

DRAFT UPDATES TO 5MP RECHARGE REGULATORY LANGUAGE
March 8, 2022

3.8 RECHARGE AND RECOVERY REQUIREMENTS

3-801 Storage and Recovery Siting Criteria

During the fifth 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 shallow depth to water conditions. Water stored in areas experiencing shallow depth to water conditions and stored pursuant to permits issued before January 1, 2025 is not subject to this subsection. For purposes of this section, shallow depth to water shall be no deeper than 50 feet below land surface. An analysis, using a method approved by the Director, will be performed to delineate those specific areas that are experiencing shallow depth to water and to establish a method for determining that a facility is contributing water to areas with shallow depth to water conditions. The analysis will be published to ADWR's website by January 1, 2024 and will be updated periodically thereafter, until subsequent recovery requirements become effective or until the legislature determines otherwise. Criteria considered in the analysis shall include:*

1. *Avoiding areas where the depth to water is artificially raised due to mounding at a permitted recharge facility,*
2. *Focusing on areas where drainage or dewatering activities are occurring,*
3. *Avoiding riparian areas,*

and may include, but are not limited to:

4. *Focusing on areas where ambient water levels are chronically shallow,*
 5. *Potential impacts to nearby property owners, either positive or negative,*
 6. *Additional criteria deemed relevant by the director; 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.*

2. *Either:*

- a. *At the time of the application, the maximum projected depth to water at the location of the recovery well after 100 years does not exceed the general 100-year depth-to-static water level for the active management area specified by A.A.C. R12-15-716 after considering: (1) the maximum proposed withdrawals from the recovery well; (2) withdrawals for current, committed, and projected demands associated with determinations made under A.R.S. § 45-576 that are reliant on the water which the recovery well will withdraw; and (3) withdrawals for other current or projected demands that are reliant on the water which the recovery well will withdraw; or*

- b. *The recovery will be undertaken within the applicant's service area and the applicant is a municipal provider designated as having an assured water supply.*

3. *The recovery well is:*

- a. *Located in an area experiencing an average annual rate of decline that is less than 4.0 feet per year; or*
- b. *A component of a remedial action project under 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. *Likely to contribute to the water management objectives of the geographic area in which the well is located, as determined by the Director.*

3-802 Storage of Non-Recoverable Water

During the fifth management period, water storage that is designated as non-recoverable is consistent with the active management area's Recharge Program if one of the following criteria is met. The water storage:

1. *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*
2. *Is a component of a remedial action project under 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*
3. *Is otherwise determined by the Director to contribute to the objectives of this chapter or the achievement of the management goal for the active management area.*