

State of Arizona  
Senate  
Fifty-third Legislature  
Second Regular Session  
2018

# SENATE BILL 1512

AN ACT

AMENDING SECTIONS 45-561, 45-563, 45-563.02 AND 45-568, ARIZONA REVISED STATUTES; AMENDING TITLE 45, CHAPTER 2, ARTICLE 9, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 45-568.03, 45-568.04 AND 45-568.05; AMENDING SECTIONS 45-574 AND 45-575, ARIZONA REVISED STATUTES; RELATING TO GROUNDWATER.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 45-561, Arizona Revised Statutes, is amended to  
3 read:

4 45-561. Definitions

5 In this article, unless the context otherwise requires:

6 1. "Aquifer" means a geologic formation that contains sufficient  
7 saturated materials to be capable of storing water and transmitting water  
8 in usable quantities to a well.

9 2. "Augmentation" means to supplement the water supply of an active  
10 management area and may include the importation of water into the active  
11 management area, storage of water or storage of water pursuant to chapter  
12 3.1 of this title.

13 3. "Incidental recharge" means the percolation of water to an  
14 aquifer after the water has been withdrawn, diverted or received for  
15 delivery by a municipal provider for use within its service area, except  
16 water that is added to an aquifer pursuant to chapter 3.1 of this title.

17 4. "Incidental recharge factor" means the ratio of the amount of  
18 incidental recharge attributable to a municipal provider during a calendar  
19 year to the amount of water withdrawn, diverted or received for delivery  
20 by the municipal provider for use within its service area during the  
21 year. The amount of incidental recharge attributable to a municipal  
22 provider during a calendar year is the amount of water that is  
23 incidentally recharged during the year after it is withdrawn, diverted or  
24 received for delivery by the municipal provider for use within its service  
25 area.

26 5. "Industrial use" means a non-irrigation use of water not  
27 supplied by a city, town or private water company, including animal  
28 industry use and expanded animal industry use.

29 6. "Intermediate water duty" means an irrigation water duty, as  
30 defined in section 45-402, ~~which~~ **THAT** is established by the director  
31 during a management period to apply for a specific number of years during  
32 the management period.

33 7. "Large untreated water provider" means a municipal provider that  
34 as of January 1, 1990 was serving untreated water to at least five hundred  
35 persons or supplying at least one hundred acre-feet of untreated water  
36 during a calendar year.

37 8. "Management period" means a period of years prescribed by  
38 sections 45-564, ~~through~~ **45-565, 45-565.01, 45-566, 45-566.01, 45-566.02,**  
39 **45-567, 45-567.01, 45-567.02, 45-568 AND 45-568.03** during which a  
40 prescribed management plan applies.

41 9. "Mined groundwater" means the amount of groundwater withdrawn or  
42 received by a municipal provider from within an active management area  
43 during a calendar year for use in its service area, minus both of the  
44 following, as applicable:

1 (a) An amount of water computed by multiplying the amount of water  
2 supplied by the municipal provider for use within its service area during  
3 the calendar year by the incidental recharge factor established for the  
4 municipal provider pursuant to this article.

5 (b) If the municipal provider is a city or town in the Tucson  
6 active management area, the amount of groundwater withdrawn by the  
7 municipal provider during the calendar year from land owned or leased by  
8 the municipal provider to which a type 1 non-irrigation grandfathered  
9 right under section 45-463, subsection A is appurtenant, up to the  
10 following amount:

11 (i) If the municipal provider has made a request to the director as  
12 described in section 45-463, subsection F, the amount of groundwater  
13 computed by the director under section 45-463, subsection F, in  
14 determining whether to designate or redesignate the municipal provider as  
15 having an assured water supply, minus the amount of any groundwater  
16 withdrawn by the municipal provider from the land during the period  
17 beginning with January 1 of the year in which the request was made and  
18 ending on December 31 of the year immediately preceding the calendar year  
19 for which the calculation of mined groundwater is being made.

20 (ii) If the municipal provider has not made a request to the  
21 director as described in section 45-463, subsection F, the amount of  
22 groundwater that the director would have been required to include in  
23 determining whether to designate or redesignate the municipal provider as  
24 having an assured water supply, as computed under section 45-463,  
25 subsection F, if the municipal provider had made a request to the director  
26 as described in that subsection on January 1 of the calendar year for  
27 which the calculation of mined groundwater is being made.

28 10. "Municipal provider" means a city, town, private water company  
29 or irrigation district that supplies water for non-irrigation use.

30 11. "Municipal use" means all non-irrigation uses of water supplied  
31 by a city, town, private water company or irrigation district, except for  
32 uses of water, other than Colorado river water, released for beneficial  
33 use from storage, diversion or distribution facilities to avoid spilling  
34 that would otherwise occur due to uncontrolled surface water inflows that  
35 exceed facility capacity.

36 12. "Safe-yield" means a groundwater management goal ~~which~~ THAT  
37 attempts to achieve and thereafter maintain a long-term balance between  
38 the annual amount of groundwater withdrawn in an active management area  
39 and the annual amount of natural and artificial recharge in the active  
40 management area.

41 13. "Small municipal provider" means a municipal provider that  
42 supplies two hundred fifty acre-feet or less of water for non-irrigation  
43 use during a calendar year. For THE purposes of this paragraph, the  
44 amount of untreated water that is supplied by a large untreated water  
45 provider during a year shall not be counted in determining whether the

1 municipal provider supplied two hundred fifty acre-feet or less of water  
2 for non-irrigation use.

3 14. "Untreated water" means water that is not treated to improve  
4 its quality and that is supplied by a municipal provider through a  
5 distribution system other than a potable water distribution system.

6 Sec. 2. Section 45-563, Arizona Revised Statutes, is amended to  
7 read:

8 45-563. Management plans in active management areas;  
9 management periods; general provisions

10 A. The director shall develop a management plan for each initial  
11 active management area for each of ~~five~~ SIX management periods pursuant to  
12 the guidelines prescribed in sections 45-564, ~~through~~ 45-565, 45-565.01,  
13 45-566, 45-566.01, 45-566.02, 45-567, 45-567.01, 45-567.02, 45-568,  
14 45-568.01, 45-568.02, 45-468.03, 45-568.04 AND 45-568.05 and shall adopt  
15 the plans only after public hearings held pursuant to sections 45-570 and  
16 45-571. The plans shall include a continuing mandatory conservation  
17 program for all persons withdrawing, distributing or receiving groundwater  
18 designed to achieve reductions in withdrawals of groundwater.

19 B. The director shall develop a management plan for the Santa Cruz  
20 active management area for the third, fourth, ~~and~~ fifth AND SIXTH  
21 management periods pursuant to the guidelines prescribed in sections  
22 45-566, 45-566.01, 45-567, 45-567.01, 45-568, ~~and~~ 45-568.01, 45-568.03,  
23 45-568.04 AND 45-568.05 and shall adopt the plans only after public  
24 hearings held pursuant to sections 45-570 and 45-571. The plans shall  
25 include a continuing mandatory conservation program designed to achieve  
26 the management goal of the active management area for all persons  
27 withdrawing water, other than stored water, from a well and all persons  
28 distributing or receiving water, other than stored water, from a  
29 well. The plans shall also include criteria for the location of new wells  
30 and replacement wells in new locations consistent with the management goal  
31 of the active management area.

32 Sec. 3. Section 45-563.02, Arizona Revised Statutes, is amended to  
33 read:

34 45-563.02. Exemption from irrigation water duties; small  
35 irrigation grandfathered rights; criteria;  
36 conservation requirement; exception

37 A. A person who is entitled to use groundwater pursuant to an  
38 irrigation grandfathered right is exempt from any irrigation water duties  
39 or intermediate water duties established for the farm to which the right  
40 is appurtenant under sections 45-564, 45-565, 45-566, 45-567, ~~and~~ 45-568  
41 AND 45-568.03 if both of the following apply:

- 42 1. There are ten or fewer irrigation acres in the farm.
- 43 2. The farm is not part of an integrated farming operation.

1 B. The director shall not establish irrigation water duties or  
2 intermediate water duties under section 45-566, 45-567, ~~or~~ 45-568 ~~OR~~  
3 ~~45-568.03~~ for a farm to which both of the following apply:

- 4 1. There are ten or fewer irrigation acres in the farm.
- 5 2. The farm is not part of an integrated farming operation.

6 C. Except as provided in subsection D of this section, a person who  
7 is exempt from the irrigation water duties established for a farm pursuant  
8 to subsection A of this section or who owns or uses groundwater on a farm  
9 for which irrigation water duties are prohibited in subsection B of this  
10 section shall not allow any groundwater to flow off the surface of the  
11 farm's irrigation acres unless the groundwater is used for a reasonable  
12 and beneficial use approved in writing by the director.

13 D. A person who is required under subsection C of this section to  
14 prevent groundwater from flowing off the surface of a farm's irrigation  
15 acres may apply to the director for an exemption from the  
16 requirement. The director may grant the exemption if the person  
17 demonstrates to the satisfaction of the director that one of the following  
18 applies:

- 19 1. Preventing groundwater from flowing off the surface of the  
20 farm's irrigation acres would not be economically feasible.
- 21 2. Any groundwater that will flow off the surface of the farm's  
22 irrigation acres will be used by a person with an exempt well in lieu of  
23 groundwater that otherwise would have been withdrawn from that well.

24 Sec. 4. Section 45-568, Arizona Revised Statutes, is amended to  
25 read:

26 ~~45-568.~~ Management plan for fifth management period;  
27 guidelines

28 A. For the fifth management period, 2020 to 2025, the director  
29 shall ~~promulgate~~ ~~ADOPT~~ a management plan for each initial active  
30 management area not later than January 1, 2019 pursuant to the guidelines  
31 prescribed in section 45-567, subsections A and B, except that:

32 1. The director shall establish the historic annual net natural  
33 recharge for any groundwater replenishment district in the active  
34 management area, computed by determining the net natural recharge, as  
35 defined by section 48-4401, for the groundwater basin beneath the district  
36 during calendar years 1988 through 2017 and dividing the result by thirty.

37 2. The director may adjust the highest twenty-five ~~per cent~~ ~~PERCENT~~  
38 of the irrigation water duties established within an area of similar  
39 farming conditions pursuant to section 45-567 by reducing each water duty  
40 in an amount up to five ~~per cent~~ ~~PERCENT~~, except that in making the  
41 adjustment, no water duty may be reduced to an amount less than the  
42 greater of the following:

43 (a) The highest water duty within the lowest seventy-five ~~per cent~~  
44 ~~PERCENT~~ of the water duties computed within the area of similar farming  
45 conditions for the fifth management period.

1 (b) A water duty computed for the farm unit under this paragraph  
2 using an irrigation efficiency of eighty ~~per cent~~ PERCENT.

3 3. A person who is entitled to use groundwater pursuant to an  
4 irrigation grandfathered right may apply to the director at any time  
5 during the management period for an exemption from the irrigation water  
6 duties established pursuant to this section. The director shall grant the  
7 exemption if the person demonstrates to the director's satisfaction that  
8 granting the exemption is consistent with achieving the management goal of  
9 the active management area and that one of the following applies:

10 (a) Withdrawal of groundwater pursuant to the irrigation  
11 grandfathered right during the management period will intercept  
12 groundwater that would otherwise flow out of and be lost to the active  
13 management area in the next fifteen years without entering another active  
14 management area.

15 (b) Withdrawal of groundwater pursuant to the irrigation  
16 grandfathered right during the management period will prevent encroachment  
17 of a rising depth to groundwater level that will cause waterlogging  
18 problems within the next fifteen years.

19 B. Within thirty days after the management plan for the fifth  
20 management period is adopted, the director shall give written notice in  
21 the manner and to the persons prescribed in section 45-565, subsection B  
22 and shall give written notice of the non-per capita conservation program  
23 established pursuant to section 45-568.01 to all municipal providers. Two  
24 years before the compliance date specified in the management plan for any  
25 irrigation water duty, intermediate water duty, conservation requirement  
26 or intermediate conservation requirement, the director shall give  
27 additional written notice by first class mail to the last known addresses  
28 of the persons prescribed in section 45-565, subsection B and this  
29 subsection.

30 C. Except for a person who ~~OBTAINS A VARIANCE UNDER SECTION 45-574~~  
31 ~~OR WHO~~ is exempt from irrigation water duties under section 45-563.02,  
32 subsection A, all persons notified pursuant to subsection B of this  
33 section shall comply with the applicable irrigation water duty or  
34 conservation requirements for the fifth management period not later than  
35 January 1, 2025 and shall remain in compliance until ~~the legislature~~  
36 ~~determines otherwise~~ THE APPLICABLE COMPLIANCE DATE ESTABLISHED IN THE  
37 MANAGEMENT PLAN FOR THE SIXTH MANAGEMENT PERIOD. IF INTERMEDIATE WATER  
38 DUTIES OR INTERMEDIATE CONSERVATION REQUIREMENTS HAVE BEEN ESTABLISHED, A  
39 PERSON TO WHOM THOSE WATER DUTIES OR CONSERVATION REQUIREMENTS APPLY SHALL  
40 COMPLY WITH THE INTERMEDIATE WATER DUTIES OR INTERMEDIATE CONSERVATION  
41 REQUIREMENTS NOT LATER THAN THE COMPLIANCE DATE SPECIFIED IN THE  
42 MANAGEMENT PLAN, UNLESS THE PERSON OBTAINS A VARIANCE PURSUANT TO SECTION  
43 45-574 OR IS EXEMPT FROM INTERMEDIATE WATER DUTIES UNDER SECTION  
44 45-563.02, SUBSECTION A. A PERSON WHO OBTAINS A VARIANCE UNDER SECTION  
45 45-574 SHALL COMPLY WITH THE APPLICABLE IRRIGATION WATER DUTY OR

1 CONSERVATION REQUIREMENTS BY THE DATE SPECIFIED IN THE VARIANCE AND SHALL  
2 REMAIN IN COMPLIANCE UNTIL THE SUBSEQUENT COMPLIANCE DATE FOR ANY  
3 APPLICABLE IRRIGATION WATER DUTY OR CONSERVATION REQUIREMENTS ESTABLISHED  
4 IN THE MANAGEMENT PLAN FOR THE FIFTH MANAGEMENT PERIOD.

5 Sec. 5. Title 45, chapter 2, article 9, Arizona Revised Statutes,  
6 is amended by adding sections 45-568.03, 45-568.04 and 45-568.05, to read:

7 45-568.03. Management plan for sixth management period:  
8 guidelines

9 A. FOR THE SIXTH MANAGEMENT PERIOD, 2025 TO 2035, THE DIRECTOR  
10 SHALL ADOPT A MANAGEMENT PLAN FOR EACH INITIAL ACTIVE MANAGEMENT AREA NOT  
11 LATER THAN JANUARY 1, 2023 PURSUANT TO THE GUIDELINES PRESCRIBED IN  
12 SECTION 45-567, SUBSECTIONS A AND B AND SECTIONS 45-568.04 AND 45-568.05,  
13 EXCEPT THAT:

14 1. THE DIRECTOR SHALL ESTABLISH THE HISTORIC ANNUAL NET NATURAL  
15 RECHARGE FOR ANY GROUNDWATER REPLENISHMENT DISTRICT IN THE ACTIVE  
16 MANAGEMENT AREA, COMPUTED BY DETERMINING THE NET NATURAL RECHARGE, AS  
17 DEFINED BY SECTION 48-4401, FOR THE GROUNDWATER BASIN BENEATH THE DISTRICT  
18 DURING THE MOST RECENT THIRTY-YEAR PERIOD OF RECORD AND DIVIDING THE  
19 RESULT BY THIRTY.

20 2. THE DIRECTOR MAY ADJUST THE HIGHEST TWENTY-FIVE PERCENT OF THE  
21 IRRIGATION WATER DUTIES ESTABLISHED WITHIN AN AREA OF SIMILAR FARMING  
22 CONDITIONS PURSUANT TO SECTION 45-567 BY REDUCING EACH WATER DUTY IN AN  
23 AMOUNT UP TO FIVE PERCENT, EXCEPT THAT IN MAKING THE ADJUSTMENT, NO WATER  
24 DUTY MAY BE REDUCED TO AN AMOUNT LESS THAN THE GREATER OF THE FOLLOWING:

25 (a) THE HIGHEST WATER DUTY WITHIN THE LOWEST SEVENTY-FIVE PERCENT  
26 OF THE WATER DUTIES COMPUTED WITHIN THE AREA OF SIMILAR FARMING CONDITIONS  
27 FOR THE SIXTH MANAGEMENT PERIOD.

28 (b) A WATER DUTY COMPUTED FOR THE FARM UNIT UNDER THIS PARAGRAPH  
29 USING AN IRRIGATION EFFICIENCY OF EIGHTY PERCENT.

30 3. A PERSON WHO IS ENTITLED TO USE GROUNDWATER PURSUANT TO AN  
31 IRRIGATION GRANDFATHERED RIGHT MAY APPLY TO THE DIRECTOR AT ANY TIME  
32 DURING THE MANAGEMENT PERIOD FOR AN EXEMPTION FROM THE IRRIGATION WATER  
33 DUTIES ESTABLISHED PURSUANT TO THIS SECTION. THE DIRECTOR SHALL GRANT THE  
34 EXEMPTION IF THE PERSON DEMONSTRATES TO THE DIRECTOR'S SATISFACTION THAT  
35 GRANTING THE EXEMPTION IS CONSISTENT WITH ACHIEVING THE MANAGEMENT GOAL OF  
36 THE ACTIVE MANAGEMENT AREA AND THAT ONE OF THE FOLLOWING APPLIES:

37 (a) WITHDRAWAL OF GROUNDWATER PURSUANT TO THE IRRIGATION  
38 GRANDFATHERED RIGHT DURING THE MANAGEMENT PERIOD WILL INTERCEPT  
39 GROUNDWATER THAT WOULD OTHERWISE FLOW OUT OF AND BE LOST TO THE ACTIVE  
40 MANAGEMENT AREA IN THE NEXT FIFTEEN YEARS WITHOUT ENTERING ANOTHER ACTIVE  
41 MANAGEMENT AREA.

42 (b) WITHDRAWAL OF GROUNDWATER PURSUANT TO THE IRRIGATION  
43 GRANDFATHERED RIGHT DURING THE MANAGEMENT PERIOD WILL PREVENT ENCROACHMENT  
44 OF A RISING DEPTH TO GROUNDWATER LEVEL THAT WILL CAUSE WATERLOGGING  
45 PROBLEMS WITHIN THE NEXT FIFTEEN YEARS.

1 B. WITHIN THIRTY DAYS AFTER THE MANAGEMENT PLAN FOR THE SIXTH  
2 MANAGEMENT PERIOD IS ADOPTED, THE DIRECTOR SHALL GIVE WRITTEN NOTICE IN  
3 THE MANNER AND TO THE PERSONS PRESCRIBED IN SECTION 45-565, SUBSECTION B  
4 AND SHALL GIVE WRITTEN NOTICE OF THE NON-PER CAPITA CONSERVATION PROGRAM  
5 ESTABLISHED PURSUANT TO SECTION 45-568.04 TO ALL MUNICIPAL PROVIDERS. TWO  
6 YEARS BEFORE THE COMPLIANCE DATE SPECIFIED IN THE MANAGEMENT PLAN FOR ANY  
7 IRRIGATION WATER DUTY, INTERMEDIATE WATER DUTY, CONSERVATION REQUIREMENT  
8 OR INTERMEDIATE CONSERVATION REQUIREMENT, THE DIRECTOR SHALL GIVE  
9 ADDITIONAL WRITTEN NOTICE BY FIRST CLASS MAIL TO THE LAST KNOWN ADDRESSES  
10 OF THE PERSONS PRESCRIBED IN SECTION 45-565, SUBSECTION B AND THIS  
11 SUBSECTION.

12 C. EXCEPT FOR A PERSON WHO OBTAINS A VARIANCE UNDER SECTION 45-574  
13 OR WHO IS EXEMPT FROM IRRIGATION WATER DUTIES UNDER SECTION 45-563.02,  
14 SUBSECTION A, ALL PERSONS NOTIFIED PURSUANT TO SUBSECTION B OF THIS  
15 SECTION SHALL COMPLY WITH THE APPLICABLE IRRIGATION WATER DUTY OR  
16 CONSERVATION REQUIREMENTS FOR THE SIXTH MANAGEMENT PERIOD NOT LATER THAN  
17 JANUARY 1, 2035 AND SHALL REMAIN IN COMPLIANCE UNTIL THE LEGISLATURE  
18 OTHERWISE REQUIRES. IF INTERMEDIATE WATER DUTIES OR INTERMEDIATE  
19 CONSERVATION REQUIREMENTS HAVE BEEN ESTABLISHED, A PERSON TO WHOM THOSE  
20 WATER DUTIES OR CONSERVATION REQUIREMENTS APPLY SHALL COMPLY WITH THE  
21 INTERMEDIATE WATER DUTIES OR INTERMEDIATE CONSERVATION REQUIREMENTS NOT  
22 LATER THAN THE COMPLIANCE DATE SPECIFIED IN THE MANAGEMENT PLAN, UNLESS  
23 THE PERSON OBTAINS A VARIANCE PURSUANT TO SECTION 45-574 OR IS EXEMPT FROM  
24 INTERMEDIATE WATER DUTIES UNDER SECTION 45-563.02, SUBSECTION A. A PERSON  
25 WHO OBTAINS A VARIANCE UNDER SECTION 45-574 SHALL COMPLY WITH THE  
26 APPLICABLE IRRIGATION WATER DUTY OR CONSERVATION REQUIREMENTS BY THE DATE  
27 SPECIFIED IN THE VARIANCE AND SHALL REMAIN IN COMPLIANCE UNTIL THE  
28 SUBSEQUENT COMPLIANCE DATE FOR ANY APPLICABLE IRRIGATION WATER DUTY OR  
29 CONSERVATION REQUIREMENTS ESTABLISHED IN THE MANAGEMENT PLAN FOR THE SIXTH  
30 MANAGEMENT PERIOD OR UNTIL THE LEGISLATURE OTHERWISE PROVIDES.

31 45-568.04. Non-per capita conservation program for municipal  
32 providers; sixth management period

33 A. IN ADDITION TO THE PROVISIONS OF THE MANAGEMENT PLAN FOR THE  
34 SIXTH MANAGEMENT PERIOD PRESCRIBED BY SECTION 45-568.03, THE DIRECTOR  
35 SHALL INCLUDE IN THE MANAGEMENT PLANS A NON-PER CAPITA CONSERVATION  
36 PROGRAM FOR MUNICIPAL PROVIDERS. THE PROGRAM SHALL REQUIRE A MUNICIPAL  
37 PROVIDER REGULATED UNDER THE PROGRAM TO IMPLEMENT ONE OR MORE WATER  
38 CONSERVATION MEASURES IN ITS SERVICE AREA FROM THE LIST ADOPTED BY THE  
39 DIRECTOR PURSUANT TO SUBSECTION B OF THIS SECTION, SUBJECT TO APPROVAL BY  
40 THE DIRECTOR PURSUANT TO SUBSECTION F OR G OF THIS SECTION. THE PROGRAM  
41 MAY PRESCRIBE THE NUMBER OF CONSERVATION MEASURES THAT A PROVIDER MUST  
42 IMPLEMENT UNDER THIS SUBSECTION BASED ON THE NUMBER OF SERVICE CONNECTIONS  
43 IN THE PROVIDER'S SERVICE AREA.

44 B. THE DIRECTOR SHALL INCLUDE IN THE NON-PER CAPITA CONSERVATION  
45 PROGRAM A LIST AND DESCRIPTION OF CONSERVATION MEASURES THAT MUNICIPAL



1 PROVIDERS REGULATED UNDER THE PROGRAM MUST SELECT FROM TO COMPLY WITH THE  
2 REQUIREMENTS ADOPTED PURSUANT TO SUBSECTION A OF THIS SECTION, WHICH MAY  
3 INCLUDE THE CONSERVATION MEASURES DESCRIBED IN SECTION 45-567.01,  
4 SUBSECTION A, PARAGRAPHS 1 AND 2.

5 C. IN ADDITION TO THE REQUIREMENTS PRESCRIBED IN SUBSECTION A OF  
6 THIS SECTION, A MUNICIPAL PROVIDER REGULATED UNDER THE NON-PER CAPITA  
7 CONSERVATION PROGRAM SHALL:

8 1. INCLUDE IN ITS ANNUAL REPORT FILED PURSUANT TO SECTION 45-632 A  
9 COPY OF THE PROVIDER'S CURRENT WATER RATE STRUCTURE UNLESS NO CHANGES HAVE  
10 BEEN MADE TO THE RATE STRUCTURE SINCE IT WAS LAST SUBMITTED TO THE  
11 DIRECTOR. A MUNICIPAL PROVIDER REGULATED UNDER THE NON-PER CAPITA  
12 CONSERVATION PROGRAM IS ENCOURAGED TO ADOPT A WATER RATE STRUCTURE THAT  
13 PROMOTES EFFICIENT USE OF WATER, SUBJECT TO APPROVAL BY THE CORPORATION  
14 COMMISSION IF THE PROVIDER IS A PUBLIC SERVICE CORPORATION.

15 2. FOR AT LEAST FIVE YEARS AFTER A YEAR IN WHICH THE MUNICIPAL  
16 PROVIDER IS REGULATED UNDER THE NON-PER CAPITA CONSERVATION PROGRAM, KEEP  
17 AND MAINTAIN ACCURATE RECORDS VERIFYING THAT THE MUNICIPAL PROVIDER  
18 IMPLEMENTED THE CONSERVATION MEASURES REQUIRED BY THE NON-PER CAPITA  
19 CONSERVATION PROGRAM DURING THAT YEAR.

20 D. THE DIRECTOR SHALL DESIGN THE NON-PER CAPITA CONSERVATION  
21 PROGRAM TO ACHIEVE WATER USE EFFICIENCY IN THE SERVICE AREAS OF MUNICIPAL  
22 PROVIDERS REGULATED UNDER THE PROGRAM EQUIVALENT TO THE WATER USE  
23 EFFICIENCY ASSUMED BY THE DIRECTOR IN ESTABLISHING THE PER CAPITA  
24 CONSERVATION REQUIREMENTS FOR THE MANAGEMENT PLAN PURSUANT TO SECTION  
25 45-568.03.

26 E. EXCEPT AS PROVIDED IN SUBSECTIONS I, J AND K OF THIS SECTION, ON  
27 OR BEFORE THE DATE SPECIFIED IN THE MANAGEMENT PLAN, A MUNICIPAL PROVIDER  
28 NOTIFIED OF THE NON-PER CAPITA CONSERVATION PROGRAM PURSUANT TO SECTION  
29 45-568.03, SUBSECTION B, SHALL SUBMIT TO THE DIRECTOR, ON A FORM  
30 PRESCRIBED BY THE DIRECTOR, A PROVIDER PROFILE THAT CONTAINS THE FOLLOWING  
31 INFORMATION:

32 1. A DESCRIPTION OF THE MUNICIPAL PROVIDER'S EXISTING SERVICE AREA  
33 CHARACTERISTICS AND WATER USE PATTERNS.

34 2. A DESCRIPTION OF THE CONSERVATION MEASURES THE MUNICIPAL  
35 PROVIDER IS CURRENTLY IMPLEMENTING AND ANY ADDITIONAL CONSERVATION  
36 MEASURES THAT THE PROVIDER INTENDS TO IMPLEMENT TO COMPLY WITH THE NON-PER  
37 CAPITA CONSERVATION PROGRAM.

38 3. AN EXPLANATION OF HOW EACH CONSERVATION MEASURE DESCRIBED IN THE  
39 PROVIDER PROFILE IS RELEVANT TO THE MUNICIPAL PROVIDER'S EXISTING SERVICE  
40 AREA CHARACTERISTICS OR WATER USE PATTERNS.

41 F. WITHIN NINETY DAYS AFTER RECEIVING A MUNICIPAL PROVIDER'S  
42 PROVIDER PROFILE UNDER SUBSECTION E OF THIS SECTION, THE DIRECTOR SHALL  
43 APPROVE OR DISAPPROVE THE PROVIDER PROFILE AND SEND WRITTEN NOTICE OF THE  
44 DECISION TO THE MUNICIPAL PROVIDER. THE DIRECTOR SHALL APPROVE THE  
45 PROVIDER PROFILE IF THE DIRECTOR DETERMINES THAT THE PROFILE CONTAINS

1 INFORMATION DEMONSTRATING THAT THE MUNICIPAL PROVIDER WILL IMPLEMENT AT  
2 LEAST THE MINIMUM NUMBER OF CONSERVATION MEASURES REQUIRED BY THE NON-PER  
3 CAPITA CONSERVATION PROGRAM AND THAT THE CONSERVATION MEASURES ARE  
4 REASONABLY RELEVANT TO THE MUNICIPAL PROVIDER'S EXISTING SERVICE AREA  
5 CHARACTERISTICS OR WATER USE PATTERNS. IF THE DIRECTOR DISAPPROVES THE  
6 PROVIDER PROFILE, THE DIRECTOR SHALL INCLUDE WITH THE WRITTEN NOTICE OF  
7 THE DECISION THE REASONS FOR THE DISAPPROVAL. A DECISION OF THE DIRECTOR  
8 DISAPPROVING A PROVIDER PROFILE IS AN APPEALABLE AGENCY ACTION PURSUANT TO  
9 TITLE 41, CHAPTER 6, ARTICLE 10. IF THE DIRECTOR FAILS TO SEND THE  
10 MUNICIPAL PROVIDER WRITTEN NOTICE APPROVING OR DISAPPROVING THE PROVIDER  
11 PROFILE WITHIN NINETY DAYS AFTER RECEIVING THE PROVIDER PROFILE, THE  
12 PROVIDER PROFILE SHALL BE DEEMED APPROVED.

13 G. IF THE DIRECTOR DISAPPROVES A MUNICIPAL PROVIDER'S PROVIDER  
14 PROFILE PURSUANT TO SUBSECTION F OF THIS SECTION, WITHIN NINETY DAYS AFTER  
15 THE DATE OF THE DIRECTOR'S WRITTEN NOTICE DISAPPROVING THE PROVIDER  
16 PROFILE, OR WITHIN NINETY DAYS AFTER THE DIRECTOR'S DECISION IS FINAL IF  
17 THE MUNICIPAL PROVIDER FILES A TIMELY NOTICE OF APPEAL OF THE DECISION  
18 PURSUANT TO TITLE 41, CHAPTER 6, ARTICLE 10, THE MUNICIPAL PROVIDER SHALL  
19 REVISE THE PROVIDER PROFILE TO CORRECT THE DEFICIENCIES IDENTIFIED BY THE  
20 DIRECTOR IN THE WRITTEN NOTICE AND SUBMIT THE REVISED PROVIDER PROFILE TO  
21 THE DIRECTOR. WITHIN NINETY DAYS AFTER RECEIVING A MUNICIPAL PROVIDER'S  
22 REVISED PROVIDER PROFILE PURSUANT TO THIS SUBSECTION, THE DIRECTOR SHALL  
23 APPROVE OR DISAPPROVE THE REVISED PROVIDER PROFILE PURSUANT TO SUBSECTION  
24 F OF THIS SECTION. IF THE DIRECTOR DISAPPROVES THE REVISED PROVIDER  
25 PROFILE:

26 1. THE DECISION IS AN APPEALABLE AGENCY ACTION PURSUANT TO TITLE  
27 41, CHAPTER 6, ARTICLE 10.

28 2. THE MUNICIPAL PROVIDER IS IN VIOLATION OF THIS SECTION BEGINNING  
29 ON THE DATE THE DIRECTOR'S DECISION IS FINAL UNTIL THE MUNICIPAL PROVIDER  
30 SUBMITS A PROVIDER PROFILE THAT IS APPROVED BY THE DIRECTOR, EXCEPT THAT  
31 THE PROVIDER MAY NOT BE IN VIOLATION BEFORE THE COMPLIANCE DATE FOR THE  
32 NON-PER CAPITA CONSERVATION PROGRAM SPECIFIED IN THE MANAGEMENT PLAN.

33 H. EXCEPT AS PROVIDED IN SUBSECTIONS I, J AND K OF THIS SECTION, A  
34 MUNICIPAL PROVIDER NOTIFIED OF THE NON-PER CAPITA CONSERVATION PROGRAM  
35 PURSUANT TO SECTION 45-568.03, SUBSECTION B OR SECTION 45-571.01,  
36 SUBSECTION B SHALL BE REGULATED UNDER THE PROGRAM BEGINNING ON THE DATE  
37 THE DIRECTOR APPROVES THE MUNICIPAL PROVIDER'S PROVIDER PROFILE PURSUANT  
38 TO SUBSECTION F OR G OF THIS SECTION, BUT NOT EARLIER THAN THE COMPLIANCE  
39 DATE SPECIFIED IN THE MANAGEMENT PLAN. A MUNICIPAL PROVIDER REGULATED  
40 UNDER THE NON-PER CAPITA CONSERVATION PROGRAM SHALL COMPLY WITH THE  
41 PROGRAM BEGINNING ON THE DATE THE PROVIDER IS FIRST REGULATED UNDER THE  
42 PROGRAM.

43 I. A MUNICIPAL PROVIDER DESIGNATED AS HAVING AN ASSURED WATER  
44 SUPPLY PURSUANT TO SECTION 45-576 MAY NOT BE REGULATED UNDER THE NON-PER  
45 CAPITA CONSERVATION PROGRAM, BUT INSTEAD SHALL BE REGULATED UNDER THE PER

1 CAPITA CONSERVATION PROGRAM ESTABLISHED BY THE DIRECTOR IN THE APPLICABLE  
2 MANAGEMENT PLAN, UNLESS BOTH OF THE FOLLOWING APPLY:

3 1. THE MUNICIPAL PROVIDER NOTIFIES THE DIRECTOR IN WRITING THAT IT  
4 ELECTS TO BE REGULATED UNDER THE NON-PER CAPITA CONSERVATION PROGRAM AND  
5 INCLUDES WITH THE NOTICE A PROVIDER PROFILE THAT CONTAINS THE INFORMATION  
6 PRESCRIBED BY SUBSECTION E OF THIS SECTION.

7 2. THE DIRECTOR APPROVES THE MUNICIPAL PROVIDER'S PROVIDER PROFILE  
8 PURSUANT TO SUBSECTION F OF THIS SECTION OR A REVISED PROVIDER PROFILE  
9 PURSUANT TO SUBSECTION G OF THIS SECTION. THE MUNICIPAL PROVIDER SHALL BE  
10 REGULATED UNDER THE NON-PER CAPITA CONSERVATION PROGRAM BEGINNING ON THE  
11 DATE THE DIRECTOR APPROVES THE PROVIDER PROFILE OR A REVISED PROVIDER  
12 PROFILE.

13 J. A LARGE UNTREATED WATER PROVIDER MAY NOT BE REGULATED UNDER THE  
14 NON-PER CAPITA CONSERVATION PROGRAM WITH RESPECT TO ITS DELIVERIES OF  
15 UNTREATED WATER. A LARGE UNTREATED WATER PROVIDER SHALL COMPLY WITH ANY  
16 CONSERVATION OR RATE OF USE REQUIREMENTS ESTABLISHED FOR DELIVERIES OF  
17 UNTREATED WATER BY LARGE UNTREATED WATER PROVIDERS IN THE APPLICABLE  
18 MANAGEMENT PLAN WITH RESPECT TO ITS DELIVERIES OF UNTREATED WATER.

19 K. A SMALL MUNICIPAL PROVIDER MAY NOT BE REGULATED UNDER THE  
20 NON-PER CAPITA CONSERVATION PROGRAM, BUT INSTEAD SHALL COMPLY WITH ANY  
21 CONSERVATION REQUIREMENTS ESTABLISHED FOR SMALL MUNICIPAL PROVIDERS IN THE  
22 APPLICABLE PLAN.

23 L. A MUNICIPAL PROVIDER THAT IS REGULATED UNDER THE NON-PER CAPITA  
24 CONSERVATION PROGRAM ESTABLISHED IN A MANAGEMENT PLAN UNDER THIS SECTION  
25 SHALL COMPLY WITH ANY INDIVIDUAL USER REQUIREMENTS PRESCRIBED IN THE  
26 MANAGEMENT PLAN, EXCEPT AS PROVIDED IN SECTION 45-571.02.

27 M. A MUNICIPAL PROVIDER THAT IS REGULATED UNDER THE NON-PER CAPITA  
28 CONSERVATION PROGRAM ESTABLISHED IN A MANAGEMENT PLAN UNDER THIS SECTION  
29 IS EXEMPT FROM THE PER CAPITA CONSERVATION REQUIREMENTS PRESCRIBED IN THE  
30 MANAGEMENT PLAN.

31 45-568.05. Alternative conservation programs for agriculture;  
32 sixth management period

33 A. IN ADDITION TO THE PROVISIONS OF THE MANAGEMENT PLAN FOR THE  
34 SIXTH MANAGEMENT PERIOD PRESCRIBED BY SECTION 45-568.03, THE DIRECTOR  
35 SHALL INCLUDE IN THE MANAGEMENT PLAN THE HISTORIC CROPPING PROGRAM  
36 PRESCRIBED BY THIS SECTION AS AN ALTERNATIVE AGRICULTURAL CONSERVATION  
37 PROGRAM THAT ACHIEVES CONSERVATION EQUIVALENT TO THE AGRICULTURAL  
38 CONSERVATION PROGRAM INCLUDED IN THE MANAGEMENT PLAN PURSUANT TO SECTION  
39 45-568.03.

40 B. THE DIRECTOR SHALL ESTABLISH THE COMPONENTS OF THE HISTORIC  
41 CROPPING PROGRAM IN THE MANAGEMENT PLAN FOR THE SIXTH MANAGEMENT PERIODS  
42 TO ASSURE THAT CONSERVATION EQUIVALENT TO THAT REQUIRED BY THE  
43 AGRICULTURAL CONSERVATION PROGRAM ESTABLISHED IN THE MANAGEMENT PLAN  
44 PURSUANT TO SECTION 45-568.03 WILL BE ACHIEVED. IN ADDITION TO THE

1 PROGRAM COMPONENTS ESTABLISHED BY THE DIRECTOR, THE HISTORIC CROPPING  
2 PROGRAM SHALL INCLUDE THE FOLLOWING PROVISIONS:

3 1. THE DIRECTOR SHALL CALCULATE THE MAXIMUM ANNUAL GROUNDWATER  
4 ALLOTMENT AS PROVIDED IN SECTION 45-465.

5 2. THE DIRECTOR SHALL CALCULATE THE IRRIGATION WATER DUTY IN THE  
6 SAME MANNER AS THAT REQUIRED BY SECTION 45-568.03, SUBSECTION A, USING AN  
7 IRRIGATION EFFICIENCY OF SEVENTY-FIVE PERCENT. IN AREAS DEEMED BY THE  
8 DIRECTOR TO HAVE LIMITING SOILS, THE DIRECTOR MAY USE AN IRRIGATION  
9 EFFICIENCY OF SEVENTY PERCENT FOR THE WATER DUTY CALCULATION.

10 3. THE FLEXIBILITY ACCOUNT PROVISIONS OF SECTION 45-467 APPLY  
11 EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION.

12 4. THE DIRECTOR MAY NOT REGISTER CREDITS TO THE FLEXIBILITY ACCOUNT  
13 ESTABLISHED UNDER SECTION 45-467 THAT CAUSE THE CREDIT BALANCE TO EXCEED  
14 SEVENTY-FIVE PERCENT OF THE MAXIMUM ANNUAL GROUNDWATER ALLOTMENT  
15 ESTABLISHED PURSUANT TO THIS SUBSECTION.

16 5. ONLY OWNERS OF AN IRRIGATION GRANDFATHERED RIGHT MAY APPLY FOR  
17 PARTICIPATION IN THE HISTORIC CROPPING PROGRAM.

18 C. IN THE MANAGEMENT PLANS, THE DIRECTOR SHALL ESTABLISH CRITERIA  
19 THAT THE APPLICANT SHALL SATISFY TO ENTER THE HISTORIC CROPPING PROGRAM TO  
20 ASSURE THAT CONSERVATION EQUIVALENT TO THAT REQUIRED BY THE AGRICULTURAL  
21 CONSERVATION PROGRAM ESTABLISHED IN THE MANAGEMENT PLAN PURSUANT TO  
22 SECTION 45-568.03 WILL BE ACHIEVED. AN OWNER OF AN IRRIGATION  
23 GRANDFATHERED RIGHT MAY APPLY TO PARTICIPATE IN THE HISTORIC CROPPING  
24 PROGRAM BY FILING AN APPLICATION WITH THE DIRECTOR. THE DIRECTOR MAY NOT  
25 APPROVE AN APPLICATION FOR THE HISTORIC CROPPING PROGRAM UNLESS THE  
26 APPLICANT SATISFIES THE ENTRANCE CRITERIA ESTABLISHED BY THE DIRECTOR AND  
27 THE FOLLOWING CONDITIONS ARE SATISFIED:

28 1. THE APPLICANT'S ACCUMULATION OF CREDITS IN THE APPLICANT'S  
29 FLEXIBILITY ACCOUNT UNDER SECTION 45-467 IS EQUAL TO OR LESS THAN  
30 SEVENTY-FIVE PERCENT OF THE FARM'S MAXIMUM ANNUAL GROUNDWATER ALLOTMENT  
31 ESTABLISHED PURSUANT TO THE APPLICABLE MANAGEMENT PLAN UNDER SECTION  
32 45-568.03, SUBSECTION A, SECTION 45-568.04, SUBSECTION A OR SUBSECTION A  
33 OF THIS SECTION. TO SATISFY THIS REQUIREMENT, THE APPLICANT MAY EITHER  
34 SELL OR CONVEY ANY EXCESS CREDITS AS PROVIDED BY SECTION 45-467, OR THE  
35 APPLICANT MAY RELINQUISH ANY EXCESS CREDITS.

36 2. THE APPLICANT'S ACCUMULATION OF DEBITS IN THE APPLICANT'S  
37 FLEXIBILITY ACCOUNT UNDER SECTION 45-467 IS EQUAL TO OR LESS THAN  
38 TWENTY-FIVE PERCENT OF THE FARM'S MAXIMUM ANNUAL GROUNDWATER ALLOTMENT  
39 ESTABLISHED PURSUANT TO THE MANAGEMENT PLAN UNDER SECTION 45-568.03,  
40 SUBSECTION A.

41 D. IN THE MANAGEMENT PLAN, THE DIRECTOR SHALL ESTABLISH PERFORMANCE  
42 STANDARDS THAT THE OWNER OF AN IRRIGATION GRANDFATHERED RIGHT OR ANY  
43 PERSON USING GROUNDWATER PURSUANT TO THAT RIGHT SHALL SATISFY WHILE  
44 PARTICIPATING IN THE HISTORIC CROPPING PROGRAM TO ASSURE THAT CONSERVATION  
45 EQUIVALENT TO THAT REQUIRED BY THE AGRICULTURAL CONSERVATION PROGRAM

1 INCLUDED IN THE MANAGEMENT PLAN PURSUANT TO SECTION 45-568.03, SUBSECTION  
2 A WILL BE ACHIEVED. AFTER AN OWNER OF AN IRRIGATION GRANDFATHERED RIGHT  
3 HAS BEEN APPROVED FOR PARTICIPATION IN THE HISTORIC CROPPING PROGRAM, THE  
4 OWNER OF THAT RIGHT, AND ANY PERSON USING GROUNDWATER PURSUANT TO THAT  
5 RIGHT, SHALL MEET BOTH OF THE FOLLOWING CONDITIONS:

6 1. COMPLY WITH THE PERFORMANCE STANDARDS ESTABLISHED BY THE  
7 DIRECTOR.

8 2. NOT ACCUMULATE DEBITS TO THE FLEXIBILITY ACCOUNT ESTABLISHED  
9 UNDER SECTION 45-467 THAT EXCEED TWENTY-FIVE PERCENT OF THE MAXIMUM ANNUAL  
10 GROUNDWATER ALLOTMENT ESTABLISHED UNDER SUBSECTION B OF THIS SECTION. THE  
11 OWNER OF THE IRRIGATION GRANDFATHERED RIGHT AND ANY PERSON ENTITLED TO USE  
12 GROUNDWATER PURSUANT TO THAT RIGHT VIOLATE THIS SECTION IF THE DEBIT  
13 BALANCE EXCEEDS THE AMOUNT STATED IN THIS PARAGRAPH.

14 E. NOTWITHSTANDING SECTION 45-467, AN OWNER OF AN IRRIGATION  
15 GRANDFATHERED RIGHT, WHILE PARTICIPATING IN THE HISTORIC CROPPING PROGRAM,  
16 MAY NOT CONVEY OR SELL FLEXIBILITY ACCOUNT CREDITS FROM, OR PURCHASE  
17 FLEXIBILITY ACCOUNT CREDITS FOR, THE FLEXIBILITY ACCOUNT REGULATED BY THE  
18 HISTORIC CROPPING PROGRAM.

19 F. THE DIRECTOR MAY INCLUDE IN THE ADOPTION OF, OR A MODIFICATION  
20 TO, THE MANAGEMENT PLAN FOR THE SIXTH MANAGEMENT PERIOD ADDITIONAL  
21 ALTERNATIVE AGRICULTURAL CONSERVATION PROGRAMS THAT THE DIRECTOR  
22 DETERMINES ACHIEVE CONSERVATION THAT IS AT LEAST EQUIVALENT TO THAT  
23 REQUIRED UNDER THE AGRICULTURAL CONSERVATION PROGRAM INCLUDED IN THE  
24 MANAGEMENT PLAN PURSUANT TO SECTION 45-568.03, INCLUDING A CROPPED ACREAGE  
25 PROGRAM IN WHICH THE MAXIMUM ANNUAL GROUNDWATER ALLOTMENT IS DETERMINED  
26 BASED ON THE CROPS GROWN DURING THE CALENDAR YEAR IN WHICH THE IRRIGATION  
27 EFFICIENCY IS APPLIED.

28 G. THE DIRECTOR SHALL INCLUDE IN THE ADOPTION OF THE MANAGEMENT  
29 PLAN FOR THE SIXTH MANAGEMENT PERIOD A BEST MANAGEMENT PRACTICES PROGRAM  
30 THAT REQUIRES THE OWNER OF AN IRRIGATION GRANDFATHERED RIGHT AND ANY  
31 PERSON USING GROUNDWATER PURSUANT TO THE RIGHT TO IMPLEMENT SPECIFIC  
32 AGRICULTURAL CONSERVATION PRACTICES FOR WATER USE ON THE LAND OR FARM UNIT  
33 TO WHICH THE RIGHT IS APPURTENANT IN LIEU OF COMPLYING WITH AN IRRIGATION  
34 WATER DUTY AND A MAXIMUM ANNUAL GROUNDWATER ALLOTMENT. THE PROGRAM SHALL  
35 BE DESIGNED TO ACHIEVE CONSERVATION THAT IS AT LEAST EQUIVALENT TO THAT  
36 REQUIRED BY THE AGRICULTURAL CONSERVATION PROGRAM INCLUDED IN THE  
37 MANAGEMENT PLAN PURSUANT TO SECTION 45-568.03.

38 Sec. 6. Section 45-574, Arizona Revised Statutes, is amended to  
39 read:

40 45-574. Variances; application; notice; hearing; issuance

41 A. A person who requires additional time to comply with an  
42 irrigation water duty or conservation requirement established pursuant to  
43 section 45-565, 45-566, 45-566.01, 45-567, 45-567.01, 45-568, ~~or~~  
44 45-568.01, 45-568.03 OR 45-568.04 may apply to the director for a variance  
45 from the water duty or requirement within ninety days from the date of

1 notice of the water duty or requirement. The application shall include the  
2 following:

- 3 1. The name and mailing address of the applicant.
- 4 2. The name of the active management area in which the use is  
5 located.
- 6 3. The amount of groundwater currently being withdrawn annually by  
7 the person.
- 8 4. The irrigation water duty or conservation requirement from which  
9 the variance is sought.
- 10 5. A general description of the economic circumstances preventing  
11 timely compliance with the irrigation water duty or conservation  
12 requirement and any information relevant to such circumstances.
- 13 6. The sworn statement that the information contained in the  
14 application is true and correct to the best belief and knowledge of the  
15 applicant.
- 16 7. Such other information as the director may require.

17 B. The director shall give written notice to the applicant of the  
18 opportunity for an administrative hearing. An administrative hearing  
19 shall be held before the director's decision on the application if the  
20 director deems a hearing necessary or a hearing is requested by the  
21 applicant.

22 C. The director may grant a variance ~~upon~~ ON a showing of  
23 compelling economic circumstances. The variance shall specify:

- 24 1. The amount of groundwater ~~which~~ THAT may be withdrawn by the  
25 person during the variance period, or a schedule of intermediate water  
26 duties or conservation requirements to be reached at specified intervals  
27 during the variance period.
- 28 2. The duration of the variance, which may not exceed five years  
29 from the date of the director's final determination of the variance.

30 D. A party aggrieved by the director's decision may seek judicial  
31 review of the final decision of the director as provided in section  
32 45-114, subsection B in the superior court in the county in which the  
33 irrigated land or non-irrigation use is located.

34 E. Section 45-114, subsections A and B govern administrative  
35 proceedings, rehearing or review and judicial review of final decisions of  
36 the director under this section. If an administrative hearing is held, it  
37 shall be conducted in the active management area in which the use is  
38 located.

39 Sec. 7. Section 45-575, Arizona Revised Statutes, is amended to  
40 read:

41 45-575. Administrative review of irrigation water duty and  
42 conservation requirements

43 A. Any aggrieved party may request an administrative review of an  
44 irrigation water duty or conservation requirement established pursuant to  
45 section 45-565, 45-566, 45-566.01, 45-567, 45-567.01, 45-568, ~~or~~

1 45-568.01, ~~45-568.03~~ OR ~~45-568.04~~. Except as provided in subsection B of  
2 this section, the request must be made not later than ninety days from the  
3 date of notice of such duty or requirement given thirty days after the  
4 adoption of the management plan or if the notice was given pursuant to  
5 section 45-566.01, subsection E or 45-571.02, subsection B, not later than  
6 ninety days from the date of the notice.

7 B. An aggrieved person who claims that extraordinary circumstances  
8 not in existence as of the date of notice that was given thirty days after  
9 adoption of the management plan justify modification of an irrigation  
10 water duty or conservation requirement established pursuant to section  
11 45-565, 45-566, 45-566.01, 45-567, 45-567.01, 45-568, ~~OR~~ 45-568.01,  
12 ~~45-568.03~~ OR ~~45-568.04~~ may request administrative review of the water duty  
13 or conservation requirement more than ninety days from the date of notice  
14 of the water duty or conservation requirement. The director may modify  
15 the water duty or conservation requirement if the aggrieved person  
16 demonstrates to the director by clear and convincing evidence that  
17 extraordinary circumstances not in existence as of the date of the notice  
18 that was given thirty days after adoption of the management plan make it  
19 unreasonable to require compliance with a water duty or conservation  
20 requirement.

21 C. The director shall give written notice to the aggrieved party  
22 who is requesting an administrative review of the opportunity for an  
23 administrative hearing. An administrative hearing shall be held before  
24 the director's decision on the application if the director deems a hearing  
25 necessary or a hearing is requested by the applicant.

26 D. A party aggrieved by the director's decision may seek judicial  
27 review of the final decision of the director as provided in section  
28 45-114, subsection B in the superior court in the county in which the  
29 irrigated land or the non-irrigation use is located.

30 E. Section 45-114, subsections A and B govern administrative  
31 proceedings, rehearing or review and judicial review of final decisions of  
32 the director under this section. If an administrative hearing is held, it  
33 shall be conducted in the active management area in which the use is  
34 located.

35 Sec. 8. Evaluation of conservation requirements and  
36 irrigation water duties for fifth and sixth  
37 management periods; advisory committee; report;  
38 delayed repeal

39 A. The director of water resources shall evaluate the conservation  
40 requirements and irrigation water duties required to be established in the  
41 management plans for the fifth and sixth management periods pursuant to  
42 section 45-568, Arizona Revised Statutes, as amended by this act, and  
43 sections 45-568.03, 45-568.04 and 45-568.05, Arizona Revised Statutes, as  
44 added by this act, to determine whether any changes to those conservation

1 requirements and irrigation water duties are appropriate to achieve  
2 reasonable conservation in the active management areas.

3 B. The director shall establish one or more advisory committees for  
4 each active management area to assist the director in the evaluation  
5 required by subsection A of this section. The director may also contract  
6 with an independent researcher to assist in the evaluation. The  
7 evaluation shall include a review of the conservation requirements and  
8 irrigation water duties established in the management plans for the fifth  
9 management period for each active management area to determine whether  
10 those conservation requirements should continue for the management plans  
11 for the fifth and sixth management periods, or whether changes are  
12 appropriate.

13 C. The director shall prepare a report of the director's findings  
14 and recommendations and submit the report on or before December 31, 2030  
15 to the governor, the president of the senate, the speaker of the house of  
16 representatives, the members of the senate natural resources, energy and  
17 water committee, or its successor committee, and the members of the house  
18 of representatives energy, environment and natural resources committee, or  
19 its successor committee. The report shall include any recommendations for  
20 statutory changes.

21 D. This section is repealed from and after September 30, 2031.

22 Sec. 9. Conforming legislation

23 The legislative council staff shall prepare proposed legislation  
24 conforming the Arizona Revised Statutes to the provisions of this act for  
25 consideration in the fifty-fourth legislature, first regular session.