

Status of ADWR Adequacy Rules Change for the C and R Aquifers, Northern Arizona

Originally proposed in Senate Bill 1575
Water Adequacy Amendments

Karen Modesto
Statewide Planning

Arizona Department of Water Resources

March 28, 2021



5 Criteria Requirements for Water Adequacy Program

- 1) Physical availability of water for 100 years.
 - Currently, the depth-to-water cannot exceed 1,200 feet after 100 years of pumping for the subdivision served by a water provider
- 2) Legal availability of water for 100 years.
 - For all sources of water, legal rights must exist
- 3) Continuous availability of water for 100 years.
 - Adequate delivery, storage and treatment works must be either in place or financed
- 4) Financial capability to construct any necessary water storage, treatment and delivery system
 - The final plat must be submitted to a qualified platting authority or service must be available to each lot
- 5) Sufficient quality of water supply.
 - The applicant is regulated by ADEQ and the public water system is not in significant noncompliance.

Water Adequacy Amendments

- **SB 1575 adopted in June 2007**
- **Current Physical Availability criterion is not applicable to water providers on the Coconino Plateau as current depths to groundwater are often deeper than allowed under State Law (i.e., 1,200 feet)**
- **SB 1575 Session Law: ADWR shall amend the AWS rules to include: Criteria for determination of adequacy based on other physical aquifer characteristics that affect physical availability**

Public Process – Past

- ADWR convened informational workshops around in Fall 2007
- ADWR & stakeholders in northern Arizona attempted to solve the adequacy rules problem in 2008
- Governor Brewer put a hold on **all** Rule making by State Agencies in 2009
- Water Adequacy Amendments Rulemaking process was shelved
- Governor Ducey's 2017 *Governor's Water Solutions Conversations* – Groundwater Work Group...
 - Proposed to move forward with the Adequacy rule change for C and R Aquifers

Proposal Statement – Alternative Adequate Water Supply Criteria

*This proposal will allow flexibility in demonstrating an adequate water supply in the consolidated aquifers of **northern Arizona**.*

Proposal Statement:

- 1) Amend R12-15-716** to provide that in the **C and R aquifers**, the Director shall consider groundwater and stored water recovered outside the area of impact to be physically available if the applicant submits a hydrologic study demonstrating either:
 - a. That the depth-to-static water level will not exceed 1,200 feet BLS over a 100-year period; or**
 - b. That after 100 years of withdrawals, at least XX percent of the estimated groundwater in storage within the area at the time the rule amendments become effective will remain.**

Going Forward: GRRC – Rulemaking Process

GRRC = Governor's Regulatory Review Council

- ADWR gets permission from the Governor's Office (**GRRC**) to begin rulemaking process (receive an exemption from the current moratorium)
 - Letters of support from stakeholders (CPWP)
- ADWR conducts informal stakeholder discussions – seek stakeholder input
 - Local outreach, public meetings
 - Develop specific rule language



GRRC – Rulemaking Process (Cont.)

- ADWR drafts rule for informal public review and comment
 - ADWR prepares economic impact analysis (determination of “regulatory burden”)
 - Makes modifications as needed to rule language
- ADWR files notice of rulemaking with Secretary of State
 - Starts the clock
 - Rule must be completed within one year
- ADWR files formal rule language and economic impact
 - Secretary of State publishes notice; opens at least 30-day comment period



GRRC – Rulemaking Process (Cont.)

- During publication of rule, notice of rule hearing published;
 - hearing(s) scheduled – no sooner than 30 days after formal rule filing and opening of comment period.
- Hearing generated comments, and comments submitted in writing, are reviewed and responded; if no substantial changes:
 - proposed rule, rule explanation, economic impact, public comments and ADWR responses submitted to GRRC for review.
 - Must be completed within 120 days after formal publication and opening of comment period.



GRRC – Rulemaking Process (Cont.)

- GRRC has 90 days to review or return rule.
- After GRRC approval, rule becomes effective 60 days after final publication with the Secretary of State.

Karen Modesto, Statewide Planning, ADWR
kmodesto@azwater.gov
602-771-7705



ADWR REGULATORY AGENDA FOR 2021

I. Potential 2021 Rulemaking Activity

Rules Package	Docket Opening	Notice of Proposed Rulemaking	Notice of Final Rulemaking	Federal Funding
Amendment of Assured and Adequate Water Supply Rules (12 A.A.C. 15, Article 7) to modify the criteria for demonstrating physical availability of groundwater in the Coconino and Redwall aquifer systems in northern Arizona.	Not yet known.	Not yet known.	Not yet known.	No.

* On January 13, 2020, Governor Ducey issued Executive Order 2020-02, “Moratorium on Rulemaking to Promote Job Creation and Economic Development; Implementation of Licensing Reform Policies.” The Executive Order provides that a state agency shall not conduct any rulemaking without the prior written approval of the Office of the Governor