
5. Two complete sets of construction drawings as prescribed in R12-15-1215(1).
6. Two complete sets of construction specifications as prescribed in R12-15-1215(2).
7. An engineering design report that includes information needed to evaluate all aspects of the design of the dam and appurtenances, including references with page numbers to support any assumptions used in the design, as prescribed in R12-15-1215(3). The engineering design report shall recommend a safe storage level for existing dams being reconstructed, repaired, enlarged, or altered.
8. A construction quality assurance plan describing all aspects of construction supervision.
9. A description of the use for the impounded or diverted water, proof of a right to appropriate, and a permit to store water as prescribed in A.R.S. §§ 45-152 and 45-161.
10. A long-term budget plan and evidence of financing, prepared using customary accounting principles, that demonstrate that the applicant has the financial capability to construct, operate, and maintain the dam in a safe man-

ner. If the applicant does not have evidence that can be verified by an independent audit of the financial capability to construct, operate, and maintain the dam in a safe manner, the Director may require a performance bond for the entire cost of the proposed construction work.

**B.** The following may be submitted with the application or during construction.

1. An emergency action plan as prescribed in R12-15-1221.
2. An operation and maintenance plan to accomplish the annual maintenance.
3. An instrumentation plan regarding instruments that evaluate the performance of the dam.

**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 2558, effective June 12, 2000 (Supp. 00-2). Amended by exempt rulemaking at 16 A.A.R. 1205, effective June 15, 2010 (Supp. 10-2). Amended by exempt rulemaking at 16 A.A.R. 1950, effective September 10, 2010 (Supp. 10-3). Amended by final rulemaking at 17 A.A.R. 659, effective June 4, 2011 (Supp. 11-2).

**R12-15-1209. Application to Breach or Remove a High or Significant Hazard Potential Dam**

**A.** An applicant shall excavate the dam down to the level of the natural ground at the maximum section. Upon approval of the Director, additional breaches may be made. This provision shall not be construed to require more than total removal of the dam regardless of the flood magnitude. The breach or breaches shall be of sufficient width to pass the greater of:

1. The 100 year flood at a depth of less than 5 feet, or
2. The 100 year flood at a normal flood depth of not more than 2 feet at a distance of 2,000 feet downstream of the dam.

**B.** The sides of each breach shall be excavated to a slope ratio that is stable and not steeper than 1 horizontal to 1 vertical.

**C.** Each breach shall be designed to prevent silt that has previously been deposited on the reservoir bottom and the excavated material from the breach from washing downstream.

**D.** Before breaching the dam, the reservoir shall be emptied in a controlled manner that will not endanger lives or damage downstream property. The applicant shall obtain approval from the Director for the method of breaching or removal.

**E.** An application package to breach or remove a high or significant hazard potential dam shall include the following prepared by or under the supervision of an engineer as defined in R12-15-1202(11).

1. The construction drawing or drawings for the breach or removal of a dam, including the location, dimensions, and lowest elevation of each breach.
2. A long-term budget plan and evidence of financing, prepared using customary accounting principles, that demonstrate that the applicant has the financial capability to breach or remove the dam in a safe manner. If the applicant does not have evidence that can be verified by an independent audit of the financial capability to breach or remove the dam in a safe manner, the Director may require a performance bond for the entire cost of the proposed construction work.
3. A construction quality assurance plan describing all aspects of construction supervision.

**F.** Reduction of a high or significant downstream hazard potential dam to nonjurisdictional size may be approved by letter under the following circumstances:

1. The owner shall submit a completed application form and construction drawings for the reduction and the appropriate specifications, prepared by or under the supervision of an engineer as defined in R12-15-1202(11).
2. The construction drawings and specifications shall contain sufficient detail to enable a contractor to bid on and complete the project.
3. The plans shall comply with all requirements of this Section except that the breach is not required to be to natural ground.
4. Upon completion of an alteration to nonjurisdictional size, the engineer shall file as constructed drawings and specifications with the Department.

**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 2558, effective June 12, 2000 (Supp. 00-2).

**R12-15-1210. Application to Construct, Reconstruct, Repair, Enlarge, Alter, Breach, or Remove a Low Hazard Potential Dam**

**A.** An application package to construct, reconstruct, repair, enlarge, or alter a low hazard potential dam shall include the following prepared by or under the supervision of an engineer as defined in R12-15-1202(11):

1. A completed application filed in duplicate on forms provided by the Director.
2. An initial application fee based on the total estimated project cost, computed in accordance with A.R.S. § 45-1204 and R12-15-104(A)(7).
3. A detailed estimate of project costs. Project costs are all costs associated with construction of the dam and appurtenant works, including preliminary investigations and surveys, engineering design, supervision of construction, and any other engineering costs.
4. The seal and signature of the responsible engineer in accordance with A.A.C. R4-30-304.
5. A statement by the responsible engineer that classifies the dam as low hazard in accordance with R12-15-1206(B). The responsible engineer shall submit a map of the area that would be inundated by failure or improper operation of the dam. The responsible engineer shall demonstrate that failure or improper operation of the dam would be unlikely to result in:
   a. Loss of human life. The demonstration may be based on an emergency action plan for persons who may be in the area of inundation;
   b. Significant incremental adverse consequences; or
   c. Significant intangible losses, as defined in R12-15-1202(21) and identified and evaluated by a public natural resource management or protection agency.
6. Two complete sets of construction drawings as prescribed by R12-15-1215(1).
7. Two complete sets of construction specifications as prescribed by R12-15-1215(2).
8. An engineering design report that includes information needed to evaluate all aspects of the design of the dam and appurtenances, including references with page numbers to support any assumptions used in the design, as prescribed in R12-15-1215(3).
9. A description of the use for the impounded or diverted water, proof of a right to appropriate, and a permit to store water as prescribed in A.R.S. §§ 45-152 and 45-161.
10. A construction quality assurance plan clearly describing all aspects of construction supervision.

11. A long-term budget plan and evidence of financing, prepared using customary accounting principles, that demonstrate that the applicant has the financial capability to construct, operate, and maintain the dam in a safe manner. If the applicant does not have evidence that can be verified by an independent audit of the financial capability to construct, operate, and maintain the dam in a safe manner, the Director may require a performance bond for the entire cost of the proposed construction work.

**B.** An application package for the breach or removal of a low hazard potential dam shall include the following:
1. A completed application filed in duplicate on forms provided by the Director that contains the following information:
   a. The name and address of the owner of the dam or the agent of the owner.
   b. A description of the proposed removal.
   c. The proposed time for beginning and completing the removal.
2. An initial application fee based on the total estimated project cost and computed in accordance with A.R.S. § 45-1204 and R12-15-104(A)(7).
3. A statement by the responsible engineer demonstrating both of the following:
   a. That the dam will be excavated to the level of natural ground at the maximum section; and
   b. That the breach or breaches will be of sufficient width to pass the greater of:
      i. The 100 year flood at a depth of less than 5 feet, or
      ii. The 100 year flood at a normal flood depth of not more than 2 feet at a distance of 2,000 feet downstream of the dam,
      iii. Subsection (B)(3)(b) shall not be construed to require more than a total removal of the dam regardless of flood magnitude.
   c. That the sides of the breach will be excavated to a slope ratio that is stable and not steeper than 1 horizontal to 1 vertical.
4. A detailed estimate of project costs. Project costs are all costs associated with the removal of the dam and appurtenant works, including preliminary investigations and surveys, engineering design, supervision of removal, and any other engineering costs.

**C.** An applicant intending to reduce a low hazard potential dam to nonjurisdictional size shall submit a written notice to the Director at least no less than 60 days before the date that construction begins.

**D.** Within 45 days after receipt of a complete application package as prescribed by subsection (A) or (B), the Director shall either:
1. Determine that the dam falls within the low hazard potential classification, or
2. Issue a written notice that the dam does not fall within the low hazard potential classification.

**E.** The Director's determination that the proposed dam does not fall within the low hazard classification is an appealable agency action and subject to administrative and judicial review under A.R.S. Title 41, Chapter 6, Article 10.

**F.** Upon completion of construction, the owner shall notify the Department in writing. The owner shall not use the dam or reservoir before issuance of a license unless the Director issues written approval.

**G.** Within 90 days after completing construction, reconstruction, repair, enlargement, or alteration of a low hazard potential dam, the owner shall file the following:
1. An affidavit showing the actual cost of construction, reconstruction, repair, enlargement, or alteration of the dam. The owner shall submit a detailed accounting of the costs, including all engineering costs.
2. An additional fee or refund request computed in accordance with A.R.S. § 45-1209 and R12-15-104(A)(7), based on the actual cost of construction, reconstruction, repair, enlargement, or alteration.
3. A brief completion report summarizing the salient features of the project, including a description of the causes for any changes or deviations from the approved application package prepared by the engineer who supervised the construction, in accordance with A.R.S. Title 32, Chapter 1. The engineer shall indicate:
   a. That the dam has been designed and constructed in compliance with basic principles of dam construction currently being practiced in the industry;
   b. That the dam as constructed has structural integrity and flood routing capacity consistent with its hazard potential classification; and
   c. That the as constructed drawings and the report accurately represent the construction of the dam.
4. As constructed drawings prepared and sealed by the engineer who supervised the construction. The owner and the engineer shall maintain a record of the drawings.

**H.** Upon receiving the Director's written approval, the owner may operate the dam and appurtenant works. Within 30 days after receipt of the information in subsection (G), the Director shall issue to the owner either a license or a notice that the dam and appurtenant works shall not be operated because the dam and appurtenant works do not qualify as low hazard or were not built according to the submitted design. The license shall include conditions of operation, including:
1. The safe storage level of the reservoir,
2. A requirement that the dam be operated and maintained so that it does not constitute a danger to human life and property,
3. A requirement that the conditions resulting in the low hazard classification be maintained throughout the life of the dam, and
4. A requirement that the owner demonstrate in writing the low hazard classification in the manner prescribed by subsection (A)(5) every five years.

**I.** Within 90 days after completing removal of a low hazard potential dam, the owner shall file the following. The Director shall remove the dam from jurisdiction upon approval of the submittal.
1. An affidavit showing the actual cost of removal of the dam. The owner shall submit a detailed accounting of the costs, including all engineering costs.
2. An additional fee or refund request computed in accordance with A.R.S. § 45-1204 and R12-15-104(A)(7), based on the actual cost of removal.
3. A brief completion report, including a description of the causes for any changes or deviations from the approved application package prepared by the engineer who supervised the construction, in accordance with A.R.S. Title 32, Chapter 1. The engineer shall certify that the as removed drawings and the report accurately represent the actual removal of the dam.

4. As-removed drawings prepared and sealed by the engineer who supervised the removal. The owner and the engineer shall maintain a record of the drawings.

**J.** An owner shall immediately commence repairs necessary to safeguard human life and property and prevent failure and improper operation of a low hazard potential dam. The owner shall notify the Department as soon as reasonably possible and in all cases within 10 days of commencing the required repairs.

**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 2558, effective June 12, 2000 (Supp. 00-2). Amended by final rulemaking at 13 A.A.R. 3022, effective October 6, 2007 (Supp. 07-3). Amended by exempt rulemaking at 16 A.A.R. 1205, effective June 15, 2010 (Supp. 10-2). Amended by exempt rulemaking at 16 A.A.R. 1950, effective September 10, 2010 (Supp. 10-3). Amended by final rulemaking at 17 A.A.R. 659, effective June 4, 2011 (Supp. 11-2).

**R12-15-1211. Application to Construct, Reconstruct, Repair, Enlarge, Alter, Breach, or Remove a Very Low Hazard Potential Dam**

**A.** An application package to construct, reconstruct, repair, enlarge, or alter a very low hazard potential dam shall include the following prepared by an engineer or a person under the supervision of an engineer as defined in R12-15-1202(11):

1. A completed application filed in duplicate on forms provided by the Director that contains the following information:
   a. The name and address of the owner of the dam or the agent of the owner.
   b. The location, type, size, and height of the proposed dam and appurtenant works.
   c. The storage capacity of the reservoir associated with the proposed dam.
   d. The proposed time for beginning and completing construction.
   e. A description of the use for the impounded or diverted water and proof of a right to impound that water.
2. The means, plans, and specifications by which the stream or body of water is to be dammed, by-passed, or controlled during construction.
3. Maps, drawings, and specifications of the proposed dam.
4. An initial application fee based on the total estimated project cost and computed in accordance with A.R.S. § 45-1204 and R12-15-104(A)(7).
5. A detailed estimate of project costs. Project costs are all costs associated with construction of the dam and appurtenant works, including preliminary investigations and surveys, engineering design, supervision of construction, and any other engineering costs.
6. A statement by the responsible engineer that classifies the dam as very low hazard in accordance with R12-15-1206(B). The responsible engineer shall submit a map of the area that would be inundated by failure or improper operation of the dam. The responsible engineer shall demonstrate that failure or improper operation would be unlikely to result in:
   a. Loss of human life. The demonstration may be based on an emergency action plan for persons who may be in the area of inundation;
   b. Significant incremental adverse consequences; or
   c. Significant intangible losses, as defined in R12-15-1202(21) and identified and evaluated by a public natural resource management protection agency, because the dam has a size classification of either small or intermediate under R12-15-1206(A) and any release would be limited to the 100 year floodplain or property owned or controlled by the dam owner under long-term lease.
7. The seal and signature of the responsible engineer in accordance with A.R.S. Title 32, Chapter 1.
8. The drawings required by subsection (A)(3) shall include a plan view and maximum section of the dam; the outlet works; and the spillway plan, profile, and cross section.
9. The specifications required by subsection (A)(3) shall include the construction materials, testing criteria, and installation techniques.

**B.** The Director may make other requirements for drawings and specifications for the proposed repair or alteration of a very low hazard potential dam. In determining other requirements, the Director shall consider the size and extent of the repair or alteration, the portions of the dam that will be repaired or altered, and whether the requirements elicit a description of the proposed construction work that is adequate to allow the Director to evaluate the repair or alteration.

**C.** An owner intending to breach, remove, or reduce a very low hazard potential dam to nonjurisdictional size shall submit written notice to the Director at least 60 days before the date that construction begins.

**D.** After receipt of a complete application package as prescribed by subsection (A), the Director shall either:

1. Determine that the dam falls within the very low hazard classification and approve the application in writing; or
2. Issue a written notice that the dam does not fall within the very low hazard classification.

**E.** The Director's determination that the proposed dam does not fall within the very low hazard classification is an appealable agency action and subject to administrative and judicial review under A.R.S. Title 41, Chapter 6, Article 10.

**F.** Upon completion of construction, the owner shall notify the Department in writing. The owner shall not use the dam and reservoir before receipt of a license unless the Director issues written approval.

**G.** Within 90 days after completion of the construction, reconstruction, repair, enlargement, or alteration of a very low hazard potential dam, the owner shall file the following:

1. An affidavit showing the actual cost of construction, reconstruction, repair, enlargement, or alteration of the dam. The owner shall submit a detailed accounting of the costs, including all engineering costs.
2. An additional fee or refund request computed in accordance with A.R.S. § 45-1209 and R12-15-104(A)(7), based on the actual cost of construction, reconstruction, repair, enlargement, or alteration.
3. A brief completion report summarizing the salient features of the project, including a description of the causes for any changes or deviations from the approved application package prepared by the engineer who supervised the construction in accordance with A.R.S. Title 32, Chapter 1. The report shall include:
   a. That the dam has been designed and constructed in compliance with basic principles of dam construction currently being practiced in the industry;

b. That the dam as constructed has structural integrity and flood routing capacity consistent with its hazard potential classification; and
c. That the as constructed drawings and the report accurately represent the construction of the dam.

4. As constructed drawings prepared by the engineer who supervised the construction. The owner and the engineer shall maintain a record of the drawings.

**H.** Within 30 days after receipt of the information in subsection (G), the Director shall issue to the owner either a license or a notice that the dam and appurtenant works shall not be operated because the dam and appurtenant works do not qualify as very low hazard or were not built according to the submitted design. Upon receiving the Director's written approval, the owner may operate the dam and appurtenant works. The license shall include conditions of operation, including:

1. The safe storage level of the reservoir,
2. A requirement that the conditions resulting in the very low hazard classification be maintained throughout the life of the dam, and
3. A requirement that the owner demonstrate in writing the very low hazard classification in the manner prescribed by subsection (A)(6) every five years.

**I.** An owner shall immediately commence repairs necessary to safeguard human life and property and prevent failure or improper operation of a very low hazard potential dam. The owner shall notify the Department as soon as reasonably possible and in all cases within 10 days of commencing the required repairs.

**J.** The Department may periodically inspect construction to confirm that it is proceeding according to the approved design and that proper construction quality assurance is being exercised by the owner's engineer. The owner, or the owner's engineer under the direction of the owner, shall remedy any unsatisfactory condition using the contractor.

**K.** The owner shall provide the Department access to the dam site for purposes of inspecting all phases of construction, including the foundation, embankment and concrete placement, inspection and test records, and mechanical installations.

**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 2558, effective June 12, 2000 (Supp. 00-2). Amended by exempt rulemaking at 16 A.A.R. 1205, effective June 15, 2010 (Supp. 10-2). Amended by exempt rulemaking at 16 A.A.R. 1950, effective September 10, 2010 (Supp. 10-3). Amended by final rulemaking at 17 A.A.R. 659, effective June 4, 2011 (Supp. 11-2).

**R12-15-1212. Construction of a High, Significant, or Low Hazard Potential Dam**

**A.** Before commencement of construction activities, the owner shall invite to a pre-construction conference all involved regulatory agencies, the prime contractor, and all subcontractors. At this meeting the Department shall identify, to the extent possible, the key construction stages at which an inspection will be made. At least 48 hours before each key construction stage identified for inspection, the owner or the owner's engineer shall provide notice to the Department.

**B.** The owner and the owner's engineer shall oversee construction of a new dam or reconstruction, repair, enlargement, alteration, breach, or removal of an existing dam. Failure to perform the work in accordance with the construction drawings and specifications approved by the Director renders the approval revocable. The owner's engineer shall exercise professional judgment independent of the contractor.

**C.** A professional engineer with proficiency in engineering and knowledge of dam technology shall supervise or direct the supervision of construction in accordance with the construction quality assurance plan.

**D.** The owner's engineer shall submit summary reports of construction activities and test results according to a schedule approved by the Department.

**E.** The owner shall immediately report to the Department any condition encountered during construction that requires a deviation from the approved plans and specifications.

**F.** The owner shall promptly submit a written request for approval of any necessary change and sufficient information to justify the proposed change. The owner shall not commence construction without the written approval of the Director unless the change is a minor change. A minor change is a change that complies with the requirements of this Article and provides equal or better safety performance.

**G.** Upon completion of construction, the owner shall notify the Department in writing. The Department shall make a final inspection. The owner shall correct any deficiencies noted during the inspection.

**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 2558, effective June 12, 2000 (Supp. 00-2).

**R12-15-1213. Completion Documents for a Significant or High Hazard Potential Dam**

Within 90 days after completion of the construction or removal work for a significant or high hazard potential dam and final inspection by the Department, the owner shall file the following:

1. An affidavit showing the actual cost of the construction. The owner shall submit a detailed accounting of the costs, including all engineering costs.
2. An additional fee or refund request based on the actual cost of the construction, computed in accordance with A.R.S. § 45-1209 and R12-15-104(A)(7).
3. One set of full sized as constructed drawings prepared and sealed by the engineer who supervised the construction. If changes were made during construction, the owner shall file supplemental drawings showing the dam and appurtenances as actually constructed.
4. Construction records, including grouting, materials testing, and locations and baseline readings for permanent bench marks and instrumentation, initial surveys, and readings.
5. Photographs of construction from exposure of the foundation to completion of construction.
6. A brief completion report summarizing the salient features of the project, including a description of the causes for any changes or deviations from the approved drawings and specifications that were made during the construction phase.
7. A schedule for filling the reservoir, specifying fill rates, water level elevations to be held for observation, and a schedule for inspecting and monitoring the dam. The owner shall monitor the dam monthly during the first filling.
8. An operating manual for the dam and its appurtenant structures. The operating manual shall include a process for safety inspections prescribed in R12-15-1219. The operating manual shall include schedules for surveillance

activities and baseline information for any installed instrumentation as follows:
a. The frequency of monitoring,
b. The data recording format,
c. A graphical presentation of data, and
d. The person who will perform the work.

**Historical Note**
New Section adopted by final rulemaking at 6 A.A.R. 2558, effective June 12, 2000 (Supp. 00-2). Amended by exempt rulemaking at 16 A.A.R. 1205, effective June 15, 2010 (Supp. 10-2). Amended by exempt rulemaking at 16 A.A.R. 1950, effective September 10, 2010 (Supp. 10-3). Amended by final rulemaking at 17 A.A.R. 659, effective June 4, 2011 (Supp. 11-2).

**R12-15-1214. Licensing**

**A.** Upon review and approval of the documents filed under R12-15-1213 and finding that the construction at the dam has been completed in accordance with the approved plans and specifications and finding that the dam is safe, the Director shall issue a license. The license shall specify the safe storage level for the reservoir and shall specify conditions for the safe operation of the dam. The dam and reservoir shall not be used before issuance of a license unless the Director issues written approval. Procedures for issuance of a license for low and very low hazard potential dams are prescribed in R12-15-1210(H) and R12-15-1211(H), respectively.

**B.** A new license shall be issued in the following instances:
1. Upon change of ownership of a dam.
2. Upon change of the safe storage level.
3. Upon expiration of time to appeal a notice issued under R12-15-1223(B).
4. Upon expiration of time to appeal an order issued by the Director under R12-15-1223(D).
5. Upon expiration of time to appeal an order of a court.

**Historical Note**
New Section adopted by final rulemaking at 6 A.A.R. 2558, effective June 12, 2000 (Supp. 00-2).

**R12-15-1215. Construction Drawings, Construction Specifications, and Engineering Design Report for a High, Significant, or Low Hazard Potential Dam**

The owner and engineer are responsible for complete and adequate design of a dam and for including in the application all aspects of the design pertaining to the safety of the dam.

1. Construction Drawing Requirements. The construction drawings required by R12-15-1208(5), R12-15-1209(E)(1), and R12-15-1210(A)(6) shall include the following:
   a. The seal and signature of the responsible engineer in accordance with A.A.C. R4-30-304.
   b. One or more topographic maps of the dam, spillway, outlet works, and reservoir on a scale large enough to accurately locate the dam and appurtenances, indicate cut and fill lines, and show the property lines and ownership status of the land. Contour intervals shall be compatible with the height and size of the dam and its appurtenances and shall show design and construction details.
   c. A reservoir area and capacity curve that reflect area in acres and capacity in acre-feet in relation to depth of water and elevation in the reservoir. The construction drawings shall show the spillway invert and top of dam elevations. The construction drawings shall also show the reservoir volume and space functional allocations. The construction drawings may include alternate scales as required for the owner's use.
   d. Spillway and outlet works rating curves and tables at a scale or scales that allow determination of discharge rate in cubic feet per second at both low and high flows as measured by depth of water passing over the spillway control section.
   e. A location map showing the dam footprint and all exploration drill holes, test pits, trenches, adits, borrow areas, and bench marks with elevations, reference points, and permanent ties. This map shall use the same vertical and horizontal control as the topographic map.
   f. Geologic information including 1 or more geologic maps, profile along the centerline, and other pertinent cross sections of the dam site, spillway or spillways, and appurtenant structures, aggregate and material sources, and reservoir area at 1 or more scales compatible with the site and geologic complexity, showing logs of exploration drill holes, test pits, trenches, and adits.
   g. One or more plans of the dam to delineate design and construction details.
   h. Foundation profile along the dam centerline at a true scale where the vertical scale is equal to the horizontal scale, showing the existing ground and proposed finished grade at cut and fill elevations, including anticipated geologic formations. The foundation profile shall include any proposed grout and drain holes.
   i. Profile and a sufficient number of cross sections of the dam to delineate design and construction details. The drawings shall illustrate and show dimensions of camber, details of the top, core zone, interior filters and drains, and other zone details. The profile of the dam may be drawn to different horizontal and vertical scales if required for detail. A maximum section of the dam shall be drawn to a true scale, where the vertical scale is equal to the horizontal scale. The outlet conduit may be shown on the maximum section if this is typical of the proposed construction.
   j. One or more dam foundation plans showing excavation grades and cut slopes with any proposed foundation preparation, grout and drain holes, and foundation dewatering requirements.
   k. Plan, profile, and details of the outlet works, including the intake structure, the gate system, conduit, trashrack, conduit filter diaphragm, conduit concrete encasement, and the downstream outlet structure. The drawings shall include all connection and structural design details.
   l. Plan, profile, control section, and cross sections of the spillway, including details of any foundation preparation, grouting, or concrete work that is planned. A complex control structure, a concrete chute, or an energy dissipating device for a terminal structure shall include both hydraulic and structural design details.
   m. Hydrologic data, drainage area and flood routing, and diversion criteria.

2. Construction Specification Requirements. The construction specifications required by R12-15-1208(6) and R12-15-1210(A)(7) shall include the following:
   a. The seal and signature of the responsible engineer in accordance with A.A.C. R4-30-304.
   b. The statement that the construction drawings and specifications shall not be materially changed without the prior written approval of the Director.
   c. A detailed description of the work to be performed and a statement of the requirements for the various types of materials and installation techniques that will enter into the permanent construction.
   d. The statement that construction shall not be considered complete until the Director has approved the construction in writing.
   e. The statement that the owner's engineer shall control the quality of construction.
   f. The following construction information:
      i. All earth and rock material descriptions, placement criteria, and construction requirements for all elements of the dam and related structures.
      ii. All concrete, grout, and shotcrete material and mix descriptions, placement and consolidation criteria, temperature controls, and construction requirements for all elements of the dam and related structures.
      iii. Material criteria and material testing, cleaning, and treatment. If foundation or curtain grouting is required, the specifications shall describe the type of grout, grouting method, special equipment necessary, recording during grouting, and foundation monitoring to avoid disturbance from grouting.
      iv. All materials testing that will be performed by the contractor for pre-qualification of materials, including special performance testing, such as water pressure tests in conduits. The Director shall accept materials that are pre-tested successfully and constructed in-place in accordance with specifications.
      v. A plan for control or diversion of surface water during construction. The design engineer may determine frequency of storm runoff to be controlled during construction, commensurate with the risk of economic loss during construction.
      vi. Criteria for blast monitoring and acceptable blast vibration levels, including particle velocities for the dam and other critical appurtenances. Monitoring equipment and monitoring locations shall be specified.
      vii. Instrumentation material descriptions, placement criteria, and construction requirements and a statement that instrumentation shall be installed by experienced speciality subcontractors.
3. Engineering Design Report Requirements. The engineering design report required by R12-15-1208(7) and R12-15-1210(A)(8) shall include the following:
   a. The seal and signature of the responsible engineer in accordance with A.A.C. R4-30-304.
   b. The classification under R12-15-1206 of the proposed dam, or for the proposed enlargement of an existing dam or reservoir.
   c. Hydrologic considerations, including calculations and a summary table of data used in determining the required emergency spillway capacity and freeboard, and design of any diversion or detention structures. The design report shall include input and output listings on both hard copy and computer diskette.
   d. Hydraulic characteristics, engineering data, and calculations used in determining the capacities of the outlet works and emergency spillway. The design report shall include input and output listings on both hard copy and computer diskette.
   e. Geotechnical investigation and testing of the dam site and reservoir basin. Results and analysis of subsurface investigations, including logs of test borings and geologic cross sections.
   f. Guidelines and criteria for blasting to be used by the contractor in preparing the blasting plan.
   g. Details of the plan for control or diversion of surface water during construction.
   h. Details of the dewatering plan for subsurface water during construction.
   i. Testing results of earth and rock materials, including the location of test pits and the logs of these pits.
   j. Discussion and design of the foundation blanket grouting, grout curtain, and grout cap based on foundation stability and seepage considerations.
   k. Calculations and basic assumptions on loads and limiting stresses for reinforced concrete design. The design report shall include input and output listings on both hard copy and computer diskette.
   l. A discussion and stability analysis of the dam including appropriate seismic loading, safety factors, and embankment zone strength characteristics. Analyses shall include both short-term and long-term loading on upstream and downstream slopes. The design report shall include input and output listings on both hard copy and computer diskette.
   m. A discussion of seismicity of the project area and activity of faults in the vicinity. The design report shall use both deterministic and statistical methods and identify the appropriate seismic coefficient for use in analyses.
   n. Discussion and design of the cutoff trench based on seepage and other considerations.
   o. Permeability characteristics of foundation and dam embankment materials, including calculations for seepage quantities through the dam, the foundation, and anticipated in the internal drain system. The design report shall include input and output listings on both hard copy and computer diskette. The design report shall include copies of any flow nets used.
   p. Discussion and design of internal drainage based on seepage quantity calculations. The design report shall include instrumentation necessary to monitor the drainage system and filter design calculations for protection against piping of foundation and embankment.
   q. Erosion protection against waves and rainfall runoff for both the upstream and downstream slopes, as appropriate.
   r. Discussion and design of foundation treatment to compensate for geological weakness in the dam

foundation and abutment areas and in the spillway foundation area.

s. Post-construction vertical and horizontal movement systems.

t. Discussion of foundation conditions including the potential for subsidence, fissures, dispersive soils, collapsible soils, and sink holes.

**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 2558, effective June 12, 2000 (Supp. 00-2).

**R12-15-1216. Design of a High, Significant, or Low Hazard Potential Dam**

**A.** General Requirements.

1. Emergency Spillway Requirements. An applicant shall:
   a. Construct each spillway in a manner that avoids flooding in excess of the flooding that would have occurred in the same location under the same conditions before construction. The owner of a dam shall demonstrate that a spillway discharge would not result in incremental adverse consequences. In determining whether a spillway discharge of a dam would result in incremental adverse consequences, the Director shall evaluate whether the owner has taken any or all of the following actions: issuing public notice to downstream property owners, complying with flood insurance requirements, adopting emergency action plans, conducting mock flood drills, acquiring flow easements or other acquisitions of real property, or other actions appropriate to safeguard the dam site and flood channel.
   b. Include a control structure to avoid head cutting and lowering of the spillway crest for spillways excavated in soils or soft rock. In the alternative, the design may provide evidence acceptable to the Director that erosion during the inflow design flood will not result in a sudden release of the reservoir.
   c. Provide each spillway and channel with a minimum width of 10 feet and suitable armor to prevent erosion during the discharge resulting from the inflow design flood.
   d. Ensure that downstream spillway channel flows do not encroach on the dam unless suitable erosion protection is constructed.
   e. Ensure that each spillway, in combination with outlets, is able to safely pass the peak discharge flow rate, as calculated on the basis of the inflow design flood.
   f. Not construct bridges or fences across a spillway unless the construction is approved in writing by the Director. The Director's approval may include conditions regarding the design and operation of the spillway and fencing, based on safety concerns.
   g. Not use a pipe or culvert as an emergency spillway unless the Director approves the use following review of the dam design and site characteristics.
2. Inflow Design Flood Requirements
   a. Unless directed otherwise in writing by the Director, the inflow design flood requirements for determining the spillway minimum capacity are stated in Table 4.
   b. As an alternative to the requirements prescribed in Table 4, the Director may accept an inflow design flood determined by an incremental damage assessment study, based on the relative safety of the alternatives.
   c. The Director may accept site-specific probable maximum precipitation studies in determination of the inflow design flood.
   d. An applicant shall ensure that the total freeboard is the largest of the following:
      i. The sum of the inflow design flood maximum water depth above the spillway crest plus wave run up.
      ii. The sum of the inflow design flood maximum water depth above the spillway crest plus 3 feet.
      iii. A minimum of 5 feet.
3. Outlet Works Requirements. An applicant shall ensure that a dam has a low level outlet works that:
   a. Is capable of draining the reservoir to the sediment pool level. A low level outlet works for a high or significant hazard potential dam shall be a minimum of 36 inches in diameter. A low level outlet works for a low hazard potential dam shall be a minimum of 18 inches in diameter.
   b. For a high or significant hazard potential dam, has the capacity to evacuate 90% of the storage capacity of the reservoir within 30 days, excluding reservoir inflows.
   c. Has a filter diaphragm or other current practice measures to reduce the potential for piping along the conduit.
   d. Has accessible outlet controls when the spillway is in use.
   e. Has an emergency manual override system or can be operated manually.
   f. Is constructed of materials appropriate for loading condition, seismic forces, thermal expansion, cavitation, corrosion, and potential abrasion. The applicant shall not use corrugated metal pipes or other thin-walled pipes except as a form for a cast-in-place concrete conduit. The applicant shall construct outlet conduits of cast-in-place reinforced concrete. The applicant shall design each outlet to maintain water tightness. The applicant shall construct each outlet to prevent the occurrence of piping adjacent to the outlet.
   g. Has an operating or guard gate on the upstream end of any gated outlet.
   h. Has an outlet conduit near the base of 1 of the abutments on native bedrock or other competent material. The applicant shall support the entire length of the conduit on foundation materials of uniform density and consistency to prevent adverse differential settlement.
   i. Has an upstream valve or gate capable of controlling the discharge through all ranges of flow on any gated outlet conduit.
   j. Has a trashrack designed for a minimum of 25% of the reservoir head to which it would be subjected if completely clogged at the upstream end of the outlet.
   k. Has an air vent pipe just downstream of the control gate. The applicant shall include a blow-off valve at or near the downstream toe of the dam for an outlet conduit that is connected directly to a distribution system.

l. Has an outlet conduit designed for internal pressure equal to the full reservoir head and for superimposed embankment loads, acting separately.

4. Dam Site And Reservoir Area Requirements
   a. An applicant shall demonstrate that reservoir storage during the inflow design flood will not result in incremental adverse consequences and that the design will not result in the inundation or wave damage of properties within the reservoir, except marina-type structures, during the inflow design flood. In determining whether a discharge will result in incremental adverse consequences, the Director shall evaluate whether the owner has taken any or all of the following actions: issuing public notice to upstream affected property owners, complying with flood insurance requirements, adopting emergency action plans, conducting mock flood drills, acquiring flood easements or other acquisitions of real property, or other actions appropriate to safeguard the dam site and reservoir. Permanent habitations are not allowed within the reservoir below the spillway elevation.
   b. The applicant shall clear the reservoir storage area of logs and debris.
   c. The applicant shall place borrow areas a safe distance from the upstream toe and the downstream toe of the dam to prevent a piping failure of the dam.
   d. The applicant shall keep the top of the dam and appurtenant structures accessible by equipment and vehicles for emergency operations and maintenance.
5. Geotechnical Requirements
   a. The applicant shall provide an evaluation of the static stability of the foundation, dam, and slopes of the reservoir rim and demonstrate that sufficient material is available to construct the dam as designed.
   b. The applicant shall not construct a dam on active faults, collapsible soils, dispersive soils, sink holes, or fissures, unless the applicant demonstrates that the dam can safely withstand the anticipated offset or other unsafe effects on the dam.
6. Seismic Requirements
   a. The applicant shall submit a review of the seismic or earthquake history of the area around the dam within a radius of 100 miles to establish the relationship of the site to known faults and epicenters. The review shall include any known earthquakes and the epicenter locations and magnitudes of the earthquakes.
   b. The applicant shall identify the location of active or potentially active faults that have experienced Holocene or Late Pleistocene displacement within a radius of 100 miles of the site.
   c. For a high or significant hazard potential dam, the applicant shall design the dam to withstand the maximum credible earthquake.
   d. For a low hazard potential dam, the applicant shall use probabilistic or deterministic methods to determine the design earthquake. The magnitude of the design earthquake shall vary with the size of the dam, site condition, and specific location.

**B.** Embankment Dam Requirements.

1. Geotechnical Requirements. Table 5 states minimum factors of safety for embankment stability under various loading conditions. For an embankment dam an applicant shall provide a written analysis of minimum factors of safety for stability.
   a. The analysis of minimum factors of safety shall include the effects of anisotropy on the phreatic surface position by using a ratio of horizontal permeability to vertical permeability of at least 10. The Director may require ratios of up to 100 if the material types and construction techniques will cause excessive stratification.
   b. The applicant shall use tests modeling the conditions being analyzed to determine the strengths used in the stability analysis. The stability analysis shall include total and effective stress strengths appropriate for the different material zones and conditions analyzed. The stability analysis shall use undrained strengths or strength parameters for all saturated materials.
   c. The applicant shall perform an analysis of the upstream slope stability for a partial pool with steady seepage considering the reservoir level that provides the lowest factor of safety.
   d. A stability analysis is not required for low hazard potential dams if the owner or the owner's engineer demonstrates that conservative slopes and competent materials are included in the design.
2. Seismic Requirements
   a. The applicant shall determine the seismic characteristics of the site as prescribed in subsection (A)(6).
   b. The applicant shall determine the liquefaction susceptibility of the embankment, foundation, and abutments. The applicant shall use standard penetration testing, cone penetration testing, shear wave velocity measurements, or a combination of these methods to make this determination. The applicant shall compute the minimum factor of safety against liquefaction at specific points and make a determination of whether the overall site is subject to liquefaction.
   c. The applicant shall determine the safety of the dam under seismic loading using a pseudo static stability analysis, computing the minimum factor of safety if the embankment, foundation or abutment is not subject to liquefaction and has a maximum peak acceleration of 0.2g or less, or a maximum peak acceleration of 0.35g or less, and consists of clay on a clay or bedrock foundation. The applicant shall use in the pseudo static stability analysis a pseudo static coefficient that is at least 60% of the maximum peak bedrock acceleration at the site.
   d. The applicant shall compute a minimum factor of safety against overtopping due to deformation and settlement in each of the following cases. The minimum factor of safety against overtopping can be no less than 2.5, determined by dividing the total pre-earthquake freeboard by the estimated vertical settlement in feet. The applicant shall determine the total vertical settlement by adding the settlement values of the upstream and downstream slopes.
      i. The minimum factor of safety in a pseudo static analysis is less than 1.0;
      ii. An embankment, foundation, or abutment is not subject to liquefaction, has a maximum peak acceleration of more than 0.2g or a maximum peak acceleration of more than 0.35g and consists of clay on a clay or bedrock foundation; or

iii. The embankment, foundation or abutment is subject to liquefaction.

e. The applicant shall perform a liquefaction analysis to establish approximate boundaries of liquefiable zones and physical characteristics of the soil following liquefaction for an embankment, foundation, or abutment subject to liquefaction. The applicant shall perform an analysis of the potential for flow liquefaction.

f. Other, more sophisticated analytical procedures may be required by the Director for sites with high seismicity or low strength embankment or foundation soils.

3. Miscellaneous Design Requirements

a. The design of any significant or high hazard potential dam shall provide seepage collection and prevent internal erosion or piping due to embankment cracking or other causes.

b. The Director shall review the filter and permeability design for a chimney drain, drain blanket, toe drain, or outlet conduit filter diaphragms on the basis of unique site characteristics.

i. The minimum thickness of an internal drain is 3 feet.

ii. The minimum width of a chimney drain is 6 feet.

iii. The applicant shall filter match an internal drain to its adjacent material.

iv. The applicant shall design internal drains with sufficient capacity for the expected drainage without the use of drainpipes using only natural granular materials.

c. The use of a geosynthetic is not permitted in a design if it serves as the sole defense against dam failure. The use of geotextiles and geonets as a filter or drain material or a geomembrane liner is permitted only in a location that is easily accessible for repair or if its excavation cannot create an unsafe condition at the dam. A geosynthetic liner is allowed under special conditions and in specific situations if it is subject to monitoring and redundant safety controls. The Director may impose conditions, including monitoring appropriate to the hazard classification, inspection, and necessary repairs, each performed every 5 years.

d. The applicant shall use armoring on any upstream slope of an embankment dam that impounds water for more than 30 days at a time. If the applicant uses rock riprap, it shall be well-graded, durable, sized to withstand wave action, and placed on a well-graded pervious sand and gravel bedding or geotextile with filtering capacity appropriate for the site.

e. The applicant shall protect the downstream slopes and groins of an embankment dam from erosion.

f. The minimum width of the top of an embankment dam is equal to the structural height of the dam divided by 5 plus an additional 5 feet. The required minimum width for any embankment dam is 12 feet. The maximum width for any embankment dam is 25 feet.

**Historical Note**
New Section adopted by final rulemaking at 6 A.A.R. 2558, effective June 12, 2000 (Supp. 00-2).

8. Patching or caulking spalled or cracked concrete to prevent deterioration.

**Table 4. Inflow Design Flood**

| Dam Hazard Class | Dam Size Classification | IDF Magnitude |
|---|---|---|
| Very Low | All Sizes | 100-year |
| Low | All Sizes | 0.25 PMF |
| Significant | Small<br>Intermediate<br>Large | 0.25 PMF<br>0.5 PMF<br>0.5 PMF |
| High* | All Sizes | * |

* For a high hazard potential dam, the applicant shall design the dam to withstand an inflow design flood that varies from .5 PMF to the full PMF, with size increasing based on persons at risk and potential for downstream damage. The applicant shall consider foreseeable future conditions.

**Historical Note**
New Table adopted by final rulemaking at 6 A.A.R. 2558, effective June 12, 2000 (Supp. 00-2).

**Table 5. Minimum Factors of Safety for Stability[1]**

| Embankment Loading Condition | Minimum Factor of Safety |
|---|---|
| End of construction case – upstream and downstream slopes | 1.3 |
| End of construction case for embankments greater than 50 feet in height on weak foundations | 1.4 |
| Steady state seepage - upstream (critical partial pool) and downstream slope (full pool) | 1.5 |
| Instantaneous drawdown - upstream slope | 1.2 |

[1] Not applicable to an embankment on a clay shale foundation.

**Historical Note**
New Table adopted by final rulemaking at 6 A.A.R. 2558, effective June 12, 2000 (Supp. 00-2).

**R12-15-1217. Maintenance and Repair; Emergency Actions**

**A.** An owner shall perform general maintenance and ordinary repairs that do not impair the safety of the dam. General maintenance and ordinary repair activities listed under this subsection do not require prior approval of the Director. These repair activities include:

1. Removing brush or tall weeds.
2. Cutting trees and removing slash from the embankment or spillway. Small stumps may be removed provided no excavation into the embankment occurs.
3. Exterminating rodents by trapping or other methods. Rodent damage may be repaired provided it does not involve excavation that extends more than 2 feet into the embankment and replacement materials are compacted as they are placed.
4. Repairing erosion gullies less than 2 feet deep on the embankment or in the spillway.
5. Grading the surface on the top of the dam embankment or spillway to eliminate potholes and provide proper drainage, provided the freeboard is not reduced.
6. Placing additional riprap and bedding on the upstream slope, or in the spillway in areas that have sustained minor damage and restoring the original riprap protection where the damage has not yet resulted in erosion and weakening of the dam.
7. Painting, caulking, or lubricating metal structures.

9. Removing debris, rock, or earth from outlet conduits or spillway channels and basins.
10. Patching to prevent deterioration within outlet works.
11. Replacing worn or damaged parts on outlet valves or controls to restore them to original condition or its equivalent.
12. Repairing or replacing fences intended to keep traffic or livestock off the dam or spillway.

**B.** General maintenance and ordinary repair that may impair or adversely effect safety, such as excavation into or near the toe of the dam, construction of new appurtenant structures for the dam, and repair of damage that has already significantly weakened the dam shall be performed in accordance with this Article. The Director may approve maintenance performed according to a standard detail or method of repair on file with the Department upon submittal of a letter. The Director shall determine whether general maintenance and ordinary repair activities not listed in subsection (A) will impair safety.

**C.** Emergency actions not impairing the safety of the dam may be taken before guidance can be provided by an engineer and do not require prior approval of the Director. Emergency actions do not excuse an owner's responsibility to promptly undertake a permanent solution. Emergency actions include:
1. Stockpiling materials such as riprap, earth fill, sand, sandbags, and plastic sheeting.
2. Lowering the reservoir level by making releases through the outlet or a gated spillway, by pumping, or by siphoning.
3. Armoring eroded areas by placing sandbags, riprap, plastic sheeting, or other available material.
4. Plugging leakage entrances on the upstream slope.
5. Increasing freeboard by placing sandbags or temporary earth fill on the dam.
6. Diverting flood waters to prevent them from entering the reservoir basin.
7. Constructing training berms to control flood waters.
8. Placing sandbag ring dikes or reverse filter materials around boils at the downstream toe to provide back pressure.
9. Removing obstructions from outlet or spillway flow areas.

**D.** Emergency actions impairing the safety of the dam require prior approval of the Director. An owner shall not lower the water level by excavating the spillway or embankment unless failure is imminent.

**E.** For all high and significant hazard potential dams, the emergency action plan shall be implemented with any emergency actions taken at the dam.

**F.** The owner shall notify the Director immediately of any emergency condition that exists and any emergency action taken.

**Historical Note**
New Section adopted by final rulemaking at 6 A.A.R. 2558, effective June 12, 2000 (Supp. 00-2).

**R12-15-1218. Safe Storage Level**
The Director has the authority to determine the safe storage level for the reservoir behind each dam, including the storage level of an existing dam while it is being repaired, enlarged, altered, breached, or removed. The elevation of the safe storage level is stated on the license. The owner shall not store water in excess of the level determined by the Director to be safe. The owner shall not place flashboards or other devices in the emergency spillway without approval of an alteration of the dam in accordance with this Article.

**Historical Note**
New Section adopted by final rulemaking at 6 A.A.R. 2558, effective June 12, 2000 (Supp. 00-2).

**R12-15-1219. Safety Inspections; Fees**

**A.** Except as provided in subsection (E), the Director shall conduct a dam safety inspection annually or more frequently for each high hazard potential dam, triennially for each significant hazard potential dam, and once every five years for each low and very low hazard potential dam. An owner of a dam shall pay the inspection fee required by R12-15-105 for each inspection of the dam pursuant to this subsection.

**B.** An engineer is considered qualified to provide information to the Director regarding the safe storage level of a reservoir if the engineer:
1. Meets the criteria in R12-15-1202(11),
2. Has three years of experience in the field of dam safety, and
3. Has actual experience in conducting dam safety inspections.

**C.** A dam safety inspection includes:
1. Review of previous inspections, reports, and drawings;
2. Inspection of the dam, spillways, outlet facilities, seepage control, and measurement systems;
3. Inspection of any permanent monument or monitoring installations;
4. Assessment of all parts of the dam that are related to the dam's safety; and
5. A recommendation regarding the safe storage level of the reservoir.

**D.** The engineer shall submit a safety inspection report that describes the findings and lists actions that will improve the safety of the dam. The report shall include the engineer's recommendation of the safe storage level. The engineer shall use a report form approved by the Director.

**E.** Inspections by the Owner
1. An owner may provide to the Director, at the owner's expense, a safety inspection report that complies with the requirements of subsections (B), (C), and (D) in place of an inspection by the Department. The owner's engineer shall notify the Director and submit a written summary of the engineer's qualifications at least 14 days before the scheduled safety inspection.
2. The Director may refuse to accept an inspection that does not conform to this Article.
3. A safety inspection report submitted pursuant to this subsection shall include the fee required by R12-15-105(D).

**F.** Inspections by the Department
1. The Director may enter at reasonable times upon private or public property and the owner shall permit such entry, where a dam is located, including a dam under construction, reconstruction, repair, enlargement, alteration, breach, or removal, for any of the following purposes:
   a. To enforce the conditions of approval of the construction drawings and specifications related to an application for construction, reconstruction, repair, enlargement, alteration, breach, or removal.
   b. To inspect a dam that is subject to this Article.
   c. To investigate or assemble data to aid review and study of the design and construction of dams, reservoirs, and appurtenances or make watershed investigations to facilitate decisions on public safety to fulfill the duties of A.R.S. § 45-1214.
   d. To ascertain compliance with this Article and A.R.S. Title 45, Chapter 6.

2. Upon receipt of a complaint that a dam is endangering people or property:
   a. The Director shall inspect the dam unless there is substantial cause to believe the complaint is without merit.
   b. If the complainant files a complaint in writing and deposits with the Director sufficient funds to cover the costs of the inspection, the Director shall make an inspection.
   c. The Director shall provide a written report of the inspection to the complainant and the dam owner.
   d. If an unsafe condition is found, the Director shall cause it to be corrected and return the deposit to the complainant. If the complaint was without merit the deposit shall be paid into the general fund.
3. The Director may employ qualified on-call consultants to conduct inspections.
4. Inspections under subsection (A) shall comply with the requirements of A.R.S. § 41-1009.

**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 2558, effective June 12, 2000 (Supp. 00-2). Amended by exempt rulemaking at 16 A.A.R. 1205, effective June 15, 2010 (Supp. 10-2). Amended by exempt rulemaking at 16 A.A.R. 1950, effective September 10, 2010 (Supp. 10-3). Amended by final rulemaking at 17 A.A.R. 659, effective June 4, 2011 (Supp. 11-2).

**R12-15-1220. Existing Dams**

**A.** The requirements of this Article apply to existing dams, except as provided in subsections (B) and (C).

**B.** If the Director has determined that an existing dam is in a safe condition, the owner is not required to comply with R12-15-1216 unless the Director determines that it is cost effective to upgrade the dam to comply with the requirements of R12-15-1216 at the time a major alteration or major repair is planned. In determining whether it is cost effective to upgrade a dam, the Director shall consider:
   1. The hazard potential classification of the dam;
   2. Whether the cost of the upgrade would exceed 25% of the total cost of the major alteration or major repair; and
   3. Whether there is a more cost effective alternative that would provide an equivalent increase in safety.

**C.** If the Director has determined that a dam is in an unsafe condition, the owner shall comply with the requirements in R12-15-1216. The owner is not required to comply with a requirement in this Article if the Director finds that, considering the site characteristics and the proposed design, the requirement is unduly burdensome or expensive and is not necessary to protect human life or property. The Director shall consider the size, hazard potential classification, physical site conditions, and applicability of a requirement to the dam. The Director shall state in writing the reason or reasons the owner is not required to comply with a requirement.

**D.** The owner shall ensure that installation of utilities beneath or through an existing dam is accomplished by open cuts or jacking and boring methods.

**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 2558, effective June 12, 2000 (Supp. 00-2).

**R12-15-1221. Emergency Action Plans**

**A.** Each owner of a high or significant hazard potential dam shall prepare, maintain, and exercise a written emergency action plan for immediate defensive action to prevent failure of the dam and minimize any threat to downstream development. The emergency action plan shall contain a:
   1. Notification chart showing the priority for notification in an emergency situation. The owner shall notify local emergency response agencies, affected downstream populations, county emergency management agencies, and affected flood control districts;
   2. Description of the demand reservoir and scope of the emergency action plan;
   3. Delineation of potentially unsafe conditions, evaluation procedures, and triggering events that require the initiation of partial or full emergency notification procedures, based on the urgency of the situation;
   4. Delineation of areas of responsibility of the owner and other parties. The emergency action plan shall clearly identify individuals responsible for notifications and declaring an emergency;
   5. Specific notification procedure for each emergency situation anticipated;
   6. Description of emergency supplies and resources, equipment access to the site, and alternative means of communication. The emergency action plan shall also identify specific preparedness activities required, such as annual full or partial mock exercises and updates of the emergency action plan; and
   7. Map showing the area that would be subject to flooding due to spillway flows and dam failures.

**B.** The owner shall use the Director's model emergency action plan, which is available at no cost, or an equivalent model, for guidance in preparing the emergency action plan.

**C.** The owner shall submit a copy of the proposed emergency action plan for review by the Arizona Division of Emergency Management and all local emergency coordinators involved in the plan. The owner shall incorporate appropriate recommendations generated by the reviews and submit the revised emergency action plan to the Department.

**D.** The owner shall review and update the emergency action plan annually or more frequently to incorporate changes such as new personnel, changing roles of emergency agencies, emergency response resources, conditions of the dam, and information learned from mock exercises. The owner shall send updated portions of the plan to persons and agencies holding copies of the plan within 15 days after preparation of an update.

**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 2558, effective June 12, 2000 (Supp. 00-2).

**R12-15-1222. Right of Review**

**A.** An applicant or owner aggrieved by a decision of the Director regarding the determination of hazard classification, jurisdictional status, or the Director's application of this Article may seek review of an appealable agency action under A.R.S. Title 41, Chapter 6, Article 10.

**B.** An applicant or owner aggrieved by a decision of the Director that requires the exercise of professional engineering judgment or discretion or the assessment of risk to human life or property, such as the adequacy of an applicant's project documentation, dam design, safe storage level, requirements for existing dams, or maintenance, may seek review by a board of review under A.R.S. §§ 45-1210 and 45-1211.

**C.** The following actions are not subject to review:

1. Emergency measures taken under A.R.S. §§ 45-1212 or 45-1221.
2. Agency decisions made under A.R.S. §§ 41-1009(E) or (F).
3. Agency actions made exempt from review by law.

**Historical Note**
New Section adopted by final rulemaking at 6 A.A.R. 2558, effective June 12, 2000 (Supp. 00-2).

**R12-15-1223. Enforcement Authority**

**A.** The Department may exercise its discretion to take action necessary to prevent danger to human life or property. The Director may take any legal action that is proper and necessary for the enforcement of this Chapter.

**B.** If the Director has cause to believe that a dam is unsafe or a person is violating or has violated a provision of this Article or A.R.S. Title 45, Chapter 6, Article 1, the Director may issue a notice directing the owner to remedy the safety deficiency or correct the violation. The owner may appeal a notice issued under this subsection as an appealable agency action in accordance with A.R.S. Title 41, Chapter 6, Article 10. If the owner does not appeal within 30 days after the date on the notice, the notice becomes final and may be incorporated as a condition of any license based on the duration of the requirement.

**C.** If the Director has cause to believe that a dam is unsafe or a person is violating or has violated a provision of this Article or A.R.S. Title 45, Chapter 6, Article 1, the Director may proceed under A.R.S. § 45-1221 to initiate a contested case under A.R.S. Title 41, Chapter 6, Article 10 by requesting an administrative hearing.

**D.** Following a written decision by an administrative law judge, the Director shall issue a decision and order accepting, rejecting, or modifying the administrative law judge's decision. Upon expiration of time to appeal, the decision and order becomes final and may be incorporated as a condition of any license based on the duration of the requirement.

**E.** If the Director has cause to believe that a dam is unsafe or a person is violating or has violated a provision of this Article or A.R.S. Title 45, Chapter 6, Article 1 the Director may commence an action in a court of appropriate jurisdiction if:
1. The violation is an emergency requiring appropriate steps to be taken without delay; or
2. The Director has cause to believe that use of the administrative procedure would be ineffective or that delay would ensue and a deterioration in the safety of the dam would occur.

**F.** If the Director commences an action it shall be brought in a court of appropriate jurisdiction in which:
1. The cause or some part of the cause arose; or
2. The owner or person complained of has his or her place of business; or
3. The owner or person complained of resides.

**G.** A person determined to be in violation of this Article; A.R.S. Title 45, Chapter 6; a license; or order may be assessed a civil penalty not exceeding $1,000 per day of violation. The Director may offer evidence relating to the amount of the penalty in accordance with A.R.S. § 45-1222.

**H.** A violation of A.R.S. Title 45, Chapter 6, Article 1 regarding Supervision of Dams, Reservoirs, and Projects is a class 2 misdemeanor, in accordance with A.R.S. § 45-1216.

**Historical Note**
New Section adopted by final rulemaking at 6 A.A.R. 2558, effective June 12, 2000 (Supp. 00-2).

**R12-15-1224. Emergency Procedures**

**A.** The owner of a dam shall immediately notify the Department and responsible authorities in adjacent and downstream communities, including emergency management authorities, of a condition that may threaten the safety of the dam. The owner shall take necessary actions to protect human life and property, including action required under an emergency action plan or order issued under this Article.
1. A condition that may threaten the safety of a dam includes:
   a. Sliding of upstream or downstream slopes or abutments contiguous to the dam;
   b. Sudden subsidence of the top of the dam;
   c. Longitudinal or transverse cracking of the top of the dam;
   d. Unusual release of water from the downstream slope or face of the dam;
   e. Other unusual conditions at the downstream slope of the dam;
   f. Significant landslides in the reservoir area;
   g. Increasing volume of seepage;
   h. Cloudy seepage or recent deposits of soil at seepage exit points;
   i. Sudden cracking or displacement of concrete in a concrete or masonry dam spillway or outlet works;
   j. Loss of freeboard or dam cross section due to storm wave erosion;
   k. Flood waters overtopping an embankment dam; or
   l. Spillway backcutting that threatens evacuation of the reservoir.
2. In case of an emergency, the owner shall telephone the Arizona Department of Public Safety.

**B.** The Director shall issue an emergency approval to repair, alter, or remove an existing dam if the Director finds that immediate remedial action is necessary to alleviate an imminent threat to human life or property.
1. The emergency approval shall be provided in writing on a form developed for this purpose.
2. The emergency approval may contain conditions the Director determines are appropriate to protect human life or property.
3. The emergency approval is effective immediately for 30 days after notice is issued unless extended in writing by the Director. The Director shall also send notice to the county flood control district of the county in which the dam is located, all municipalities within five miles downstream of the dam, and any additional persons identified in the emergency action plan.
4. The Director may institute legal or administrative proceedings that the Director deems appropriate for violations of the emergency approval or conditions of the emergency approval.

**Historical Note**
New Section adopted by final rulemaking at 6 A.A.R. 2558, effective June 12, 2000 (Supp. 00-2). Amended by final expedited rulemaking at 28 A.A.R. 266 (January 28, 2022), with an immediate effective date of January 5, 2022 (Supp. 22-1).

**R12-15-1225. Emergency Repairs**

**A.** The Director shall use monies from the dam repair fund, established under A.R.S. § 45-1212.01 to employ any remedial measure necessary to protect human life and property resulting

from a condition that threatens the safety of a dam if the dam owner is unable or unwilling to take action and there is not sufficient time to issue and enforce an order.

**B.** The Deputy Director may authorize an expenditure not to exceed $10,000 from the dam repair fund for remedial measures under A.R.S. § 45-1212. The expenditure of any additional funds shall be approved by the Director.

**C.** The Director shall hold a lien against all property of the owner in accordance with A.R.S. § 45-1212.

**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 2558, effective June 12, 2000 (Supp. 00-2).

**R12-15-1226. Non-Emergency Repairs; Loans and Grants**

**A.** If the Director determines that a dam represents a threat to human life and property but is not in an emergency condition, the Director may use the dam repair fund, established under A.R.S. § 45-1212.01, as prescribed in this Article to defray the costs of repair.

**B.** Monies from the dam repair fund may be used for loans and grants to owners as provided in A.R.S. §§ 45-1218 and 45-1219.

**C.** To qualify for a loan or grant from the dam repair fund, a dam shall be classified as unsafe by the Director.

**D.** The Director may authorize grant funds for all or part of the cost of engineering studies or construction needed to mitigate the threat to human life and property created by a dam.

1. The Director and the grantee shall execute a financial assistance agreement that includes terms of financial assistance, the work progress, and payment schedule.
2. The Director shall disburse grant funds in accordance with the financial assistance agreement.
3. The Director shall establish a priority ranking for grants based on factors including the potential for failure of a dam, the number of lives at risk, and the capability of the owner to pay a portion of the costs.

**E.** The Director may loan funds for engineering studies or for all or part of construction as prescribed in A.R.S. § 45-1218.

1. The Director and the dam owner shall execute a loan repayment agreement. The loan repayment agreement shall be delivered to and held by the Department.
2. The Director shall establish a priority ranking for loans based on factors including the potential for failure of a dam, the number of human lives at risk, and the capability of the owner to pay a portion of the costs.

**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 2558, effective June 12, 2000 (Supp. 00-2).

## ARTICLE 13. WELL SPACING REQUIREMENTS; REPLACEMENT WELLS IN APPROXIMATELY THE SAME LOCATION

**R12-15-1301. Definitions**

In addition to the definitions in A.R.S. §§ 45-101, 45-402, and 45-591, the following words and phrases in this Article shall have the following meanings, unless the context otherwise requires:

1. "Abandoned well" means a well for which a well abandonment completion report has been filed pursuant to R12-15-816(E) or for which a notification of abandonment has been filed pursuant to R12-15-816(K).
2. "Additional drawdown" means a lowering in the water levels surrounding a well that is the result of the operation of the well and that is not attributable to existing regional rates of decline or existing impacts from other wells.
3. "Applicant" means any of the following:
   a. A person who has filed an application for a permit to construct a new well or a replacement well in a new location under A.R.S. § 45-599;
   b. A person who has filed an application for a recovery well permit under A.R.S. § 45-834.01 for a new well as defined in A.R.S. § 45-591 or, except as provided in A.R.S. § 45-834.01(B)(2) or (3), an existing well as defined in A.R.S. § 45-591;
   c. A person who has filed an application for approval to use a well to withdraw groundwater for transportation to an active management area under A.R.S. § 45-559; or
   d. A person, other than a city, town, private water company, or irrigation district, who has filed an application for a water exchange permit under A.R.S. § 45-1041.
4. "ADEQ" means the Arizona Department of Environmental Quality.
5. "Contaminated groundwater" means groundwater that has been contaminated by a release of a hazardous substance, as defined in A.R.S. § 49-201, or a pollutant, as defined in A.R.S. § 49-201.
6. "DOD" means the United States Department of Defense.
7. "EPA" means the United States Environmental Protection Agency.
8. "LCR plateau groundwater transporter" means a person transporting groundwater from the Little Colorado River plateau groundwater basin to another groundwater basin pursuant to A.R.S. § 45-544(B)(1).
9. "Notice of water exchange participant" means a person, other than a city, town, private water company, or irrigation district, named as a participant in a water exchange in a notice of water exchange filed under A.R.S. § 45-1051.
10. "Original well" means the well replaced by a replacement well in approximately the same location, except that if the replacement well is the latest in a succession of two or more wells drilled as replacement wells in approximately the same location under R12-15-1308 or temporary rule R12-15-840 adopted by the Director on March 11, 1983, "original well" means the well replaced by the first replacement well in approximately the same location.
11. "Remedial action site" means any of the following:
    a. The site of a remedial action undertaken pursuant to the comprehensive environmental response, compensation, and liability act ("CERCLA") of 1980, as amended, 42 U.S.C. 9601, et seq., commonly known as a "superfund" site;
    b. The site of a corrective action undertaken pursuant to A.R.S. Title 49, Chapter 6, commonly known as a leaking underground storage tank ("LUST") site;
    c. The site of a voluntary remediation action undertaken pursuant to A.R.S. Title 49, Chapter 1, Article 5;
    d. The site of a remedial action undertaken pursuant to A.R.S. Title 49, Chapter 2, Article 5, commonly known as a water quality assurance revolving fund ("WQARF") site;
    e. The site of a remedial action undertaken pursuant to the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. 6901, et seq.; or
    f. The site of remedial action undertaken pursuant to the Department of Defense Environmental Resto-

ration Program, 10 U.S.C. 2701, et seq., commonly known as a "Department of Defense site" or a "DOD site."

12. "Replacement well" means a well drilled for the purpose of replacing another well.
13. "Replacement well in a new location" means a replacement well that does not qualify as a replacement well in approximately the same location under R12-15-1308.
14. "Replacement well in approximately the same location" means a replacement well that qualifies as a replacement well in approximately the same location under R12-15-1308.
15. "Well" has the meaning prescribed in A.R.S. § 45-402. An abandoned well is not a well.
16. "Well of record" means, with respect to an applicant, an LCR plateau groundwater transporter, or a notice of water exchange participant, any well or proposed well not owned by the applicant, LCR plateau groundwater transporter, or notice of water exchange participant, or proposed to be drilled by the applicant, LCR plateau groundwater transporter, or notice of water exchange participant, to which any of the following apply:
    a. The well is an existing well as defined in A.R.S. § 45-591 and the owner or operator has registered the well with the Department, unless the current well information on file with the Department identifies the sole purpose or purposes of the well as one or more of the following:
        i. Cathodic protection;
        ii. Use as a sump pump or heat pump;
        iii. Air sparging;
        iv. Injection of liquids or gasses into the aquifer or vadose zone, including injection wells that are part of an underground storage facility permitted under A.R.S. Title 45, Chapter 3.1;
        v. Monitoring water levels or water quality, including a piezometer well;
        vi. Obtaining geophysical, mineralogical, or geotechnical data;
        vii. Grounding;
        viii. Soil vapor extraction;
        ix. Electrical energy generation pursuant to a temporary permit for electrical energy generation issued under A.R.S. § 45-517;
        x. Dewatering pursuant to a dewatering permit issued under A.R.S. § 45-513 or a temporary dewatering permit issued under A.R.S. § 45-518;
        xi. Drainage pursuant to a drainage water withdrawal permit issued under A.R.S. § 45-519; or
        xii. Hydrologic testing pursuant to a hydrologic testing permit issued under A.R.S. § 45-519.01.
    b. The well is a new well as defined in A.R.S. § 45-591 for which a notice of intention to drill was not filed pursuant to A.R.S. § 45-596 and for which a permit was not issued pursuant to A.R.S. §§ 45-599 or 45-834.01, and the owner or operator has registered the well with the Department, unless the current well information on file with the Department identifies the sole purpose or purposes of the well as one or more of the purposes in subsection (16)(a)(i) through (xii) of this Section;
    c. A filing has been made for the well pursuant to A.R.S. § 45-596(A) or (B), unless any of the following apply:
        i. The filing has expired pursuant to A.R.S. § 45-596(E);
        ii. The filing identifies the sole purpose or purposes of the well as one or more of the purposes in subsection (16)(a)(i) through (xii) of this Section; or
        iii. The well is an exempt well and the Director is prohibited by A.R.S. § 45-454(D)(4) from considering impacts on the well when determining whether to approve or reject a permit application filed under A.R.S. § 45-599.
    d. An application for a permit to drill the well has been received by the Department pursuant to A.R.S. § 45-599, unless the application has been rejected after exhaustion of all administrative and judicial appeals or the permit issued pursuant to the application has been revoked or has expired according to its terms or for failure to complete the well in a timely manner pursuant to A.R.S. § 45-599(G);
    e. An application for a permit pursuant to A.R.S. §§ 45-514 or 45-516 has been received by the Department pursuant to A.R.S. § 45-521, unless the application has been rejected after exhaustion of all administrative and judicial appeals or the permit issued pursuant to the application has been revoked or has expired according to its terms or for failure to complete the well before expiration of the drilling authority; or
    f. An application for a permit to drill a recovery well has been received by the Department pursuant to A.R.S. § 45-834.01, unless the application has been rejected after exhaustion of all administrative and judicial appeals or the permit issued pursuant to the application has been revoked or has expired according to its terms or for failure to complete the well in a timely manner pursuant to A.R.S. § 45-834.01(F).

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 2193, effective August 7, 2006 (Supp. 06-2).

**R12-15-1302. Well Spacing Requirements - Applications to Construct New Wells or Replacement Wells in New Locations Under A.R.S. § 45-599**

**A.** The Director shall not approve an application for a permit to construct a new well or a replacement well in a new location under A.R.S. § 45-599 if the Director determines that the withdrawals from the proposed well or wells will cause unreasonably increasing damage to surrounding land or other water users from the concentration of wells under subsection (B) of this Section.

**B.** The Director shall determine that the withdrawals from the proposed well or wells will cause unreasonably increasing damage to surrounding land or other water users from the concentration of wells if any of the following apply:

1. Except as provided in subsection (D) of this Section, the Director determines that the probable impact of the withdrawals from the proposed well or wells on any well of record in existence as of the date of receipt of the application will exceed 10 feet of additional drawdown after the first five years of operation of the proposed well or wells. To assist the Director in making a determination under

this subsection, the applicant may submit a hydrological study delineating those areas surrounding the proposed well or wells in which the projected impacts on water levels will exceed 10 feet of additional drawdown after the first five years of operation of the proposed well or wells. The Director may require the applicant to submit such a hydrological study if the Director determines that the study will assist the Director in making a determination under this subsection;

2. The Director determines that the proposed well or wells will be located in an area of known land subsidence and the withdrawals from the proposed well or wells will likely cause unreasonably increasing damage from additional regional land subsidence. To assist the Director in making a determination under this subsection, the applicant may submit a hydrological study, which may include a geophysical evaluation, demonstrating the impact of the withdrawals from the proposed well or wells on regional land subsidence. The Director may require the applicant to submit such a hydrological study if the Director determines that the study will assist the Director in making a determination under this subsection; or
3. Except as provided in subsection (E) of this Section, the Director determines, after consulting with ADEQ, that withdrawals from the proposed well or wells will likely cause the migration of contaminated groundwater from a remedial action site to a well of record in existence as of the date of the receipt of the application, resulting in a degradation of the quality of the water withdrawn from the well of record so that the water will no longer be usable for the purpose for which it is currently being used without additional treatment, and that the damage to the owner of the well of record will not be prevented or adequately mitigated through the implementation of a program regulated under Title 49 of the Arizona Revised Statutes, or a program regulated by EPA or DOD. To assist the Director in making a determination under this subsection, the applicant may submit a hydrological study demonstrating whether the withdrawals from the proposed well or wells will have the effect described in this subsection. The Director may require the applicant to submit such a hydrological study if the Director determines that the study will assist the Director in making a determination under this subsection.

**C.** In making a determination under subsection (B)(1), (B)(2), or (B)(3) of this Section, if the proposed well is a replacement well in a new location, the Director shall take into account the collective effects of reducing or terminating withdrawals from the well being replaced combined with the proposed withdrawals from the replacement well if the applicant submits a hydrological study demonstrating those collective effects to the satisfaction of the Director.

**D.** If the Director determines under subsection (B)(1) of this Section that the probable impact of the withdrawals from the proposed well or wells on one or more wells of record in existence as of the date of receipt of the application will exceed 10 feet of additional drawdown after the first five years of operation of the proposed well or wells, the Director shall notify the applicant in writing of the location of the wells of record and the names and addresses of the owners of the wells as shown in the Department's well registry. The Director shall not determine that the withdrawals from the proposed well or wells will cause unreasonably increasing damage to surrounding land or other water users from the concentration of wells under subsection (B)(1) of this Section if within 60 days after the date on the notice, or a longer time period approved by the Director, the applicant submits one of the following for each well of record identified in the notice:

1. A signed and notarized consent form from the owner of the well of record consenting to the withdrawals from the proposed well or wells. The applicant shall use the consent form furnished by the Director; or
2. Evidence satisfactory to the Director that the address of the owner of the well of record as shown in the Department's well registry records is inaccurate and that the applicant made a reasonable attempt to locate the current owner of the well of record but was unable to do so.

**E.** If the Director determines that withdrawals from the proposed well or wells will have the effect described in subsection (B)(3) of this Section on one or more wells of record in existence as of the date of receipt of the application, the Director shall notify the applicant in writing of the location of the wells of record and the names and addresses of the owners of the wells as shown in the Department's well registry. The Director shall not determine that the withdrawals from the proposed well or wells will cause unreasonably increasing damage to surrounding land or other water users from the concentration of wells under subsection (B)(3) of this Section if within 60 days after the date on the notice, or a longer time period approved by the Director, the applicant submits one of the following for each well of record identified in the notice:

1. A signed and notarized consent form from the owner of the well of record consenting to the withdrawals from the proposed well or wells. The applicant shall use the consent form furnished by the Director; or
2. Evidence satisfactory to the Director that the address of the owner of the well of record as shown in the Department's well registry records is inaccurate and that the applicant made a reasonable attempt to locate the current owner of the well of record but was unable to do so.

**F.** At any time before a final determination under this Section, the applicant may:

1. Amend the application to change the location of the proposed well or wells or the amount of groundwater to be withdrawn from the proposed well or wells to lessen the degree of impact on wells of record or regional land subsidence; or
2. Agree to construct or operate the proposed well or wells in a manner that lessens the degree of impact on wells of record or regional land subsidence. The Director shall indicate in the well permit that compliance with the agreement is a condition of the well permit.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 2193, effective August 7, 2006 (Supp. 06-2).

**R12-15-1303. Well Spacing Requirements - Applications for Recovery Well Permits Under A.R.S. § 45-834.01**

**A.** The Director shall not approve an application for a recovery well permit under A.R.S. § 45-834.01 that is filed for a new well as defined in A.R.S. § 45-591 or, except as provided in A.R.S. § 45-834.01(B)(2) or (3), for an existing well as defined in A.R.S. § 45-591, if the Director determines that the recovery of stored water from the proposed well or wells will cause unreasonably increasing damage to surrounding land or other water users from the concentration of wells under subsection (B) of this Section.

**B.** The Director shall determine that the recovery of stored water from the proposed well or wells will cause unreasonably increasing damage to surrounding land or other water users from the concentration of wells if any of the following apply:
1. Except as provided in subsection (D) of this Section, the Director determines that the probable impact of the recovery of stored water from the proposed well or wells on any well of record in existence as of the date of receipt of the application will exceed 10 feet of additional drawdown after the first five years of the recovery of stored water from the proposed well or wells. To assist the Director in making a determination under this subsection, the applicant shall submit with the application a hydrological study delineating those areas surrounding the proposed well or wells in which the projected impacts on water levels will exceed 10 feet of additional drawdown after the first five years of the recovery of stored water from the proposed well or wells;
2. The Director determines that the proposed recovery well or wells will be located in an area of known land subsidence and the recovery of stored water from the proposed well or wells will likely cause unreasonably increasing damage from additional regional land subsidence. To assist the Director in making a determination under this subsection, the applicant may submit a hydrological study, which may include a geophysical evaluation, demonstrating the impact of the recovery of stored water from the proposed recovery well or wells on regional land subsidence. The Director may require the applicant to submit such a hydrological study if the Director determines that the study will assist the Director in making a determination under this subsection; or
3. Except as provided in subsection (E) of this Section, the Director determines, after consulting with ADEQ, that the recovery of stored water from the proposed well or wells will likely cause the migration of contaminated groundwater from a remedial action site to a well of record in existence as of the date of receipt of the application, resulting in a degradation of the quality of the water withdrawn from the well of record so that the water will no longer be usable for the purpose for which it is currently being used without additional treatment, and that the damage to the owner of the well of record will not be prevented or adequately mitigated through the implementation of a program regulated under Title 49 of the Arizona Revised Statutes, or a program regulated by EPA or DOD. To assist the Director in making a determination under this subsection, the applicant may submit a hydrological study demonstrating whether the recovery of stored water from the proposed well or wells will have the effect described in this subsection. The Director may require the applicant to submit such a hydrological study if the Director determines that the study will assist the Director in making a determination under this subsection.

**C.** In making a determination under subsection (B)(1), (B)(2), or (B)(3) of this Section:
1. If the proposed recovery well is a replacement well in a new location, the Director shall take into account the collective effects of reducing or terminating withdrawals from the well being replaced combined with the proposed recovery of stored water from the replacement well if the applicant submits a hydrological study demonstrating those collective effects to the satisfaction of the Director.
2. If the proposed recovery well will be located within the area of impact, as defined in A.R.S. § 45-802.01, of an underground storage facility and the applicant will account for all of the water recovered from the well as water stored at the facility, the Director shall take into account the effects of water storage at the facility on the proposed recovery of stored water from the recovery well if the applicant submits a hydrological study demonstrating those effects to the satisfaction of the Director.

**D.** If the Director determines under subsection (B)(1) of this Section that the probable impact of the recovery of stored water from the proposed recovery well or wells on any well of record in existence as of the date of receipt of the application will exceed 10 feet of additional drawdown after the first five years of operation of the proposed well or wells, the Director shall notify the applicant in writing of the location of the wells of record and the names and addresses of the owners of the wells as shown in the Department's well registry. The Director shall not determine that the recovery of stored water from the proposed recovery well or wells will cause unreasonably increasing damage to surrounding land or other water users from the concentration of wells under subsection (B)(1) of this Section if within 60 days after the date on the notice, or a longer time period approved by the Director, the applicant submits one of the following for each well of record identified in the notice:
1. A signed and notarized consent form from the owner of the well of record consenting to the recovery of stored water from the proposed recovery well or wells. The applicant shall use the consent form furnished by the Director; or
2. Evidence satisfactory to the Director that the address of the owner of the well of record as shown in the Department's well registry records is inaccurate and that the applicant made a reasonable attempt to locate the current owner of the well of record but was unable to do so.

**E.** If the Director determines that the recovery of stored water from the proposed recovery well or wells will have the effect described in subsection (B)(3) of this Section on one or more wells of record in existence as of the date of receipt of the application, the Director shall notify the applicant in writing of the location of the wells of record and the names and addresses of the owners of the wells as shown in the Department's well registry. The Director shall not determine that the recovery of stored water from the proposed recovery well or wells will cause unreasonably increasing damage to surrounding land or other water users from the concentration of wells under subsection (B)(3) of this Section if within 60 days after the date on the notice, or a longer time period approved by the Director, the applicant submits one of the following for each well of record identified in the notice:
1. A signed and notarized consent form from the owner of the well of record consenting to the recovery of stored water from the proposed recovery well or wells. The applicant shall use the consent form furnished by the Director; or
2. Evidence satisfactory to the Director that the address of the owner of the well of record as shown in the Department's well registry records is inaccurate and that the applicant made a reasonable attempt to locate the current owner of the well of record but was unable to do so.

**F.** At any time before a final determination under this Section, the applicant may:
1. Amend the application to change the location of the proposed recovery well or wells or the amount of stored

water to be recovered from the proposed recovery well or wells to lessen the degree of impact on wells of record or regional land subsidence; or

2. Agree to construct or operate the proposed recovery well or wells in a manner that lessens the degree of impact on wells of record or regional land subsidence. The Director shall indicate in the recovery well permit that compliance with the agreement is a condition of the recovery well permit.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 2193, effective August 7, 2006 (Supp. 06-2).

**R12-15-1304. Well Spacing Requirements - Wells Withdrawing Groundwater From the Little Colorado River Plateau Groundwater Basin for Transportation to Another Groundwater Basin Under A.R.S. § 45-544(B)(1)**

**A.** An LCR plateau groundwater transporter may not withdraw groundwater from a well or wells drilled in the Little Colorado river plateau groundwater basin after January 1, 1991, except a replacement well in approximately the same location or a well drilled after that date pursuant to a notice of intention to drill filed on or before that date, for transportation away from the basin pursuant to A.R.S. § 45-544(B)(1) if the Director determines that the withdrawals for that purpose will cause unreasonably increasing damage to surrounding land or other water users from the concentration of wells under subsection (B) of this Section.

**B.** The Director shall determine that the withdrawals of groundwater from the well or wells will cause unreasonably increasing damage to surrounding land or other water users from the concentration of wells if any of the following apply:

1. Except as provided in subsection (D) of this Section, the Director determines that the probable impact of the withdrawals of groundwater from the well or wells on any well of record in existence when the withdrawals commenced or are proposed to commence will exceed 10 feet of additional drawdown after the first five years of the withdrawals. To assist the Director in making a determination under this subsection, the LCR plateau groundwater transporter may submit to the Director a hydrological study delineating those areas surrounding the LCR plateau groundwater transporter's well or wells in which the projected impacts on water levels will exceed 10 feet of additional drawdown after the first five years of the withdrawals. The Director may require the LCR plateau groundwater transporter to submit such a hydrological study if the Director determines that the study will assist the Director in making a determination under this subsection;
2. The Director determines that the well or wells from which the groundwater is withdrawn are located in an area of known land subsidence and the withdrawals of groundwater will likely cause unreasonably increasing damage from additional regional land subsidence. To assist the Director in making a determination under this subsection, the LCR plateau groundwater transporter may submit to the Director a hydrological study, which may include a geophysical evaluation, demonstrating the impact of the withdrawals on regional land subsidence. The Director may require the LCR plateau groundwater transporter to submit such a hydrological study if the Director determines that the study will assist the Director in making a determination under this subsection; or
3. Except as provided in subsection (E) of this Section, the Director determines, after consulting with ADEQ, that the withdrawals of groundwater from the well or wells will likely cause the migration of contaminated groundwater from a remedial action site to a well of record in existence when the groundwater withdrawals commenced or are proposed to commence, resulting in a degradation of the quality of the water withdrawn from the well of record so that the water will no longer be usable for the purpose for which it is currently being used without additional treatment, and that the damage to the owner of the well of record will not be prevented or adequately mitigated through the implementation of a program regulated under Title 49 of the Arizona Revised Statutes, or a program regulated by EPA or DOD. To assist the Director in making a determination under this subsection, the LCR plateau groundwater transporter may submit to the Director a hydrological study demonstrating whether the withdrawals of groundwater will have the effect described in this subsection. The Director may require the LCR plateau groundwater transporter to submit such a hydrological study if the Director determines that the study will assist the Director in making a determination under this subsection.

**C.** In making a determination under subsection (B)(1), (B)(2), or (B)(3) of this Section, if a well from which the groundwater is withdrawn is a replacement well in a new location, the Director shall take into account the collective effects of reducing or terminating withdrawals from the well being replaced combined with the withdrawals from the replacement well if the LCR plateau groundwater transporter submits a hydrological study demonstrating those collective effects to the satisfaction of the Director.

**D.** If the Director determines under subsection (B)(1) of this Section that the probable impact of the withdrawals of groundwater from the well or wells on any well of record in existence when the withdrawals commenced or are proposed to commence will exceed 10 feet of additional drawdown after the first five years of the withdrawals, the Director shall notify the LCR plateau groundwater transporter in writing of the location of the wells of record and the names and addresses of the owners of the wells as shown in the Department's well registry. The Director shall not determine that the withdrawals will cause unreasonably increasing damage to surrounding land or other water users from the concentration of wells under subsection (B)(1) of this Section if within 60 days after the date on the notice, or a longer time period approved by the Director, the LCR plateau groundwater transporter submits one of the following for each well of record identified in the notice:

1. A signed and notarized consent form from the owner of the well of record consenting to the withdrawals. The LCR plateau groundwater transporter shall use the consent form furnished by the Director; or
2. Evidence satisfactory to the Director that the address of the owner of the well of record as shown in the Department's well registry records is inaccurate and that the LCR plateau groundwater transporter made a reasonable attempt to locate the current owner of the well of record but was unable to do so.

**E.** If the Director determines that the withdrawals of groundwater from the well or wells will have the effect described in subsection (B)(3) of this Section on one or more wells of record in existence when the groundwater withdrawals commenced or are proposed to commence, the Director shall notify the LCR

plateau groundwater transporter in writing of the location of the wells of record and the names and addresses of the owners of the wells as shown in the Department's well registry. The Director shall not determine that the withdrawals will cause unreasonably increasing damage to surrounding land or other water users from the concentration of wells under subsection (B)(3) of this Section if within 60 days after the date on the notice, or a longer time period approved by the Director, the LCR plateau groundwater transporter submits one of the following for each well of record identified in the notice:

1. A signed and notarized consent form from the owner of the well of record consenting to the withdrawals. The LCR plateau groundwater transporter shall use the consent form furnished by the Director; or
2. Evidence satisfactory to the Director that the address of the owner of the well of record as shown in the Department's well registry records is inaccurate and that the LCR plateau groundwater transporter made a reasonable attempt to locate the current owner of the well of record but was unable to do so.

**F.** At any time before a final determination under this Section, the LCR plateau groundwater transporter may agree to construct or operate the well or wells in a manner that lessens the degree of impact on wells of record or regional land subsidence. Compliance with the agreement is a condition for the use of the well or wells to withdraw groundwater for transportation away from the basin pursuant to A.R.S. § 45-544(B)(1).

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 2193, effective August 7, 2006 (Supp. 06-2).

**R12-15-1305. Well Spacing Requirements - Applications to Use a Well to Withdraw Groundwater for Transportation to an Active Management Area Under A.R.S. § 45-559**

**A.** The Director shall not approve an application to use a well or wells constructed after September 21, 1991, to withdraw groundwater for transportation to an active management area under A.R.S. § 45-559 if the Director determines that the withdrawals for that purpose will cause unreasonably increasing damage to surrounding land or other water users from the concentration of wells under subsection (B) of this Section.

**B.** The Director shall determine that the withdrawals of groundwater will cause unreasonably increasing damage to surrounding land or other water users from the concentration of wells if any of the following apply:

1. Except as provided in subsection (C) of this Section, the Director determines that the probable impact of the groundwater withdrawals on any well of record in existence as of the date of receipt of the application will exceed 10 feet of additional drawdown after the first five years of the withdrawals. To assist the Director in making a determination under this subsection, the applicant may submit a hydrological study delineating those areas surrounding the proposed well or wells in which the projected impacts of the groundwater withdrawals on water levels will exceed 10 feet of additional drawdown after the first five years of the withdrawals. The Director may require the applicant to submit such a hydrological study if the Director determines that the study will assist the Director in making a determination under this subsection;
2. The Director determines that the proposed well or wells will be located in an area of known land subsidence and the groundwater withdrawals will likely cause unreasonably increasing damage from additional regional land subsidence. To assist the Director in making a determination under this subsection, the applicant may submit a hydrological study, which may include a geophysical evaluation, demonstrating the impact of the groundwater withdrawals on regional land subsidence. The Director may require the applicant to submit such a hydrological study if the Director determines that the study will assist the Director in making a determination under this subsection; or
3. Except as provided in subsection (D) of this Section, the Director determines, after consulting with ADEQ, that the groundwater withdrawals will likely cause the migration of contaminated groundwater from a remedial action site to a well of record in existence as of the date of receipt of the application, resulting in a degradation of the quality of the water withdrawn from the well of record so that the water will no longer be usable for the purpose for which it is currently being used without additional treatment, and that the damage to the owner of the well of record will not be prevented or adequately mitigated through the implementation of a program regulated under Title 49 of the Arizona Revised Statutes, or a program regulated by EPA or DOD. To assist the Director in making a determination under this subsection, the applicant may submit a hydrological study demonstrating whether the groundwater withdrawals will have the effect described in this subsection. The Director may require the applicant to submit such a hydrological study if the Director determines that the study will assist the Director in making a determination under this subsection.

**C.** If the Director determines under subsection (B)(1) of this Section that the probable impact of the groundwater withdrawals on any well of record in existence as of the date of receipt of the application will exceed 10 feet of additional drawdown after the first five years of the withdrawals, the Director shall notify the applicant in writing of the location of the wells of record and the names and addresses of the owners of the wells as shown in the Department's well registry. The Director shall not determine that the groundwater withdrawals will cause unreasonably increasing damage to surrounding land or other water users from the concentration of wells under subsection (B)(1) of this Section if within 60 days after the date on the notice, or a longer time period approved by the Director, the applicant submits one of the following for each well of record identified in the notice:

1. A signed and notarized consent form from the owner of the well of record consenting to the withdrawals. The applicant shall use the consent form furnished by the Director; or
2. Evidence satisfactory to the Director that the address of the owner of the well of record as shown in the Department's well registry records is inaccurate and that the applicant made a reasonable attempt to locate the current owner of the well of record but was unable to do so.

**D.** If the Director determines that the groundwater withdrawals will have the effect described in subsection (B)(3) of this Section on one or more wells of record in existence as of the date of receipt of the application, the Director shall notify the applicant in writing of the location of the wells of record and the names and addresses of the owners of the wells as shown in the Department's well registry. The Director shall not determine that the groundwater withdrawals will cause unreasonably increasing damage to surrounding land or other water users from the concentration of wells under subsection (B)(3)

of this Section if within 60 days after the date on the notice, or a longer time period approved by the Director, the applicant submits one of the following for each well of record identified in the notice:

1. A signed and notarized consent form from the owner of the well of record consenting to the withdrawals. The applicant shall use the consent form furnished by the Director; or
2. Evidence satisfactory to the Director that the address of the owner of the well of record as shown in the Department's well registry records is inaccurate and that the applicant made a reasonable attempt to locate the current owner of the well of record but was unable to do so.

**E.** At any time before a final determination under this Section, the applicant may:

1. Amend the application to change the location of the proposed well or wells or the amount of groundwater to be withdrawn from the proposed well or wells to lessen the degree of impact on wells of record or regional land subsidence; or
2. Agree to construct or operate the proposed well or wells in a manner that lessens the degree of impact on wells of record or regional land subsidence. The Director shall indicate in the permit that compliance with the agreement is a condition of the permit to use the well or wells to withdraw groundwater for transportation to an active management area under A.R.S. § 45-559.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 2193, effective August 7, 2006 (Supp. 06-2).

**R12-15-1306. Well Spacing Requirements - Applications for Water Exchange Permits Under A.R.S. § 45-1041**

**A.** The Director shall not approve an application for a water exchange permit filed under A.R.S. § 45-1041 by a person other than a city, town, private water company or irrigation district if the Director determines that any new or increased pumping by the applicant from a well or wells within an active management area pursuant to the water exchange will cause unreasonably increasing damage to surrounding land or other water users under subsection (B) of this Section.

**B.** The Director shall determine that new or increased pumping by the applicant from a well or wells within an active management area will cause unreasonably increasing damage to surrounding land or other water users if any of the following apply:

1. Except as provided in subsection (C) of this Section, the Director determines that the probable impact of the new or increased pumping on any well of record in existence as of the date of receipt of the application will exceed 10 feet of additional drawdown after the first five years of the pumping. To assist the Director in making a determination under this subsection, the applicant may submit a hydrological study delineating those areas surrounding the proposed well or wells in which the projected impacts of the new or increased pumping on water levels will exceed 10 feet of additional drawdown after the first five years of the pumping. The Director may require the applicant to submit such a hydrological study if the Director determines that the study will assist the Director in making a determination under this subsection;
2. The Director determines that the new or increased pumping will occur in an area of known land subsidence and the pumping will likely cause unreasonably increasing damage from additional regional land subsidence. To assist the Director in making a determination under this subsection, the applicant may submit a hydrological study, which may include a geophysical evaluation, demonstrating the impact of the new or increased pumping on regional land subsidence. The Director may require the applicant to submit such a hydrological study if the Director determines that the study will assist the Director in making a determination under this subsection; or
3. Except as provided in subsection (D) of this Section, the Director determines, after consulting with ADEQ, that the new or increased pumping will likely cause the migration of contaminated groundwater from a remedial action site to a well of record in existence as of the date of receipt of the application, resulting in a degradation of the quality of the water withdrawn from the well of record so that the water will no longer be usable for the purpose for which it is currently being used without additional treatment, and that the damage to the owner of the well of record will not be prevented or adequately mitigated through the implementation of a program regulated under Title 49 of the Arizona Revised Statutes, or a program regulated by EPA or DOD. To assist the Director in making a determination under this subsection, the applicant may submit with the application a hydrological study demonstrating whether the new or increased pumping will have the effect described in this subsection. If the applicant does not submit such a hydrological study with the application, the Director may require the applicant to submit the study if the Director determines that the study will assist the Director in making a determination under this subsection.

**C.** If the Director determines under subsection (B)(1) of this Section that the probable impact of the new or increased pumping on any well of record in existence as of the date of receipt of the application will exceed 10 feet of additional drawdown after the first five years of the pumping, the Director shall notify the applicant in writing of the location of the wells of record and the names and addresses of the owners of the wells as shown in the Department's well registry. The Director shall not determine that the new or increased pumping will cause unreasonably increasing damage to surrounding land or other water users under subsection (B)(1) of this Section if within 60 days after the date on the notice, or a longer time period approved by the Director, the applicant submits one of the following for each well of record identified in the notice:

1. A signed and notarized consent form from the owner of the well of record consenting to the new or increased pumping. The applicant shall use the consent form furnished by the Director; or
2. Evidence satisfactory to the Director that the address of the owner of the well of record as shown in the Department's well registry records is inaccurate and that the applicant made a reasonable attempt to locate the current owner of the well of record but was unable to do so.

**D.** If the Director determines that the new or increased pumping will have the effect described in subsection (B)(3) of this Section on one or more wells of record in existence as of the date of receipt of the application, the Director shall notify the applicant in writing of the location of the wells of record and the names and addresses of the owners of the wells as shown in the Department's well registry. The Director shall not determine that the new or increased pumping will cause unreason-

ably increasing damage to surrounding land or other water users from the concentration of wells under subsection (B)(3) of this Section if within 60 days after the date on the notice, or a longer time period approved by the Director, the applicant submits one of the following for each well of record identified in the notice:

1. A signed and notarized consent form from the owner of the well of record consenting to the new or increased pumping. The applicant shall use the consent form furnished by the Director; or
2. Evidence satisfactory to the Director that the address of the owner of the well of record as shown in the Department's well registry records is inaccurate and that the applicant made a reasonable attempt to locate the current owner of the well of record but was unable to do so.

**E.** At any time before a final determination under this Section, the applicant may:

1. Amend the application to change the location of the proposed well or wells or the amount of the new or increase pumping to lessen the degree of impact on wells of record or regional land subsidence; or
2. Agree to construct or operate the proposed well or wells in a manner that lessens the degree of impact on wells of record or regional land subsidence. The Director shall indicate in the water exchange permit that compliance with the agreement is a condition of the water exchange permit.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 2193, effective August 7, 2006 (Supp. 06-2).

**R12-15-1307. Well Spacing Requirements - Notices of Water Exchange Under A.R.S. § 45-1051**

**A.** A notice of water exchange participant may not participate in a water exchange for which a notice is filed under A.R.S. § 45-1051 if the Director determines that any new or increased pumping by the person from a well or wells within an active management area pursuant to the water exchange will cause unreasonably increasing damage to surrounding land or other water users under subsection (B) of this Section.

**B.** The Director shall determine that new or increased pumping from the well or wells in an active management area will cause unreasonably increasing damage to surrounding land or other water users if any of the following apply:

1. Except as provided in subsection (C) of this Section, the Director determines that the probable impact of the new or increased pumping on any well of record in existence when the pumping commenced or is proposed to commence will exceed 10 feet of additional drawdown after the first five years of the pumping. To assist the Director in making a determination under this subsection, the notice of water exchange participant may submit to the Director a hydrological study delineating those areas surrounding the notice of water exchange participant's well or wells in which the projected impacts of the new or increased pumping on water levels will exceed 10 feet of additional drawdown after the first five years of the pumping. The Director may require the notice of water exchange participant to submit such a hydrological study if the Director determines that the study will assist the Director in making a determination under this subsection;
2. The Director determines that the new or increased pumping is in an area of known land subsidence and the pumping will likely cause unreasonably increasing damage from additional regional land subsidence. To assist the Director in making a determination under this subsection, the notice of water exchange participant may submit to the Director a hydrological study, which may include a geophysical evaluation, demonstrating the impact of the pumping on regional land subsidence. The Director may require the notice of water exchange participant to submit such a hydrological study if the Director determines that the study will assist the Director in making a determination under this subsection; or
3. Except as provided in subsection (D) of this Section, the Director determines, after consulting with ADEQ, that the new or increased pumping will likely cause the migration of contaminated groundwater from a remedial action site to a well of record in existence when the pumping commenced or is proposed to commence, resulting in a degradation of the quality of the water withdrawn from the well of record so that the water will no longer be usable for the purpose for which it is currently being used without additional treatment, and that the damage to the owner of the well of record will not be prevented or adequately mitigated through the implementation of a program regulated under Title 49 of the Arizona Revised Statutes, or a program regulated by EPA or DOD. To assist the Director in making a determination under this subsection, the notice of water exchange participant may submit to the Director a hydrological study demonstrating whether the new or increased pumping will have the effect described in this subsection. The Director may require the notice of water exchange participant to submit such a study if the Director determines that the study will assist the Director in making a determination under this subsection.

**C.** If the Director determines under subsection (B)(1) of this Section that the probable impact of the new or increased pumping on any well of record in existence when the pumping commenced or is proposed to commence will exceed 10 feet of additional drawdown after the first five years of the pumping, the Director shall notify the notice of water exchange participant in writing of the location of the wells of record and the names and addresses of the owners of the wells as shown in the Department's well registry. The Director shall not determine that the new or increased pumping will cause unreasonably increasing damage to surrounding land or other water users from the concentration of wells under subsection (B)(1) of this Section if within 60 days after the date on the notice, or a longer time period approved by the Director, the notice of water exchange participant submits one of the following for each well of record identified in the notice:

1. A signed and notarized consent form from the owner of the well of record consenting to the new or increased pumping. The notice of water exchange participant shall use the consent form furnished by the Director; or
2. Evidence satisfactory to the Director that the address of the owner of the well of record as shown in the Department's well registry records is inaccurate and that the notice of water exchange participant made a reasonable attempt to locate the current owner of the well of record but was unable to do so.

**D.** If the Director determines that the new or increased pumping will have the effect described in subsection (B)(3) of this Section on one or more wells of record in existence when the pumping commenced or is proposed to commence, the Director shall notify the notice of water exchange participant in

writing of the location of the wells of record and the names and addresses of the owners of the wells as shown in the Department's well registry. The Director shall not determine that the new or increased pumping will cause unreasonably increasing damage to surrounding land or other water users from the concentration of wells under subsection (B)(3) of this Section if within 60 days after the date on the notice, or a longer time period approved by the Director, the notice of water exchange participant submits one of the following for each well of record identified in the notice:

1. A signed and notarized consent form from the owner of the well of record consenting to the new or increased pumping. The notice of water exchange participant shall use the consent form furnished by the Director; or
2. Evidence satisfactory to the Director that the address of the owner of the well of record as shown in the Department's well registry records is inaccurate and that the notice of water exchange participant made a reasonable attempt to locate the current owner of the well of record but was unable to do so.

**E.** At any time before a final determination under this Section, the notice of water exchange participant may agree to construct or operate the well or wells in a manner that lessens the degree of impact on wells of record or regional land subsidence. Compliance with the agreement is a condition for the use of the well to pump water for the water exchange.

**Historical Note**
New Section made by final rulemaking at 12 A.A.R. 2193, effective August 7, 2006 (Supp. 06-2).

**R12-15-1308. Replacement Wells in Approximately the Same Location**

**A.** For purposes of A.R.S. §§ 45-544, 45-596, and 45-597, a replacement well in approximately the same location is a proposed well to which all of the following apply:

1. The proposed well will be located no greater than 660 feet from the original well, and the location of the original well can be determined at the time the notice of intention to drill the proposed well is filed;
2. Except as provided in subsections (A)(3) and (A)(4) of this Section, the proposed well will not annually withdraw an amount of water in excess of the maximum annual capacity of the original well. The Director shall determine the maximum annual capacity of the original well by multiplying the maximum pump capacity of the original well in gallons per minute by 525,600, and then converting the result into acre-feet by dividing the result by 325,851 gallons. The Director shall presume that the maximum pump capacity of the original well is the maximum pump capacity of the well in gallons per minute as shown in the Department's well registry records, except that:
   a. If the Director has reason to believe that the maximum pump capacity as shown in the Department's well registry records is inaccurate, or if the applicant submits evidence demonstrating that the maximum pump capacity as shown in the Department's well registry records is inaccurate, the Director shall determine the maximum pump capacity by considering all available evidence, including the depth and diameter of the well and any evidence submitted by the applicant; or
   b. If the Department's well registry records do not show the maximum pump capacity of the original well, the Director shall not approve the proposed well as a replacement well in approximately the same location unless the applicant demonstrates to the Director's satisfaction the maximum pump capacity of the original well;
3. If a well permit was issued for the original well under A.R.S. § 45-599, the proposed well will not annually withdraw an amount of groundwater in excess of the maximum annual volume set forth in the well permit;
4. If a recovery well permit was issued for the well to be replaced pursuant to A.R.S. § 45-834.01(B) and the permit sets forth a maximum annual volume of stored water that may be recovered from the well, the proposed well will not annually recover an amount of stored water in excess of the maximum annual volume set forth in the recovery well permit;
5. If the well to be replaced has been physically abandoned in accordance with R12-15-816, a notice of intention to drill the proposed well is filed no later than 90 days after the well to be replaced was physically abandoned; and
6. If the proposed well will be used to withdraw groundwater from the Little Colorado river plateau groundwater basin for transportation away from the basin pursuant to A.R.S. § 45-544(B)(1), one of the following applies:
   a. The original well was drilled on or before January 1, 1991, or was drilled after that date pursuant to a notice of intention to drill that was on file with the Department on that date; or
   b. The Director previously determined that the withdrawal of groundwater from the original well for transportation away from the Little Colorado river plateau groundwater basin complies with R12-15-1304.

**B.** After a replacement well in approximately the same location is drilled, the replacement well may be operated in conjunction with the original well and any other wells that replaced the original well if the total annual withdrawals from all wells do not exceed the maximum amount allowed under subsection (A)(2), (A)(3), or (A)(4) of this Section, whichever applies.

**C.** A proposed well may be drilled as a replacement well in approximately the same location for more than one original well if the criteria in subsections (A)(1), (A)(5), and (A)(6) of this Section are met with respect to each original well and if the total annual withdrawals from the proposed well will not exceed the combined maximum annual amounts allowed for each original well under subsections (A)(2), (A)(3), or (A)(4) of this Section, whichever apply.

**D.** The Director may include conditions in the approval of the notice of intention to drill the replacement well to ensure that the drilling and operation of the replacement well meets the requirements of this Section.

**Historical Note**
New Section made by final rulemaking at 12 A.A.R. 2193, effective August 7, 2006 (Supp. 06-2).