

Proposed 5MP Chapter Eight Regulatory Language Modifications (Phoenix AMA only)

BACKGROUND/CURRENT STATE:

The narrative portion of the Storage and Recovery Siting Criteria section of Chapter 8 of the PhxAMA 4MP states that “[i]f storage occurs in an area experiencing high water levels and recovery occurs away from the area of impact, the water storage will contribute to those high-water levels. If dewatering is required as a direct result of water storage or savings, either the storage facility’s operational plan should be adjusted to minimize impact, which may include strategic recovery locations to mitigate impacts, or the storer may not be issued credits.”

In response to the issue described above, the existing regulatory language in the PhxAMA 4MP addresses shallow water level conditions (Siting Criteria 8-801(B)(1)(a)) by requiring an entity recharging in an area experiencing shallow water levels to recover the stored water within the area of impact of the facility. The only exceptions to this are if the water storage was:

- a component of a remedial action project under the CERCLA Act (Siting Criteria 8-801(B)(1)(b)); or
- otherwise determined by the Director to have contributed to the objectives of this chapter (Siting Criteria 8-801(B)(1)(c))

8.8 AUGMENTATION AND RECHARGE REQUIREMENTS

8-801 Storage and Recovery Siting Criteria

During the fourth management period, for the purposes of A.R.S. § 45-834.01(A)(2) recovery of stored water at a location is consistent with the management plan and achievement of the management goal for the active management area:

- A. If recovery will occur within the area of impact of the stored water, regardless of whether the recovery well permit applicant was the storer of the water; or*
- B. If recovery will occur outside of the area of impact of the stored water, all of the following three criteria are met:*

1. The water storage that resulted in the right to recover water:

- a. Is contributing to groundwater supplies that are accessible to current groundwater users or that have been committed to establish a Designation, Certificate, or Analysis of Assured Water Supply pursuant to A.R.S. § 45-576 or rules adopted thereunder so long as the areas in which water is stored are not experiencing problems associated with shallow depth to water; or*
- b. Is a component of a remedial action project under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) or Title 49, Arizona Revised Statutes, except projects for which groundwater is withdrawn to provide an alternative water supply pursuant to A.R.S. § 49-282.03, and the Director has determined that the remedial action will contribute to the objectives of this chapter or the achievement of the management goal for the active management area; or*
- c. Is otherwise determined by the Director to have contributed to the objectives of this chapter or the achievement of the management goal for the active management area.*

This management plan requirement is not being administered by the Department, and Recharge staff are currently working to develop a process to implement it for the 5MP.

PROPOSAL:

The Recharge Program has identified a possible two-pronged approach to utilize the 5MP as a vehicle to promote sound water management. The proposed two-pronged approach involves simultaneously enforcing existing regulatory language, which is currently included in the 4MP and will be carried over into the 5MP, as well as adding a new regulatory provision. The proposal is as follows:

In order to address the issue of recharge exacerbating shallow water levels, the Recharge Program is proposing to:

1. When the requirements of the 5MP become effective (expected to be January 1, 2025), **staff will begin enforcing the existing Management Plan Siting Criteria 8-801(B)(1)(a))** which requires that if an entity recharges in an area deemed by the director to be experiencing shallow water levels, recovery of that water must be within the area of impact of the facility. Evaluation for this requirement would apply to water stored at any new underground storage facility that is permitted or any existing USF permit that is modified or renewed and as part of that process is determined will be contributing to an area of shallow groundwater. ***(Note: The Department is soliciting input for consideration regarding how “area of shallow groundwater” might be defined and how a list of identified shallow groundwater areas might be maintained.)***

The Recharge program also identified an opportunity to make an addition to the 5MP regulatory language which would encourage recovery in areas of shallow groundwater. The Recharge Program is proposing to:

2. Add additional regulatory language to the PhxAMA 5MP which would **incentivize recovery in areas of shallow groundwater for any entity that stores water in the PhxAMA**. The additional language would deem any recovery within an area determined by the Director to be experiencing shallow water levels as consistent with the management plan. This would also apply to entities whose storage is determined to be contributing to an area of shallow groundwater.

IMPLEMENTATION:

Once the 5MP requirements go into effect, any applicant who applies for a new USF permit, to modify an existing USF permit or to renew an existing permit would be subject to Management Plan Siting Criteria 8-801(B)(1)(a)). If the maximum area of impact of a USF, calculated as part of that permitting process, overlaps an area determined by the Director to have shallow groundwater conditions, then that facility would be considered to be contributing water to an area determined by the Director to have shallow groundwater conditions. Those USF applications could be approved without additional demonstrations, but the USF permit and all associated WSP(s) would be conditioned to indicate that water stored at that facility must be recovered either within the area of impact of that USF or within the area determined by the Director to have shallow groundwater conditions.

After the 5MP requirements become effective, water stored at new, modified, or renewed facilities that are subject to the Siting Criteria will be tracked separately from water stored at these facilities prior to the effective date of the 5MP requirements. This tracking would be performed using the water storage permit(s) associated with these USFs, and these water storage permits will be flagged in the database as being subject to the 5MP shallow groundwater requirements.

RESULTS:

The result of the Program's proposal would be that water stored at facilities that impact areas of shallow groundwater (based on the USF application model maximum area of impact) could only be recovered within either

1. The facility's area of impact OR;
2. Within an area determined by the Director to be experiencing shallow water levels.

Recovery of water stored at such facilities would be prohibited outside of areas that do not fit into one of the above categories. Additionally, those entities' USF/WS/RW permits would be conditioned accordingly.

The proposal would also deem any recovery from within an area determined by the Director to be experiencing shallow water levels as consistent with the management plan. This would make it easier to obtain a recovery well permit for entities who store water anywhere within the PhxAMA but choose to recover that water from within a designated shallow groundwater area.