Overview
Modifies the requirements for designating a subsequent irrigation non-expansion area (INA) and petitioning the Arizona Department of Water Resources (ADWR) Director to designate such an area. Additionally, exempts the Director’s order to designate an INA from being an appealable agency action and clarifies who can appeal this order.

History
INAs are designated areas where the ADWR Director determines that there is insufficient groundwater to provide a reasonably safe supply for irrigating cultivated lands at current withdrawal rates and establishing an active management area is unnecessary (A.R.S.§ 45-432).

When an INA is designated, only those lands that were irrigated at any time during the five years preceding its creation can be irrigated. This restriction does not apply to fields that are two acres or smaller or lands where substantial capital investment for irrigation was made during that five-year period. Someone who withdraws groundwater for irrigation or more than 10 acre-feet of groundwater for domestic uses from a non-exempt well (one that pumps over 35 gallons per minute) must meter these wells. Additionally, anyone using a non-exempt well in an INA must file an annual report with ADWR (A.R.S. § 45-437).

There are two types of INAs in Arizona:
1) Initial INAs were established in statute as part of the Groundwater Management Act based on previously declared critical groundwater areas. There are two such INAs: the Joseph City INA and Douglas INA (A.R.S. § 45-431).
2) The ADWR Director can designate a subsequent INA if it meets the statutory criteria discussed above. The Harquahala INA, which was designated in 1982, is the only subsequent INA.

Statute establishes two ways for subsequent INAs to be designated. First, the ADWR Director can designate the INA if they believe it meets the statutory criteria discussed above. Second, local landowners can petition the ADWR Director to designate an INA. The petition must be signed by either:
1) At least 25 irrigation users of groundwater or 25% of the irrigation users of groundwater within the boundaries of the groundwater basin or sub-basins specified in the petition or
2) 10% of the registered voters residing within the boundaries of the groundwater basin or sub-basin specified in the petition (A.R.S. § 45-433).

When the ADWR Director receives this petition or determines that the area may meet the statutory criteria, they will hold a hearing to determine whether to designate an INA and set its boundaries (A.R.S. § 45-435). Within 30 days of the hearing, the ADWR Director must file written findings and, if they decide to do so, an order designating this area. Both the findings and order are subject
to rehearing or review by the Office of Administrative Hearings and judicial review (A.R.S. § 45-436).

Provisions

Local Initiation of INA Designation (Sec. 3)
1. Allows an irrigation user of groundwater to sign a petition to the ADWR Director to designate an INA if the user meets all the following criteria:
   a) Owns irrigated land;
   b) Irrigated two or more acres within the basin or sub-basin prescribed in the petition within five years preceding the date when the petition was submitted;
   c) Can irrigate their lands in the future.
2. Repeals the requirements that the petition must be in the same form as an initiative petition and that the applicant for this petition must comply with requirements for proposing a law or constitutional amendment by initiative petition
3. Requires this petition to:
   a) Be submitted to the Director within one year after the date the county recorder issues the petition form to the petitioners.
   b) Accompanied by a numeric groundwater flow model and hydrologic report using a method of analysis approved by the Director that is signed and sealed by a professional geologist or engineer who is registered with the Board of Technical Registration. (Sec. 3)
4. Directs the petitioners to consult with ADWR on the groundwater flow model and hydrologic report before submitting their petition.
5. Allows the Director to deny the petition if they determine the accompanying flow model or hydrologic report is deficient after providing the petitioners a reasonable opportunity to correct any deficiencies.
6. Instructs the Director to determine whether petition complies with the criteria established in this act.
7. Declares that:
   a) The Director is not required to hold a hearing on the sufficiency of the petition.
   b) The Director's decision that a petition complies with the criteria established in this act is not subject to judicial review.
   c) The Director's decision that a petition does not comply is an appealable agency action through the Office of Administrative Hearings.

Limitation on Irrigated Acreage During Hearing (Sec. 4)
8. Limits an irrigation user to irrigating within the proposed INA only those lands that were irrigated at any time during the five years preceding the first date of that hearing notice was published.

Hearing on Designating an INA (Sec. 5)
9. Removes the requirement that the hearing notice must contain a legal description of all lands to be included in the proposed INA.
10. Permits the Director to continue the hearing for good cause.

Criteria for Designating a Subsequent INA
11. Amends the criteria for designating a subsequent INA to be insufficient groundwater to provide a reasonably safe supply for irrigating cultivated lands in the area at reasonable projected withdrawal rates. (Sec. 2)
12. Allows the Director, in making this determination, to consider credible evidence that indicates likely future changes to withdrawal rates. (Sec. 2)

13. Defines *reasonably safe supply for irrigation*.

**Hearing Findings**

14. Requires the Director to include a summary of findings, instead of just findings, and the order to be published in the same way as a notice for public hearings. (Sec. 6)

15. Declares that the Director's findings and order to designate an INA constitute a final determination to limit irrigated acreage and are not an appealable agency action but are subject to judicial review on the 31st day after the Director's summary of findings and order are published. (Sec. 1 and 6)

16. Allows only those who are petitioners or who submitted oral or documentary evidence at the public hearing to file an action for judicial review of the Director's order. (Sec. 6)

17. Limits the grounds for judicial review to those issues raised in the petition or in evidence submitted at the public hearing. (Sec. 6)

18. Specifies that if the Director declines to designate a subsequent INA:
   a) If the designation is reversed on judicial review, any lands in the proposed area that were irrigated after the Director's decision and before the decision was reversed may continue to be irrigated after the INA is finally designated.
   b) Someone cannot file a subsequent petition to designate the area as an INA until three years after the Director's refusal to designate becomes final. (Sec. 6)

**Miscellaneous**

19. Makes technical and conforming changes. (Sec. 1, 2 and 3)