

House Engrossed

State of Arizona  
House of Representatives  
Forty-fifth Legislature  
Second Regular Session  
2002

CHAPTER 5

**HOUSE BILL 2022**

AN ACT

AMENDING SECTIONS 45-465, 45-466, 45-467, 45-566, 45-566.02, 45-567, 45-567.02, 45-568 AND 45-568.02, 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 45-465, Arizona Revised Statutes, is amended to  
3 read:

4 45-465. Irrigation grandfathered right; determination of acres  
5 entitled to and amount; appurtenancy

6 A. In an active management area, a person who owns land which was  
7 legally irrigated in whole or in part with groundwater at any time during the  
8 five years preceding January 1, 1980 for initial active management areas or  
9 the date of the notice of the initiation of designation procedures or the  
10 call for the election for subsequent active management areas, which is  
11 capable of being irrigated and which has not been retired from irrigation for  
12 a non-irrigation use pursuant to section 45-463 or 45-469 has the right to  
13 use groundwater for the irrigation of such land as determined pursuant to  
14 subsection SUBSECTIONS B AND C of this section.

15 B. EXCEPT AS PROVIDED IN SUBSECTION C OF THIS SECTION, the director  
16 shall compute the maximum amount of groundwater which may be used pursuant  
17 to this section as follows:

18 1. Determine the farm units, as defined in section 45-402, within the  
19 active management area.

20 2. Determine the irrigation water duty, as defined in section 45-402,  
21 for each farm unit in an active management area, pursuant to sections 45-564  
22 through 45-568.

23 3. Determine the water duty acres for each farm within the farm  
24 unit. The water duty acres are the highest number of acres in the farm,  
25 taking land rotation into account, which were legally irrigated during any  
26 one year in the five years preceding January 1, 1980 for initial active  
27 management areas or the date of the notice of the initiation of designation  
28 procedures or the call for the election for subsequent active management  
29 areas.

30 4. Determine the irrigation acres for each farm within the farm  
31 unit. The irrigation acres are the acres in the farm which were legally  
32 irrigated at any time during the five years preceding January 1, 1980 for  
33 initial active management areas or the date of the notice of the initiation  
34 of designation procedures or the call for the election for subsequent active  
35 management areas, which are capable of being irrigated and which have not  
36 been retired from irrigation for a non-irrigation use pursuant to section  
37 45-463 or 45-469.

38 5. Multiply the water duty acres for each farm within the farm unit  
39 by the irrigation water duty for the farm unit and divide that amount by the  
40 number of irrigation acres in the farm. The result shall be the maximum  
41 amount of groundwater which may be used per year for the irrigation of each  
42 irrigation acre in the farm. If the farm is located in an active management  
43 area other than the Santa Cruz active management area and is irrigated solely  
44 with groundwater, the amount of groundwater used by the farm for irrigation  
45 shall be accounted for pursuant to section 45-467, subsection C. If a farm

1 is located in an active management area other than the Santa Cruz active  
2 management area and is irrigated with a combination of surface water and  
3 groundwater, the amount of groundwater used by the farm for irrigation shall  
4 be accounted for pursuant to section 45-467, subsection D. If a farm is  
5 located in the Santa Cruz active management area, the amount of water, other  
6 than stored water, withdrawn from a well and used by the farm for irrigation  
7 purposes shall be accounted for pursuant to section 45-467, subsection E  
8 or F.

9 C. A PERSON WHO OWNS LAND DESCRIBED IN SUBSECTION A OF THIS SECTION  
10 AND WHOSE WATER USE ON THE LAND IS REGULATED UNDER A BEST MANAGEMENT  
11 PRACTICES PROGRAM THAT IS ADOPTED BY THE DIRECTOR PURSUANT TO SECTION  
12 45-566.02, SUBSECTION F:

13 1. HAS THE RIGHT TO USE GROUNDWATER FOR AN IRRIGATION USE ON THE  
14 IRRIGATION ACRES WITHIN THAT LAND AS THOSE ACRES ARE DETERMINED PURSUANT TO  
15 SUBSECTION B, PARAGRAPH 4 OF THIS SECTION.

16 2. IS EXEMPT FROM THE PROVISIONS OF SUBSECTION B OF THIS SECTION WITH  
17 RESPECT TO THAT LAND.

18 ~~C.~~ D. The right to use groundwater pursuant to this section for the  
19 irrigation of an irrigation acre is an irrigation grandfathered right and is  
20 appurtenant to that acre. An irrigation grandfathered right is owned by the  
21 owner of the land to which it is appurtenant and may be leased for an  
22 irrigation use with the land to which it is appurtenant.

23 ~~D.~~ E. A person who owns or leases irrigation acres may use the total  
24 amount of groundwater allowed by the irrigation grandfathered right for such  
25 acres for the irrigation of all or a portion of such acres.

26 ~~E.~~ F. If the irrigation water duty for the farm unit in which an  
27 irrigation acre is located is reduced by the director pursuant to article 9  
28 of this chapter, the amount of groundwater which may be used for the  
29 irrigation of such acre pursuant to the irrigation grandfathered right under  
30 SUBSECTION B OF this section is reduced accordingly.

31 ~~F.~~ G. For purposes of this chapter, the amount of groundwater which  
32 may be used or is used is the amount of groundwater withdrawn by the  
33 groundwater user, measured at the point of withdrawal, and the amount of  
34 groundwater received by the groundwater user from an irrigation district or  
35 other source.

36 Sec. 2. Section 45-466, Arizona Revised Statutes, is amended to read:

37 45-466. Limitations on use of irrigation water duty; deliveries  
38 of water in excess of irrigation water duty

39 A. The irrigation water duty shall be used to determine the maximum  
40 amount of groundwater which may be used pursuant to section 45-465,  
41 SUBSECTION B and debits and credits to the flexibility account as set forth  
42 in section 45-467. Except as provided in subsection B of this section, the  
43 irrigation water duty shall not be applied to diminish surface water  
44 delivered to lands pursuant to appropriative surface water rights or decreed  
45 surface water rights.

1 B. In the Santa Cruz active management area, the irrigation water duty  
2 shall be used to determine the maximum amount of water, other than stored  
3 water, withdrawn from a well which may be used to irrigate the irrigation  
4 acres in a farm.

5 Sec. 3. Section 45-467, Arizona Revised Statutes, is amended to read:  
6 45-467. Withdrawals in excess of irrigation grandfathered  
7 right; withdrawals less than irrigation grandfathered  
8 right; flexibility account; conveyances; variance;  
9 exemption

10 A. A person who is entitled to use groundwater pursuant to an  
11 irrigation grandfathered right may:

12 1. In an active management area other than the Santa Cruz active  
13 management area, use groundwater in excess of the amount allowed by the right  
14 in an amount determined pursuant to subsection I of this section.

15 2. In the Santa Cruz active management area, use water, other than  
16 stored water, withdrawn from a well in excess of the farm's current  
17 irrigation water duty multiplied by the farm's water duty acres in an amount  
18 determined pursuant to subsection J of this section.

19 3. Use less than the amount allowed by the right in one accounting  
20 period and use the remaining amount allowed by the right in a succeeding  
21 accounting period or periods.

22 B. The director shall establish rules for the maintenance of a  
23 flexibility account for each farm in an active management area.

24 C. If a farm located in an active management area other than the Santa  
25 Cruz active management area is irrigated solely with groundwater, the  
26 director shall:

27 1. Register a debit to the account in any accounting period in which  
28 the amount of groundwater used for the irrigation of the irrigation acres in  
29 the farm is greater than the current irrigation water duty for the farm  
30 multiplied by the water duty acres in the farm.

31 2. Register a credit to the account in any accounting period in which  
32 the amount of groundwater used for the irrigation of the irrigation acres in  
33 the farm is less than the current irrigation water duty for the farm  
34 multiplied by the water duty acres in the farm.

35 D. Except as provided in subsection G of this section, if a farm  
36 located in an active management area other than the Santa Cruz active  
37 management area is irrigated with a combination of surface water or effluent,  
38 or both, and groundwater, and uses of water by the farm from all sources for  
39 irrigation purposes, except for surface water, other than Colorado river  
40 water, released for beneficial use from storage, diversion or distribution  
41 facilities to avoid spilling that would otherwise occur due to uncontrolled  
42 surface water inflows that exceed facility capacity, in the accounting  
43 period:

1           1. Exceed the amount of the current irrigation water duty for the farm  
2 multiplied by the water duty acres in the farm, the amount of groundwater  
3 used up to the amount of the excess, less any effluent used, shall be  
4 registered as a debit to the account.

5           2. Are less than the amount of the current irrigation water duty for  
6 the farm multiplied by the water duty acres in the farm, the amount of water  
7 not used which would have been groundwater shall be registered as a credit  
8 to the account.

9           E. If a farm located in the Santa Cruz active management area is  
10 irrigated solely with water, other than stored water, withdrawn from a well,  
11 the director shall:

12           1. Register a debit to the account in any accounting period in which  
13 the amount of water, other than stored water, withdrawn from a well and used  
14 for the irrigation of the irrigation acres in the farm is greater than the  
15 current irrigation water duty for the farm multiplied by the water duty acres  
16 in the farm. The amount of the debit shall equal the amount of the excess.

17           2. Register a credit to the account in any accounting period in which  
18 the amount of water, other than stored water, withdrawn from a well and used  
19 for the irrigation of the irrigation acres in the farm is less than the  
20 current irrigation water duty for the farm multiplied by the water duty acres  
21 in the farm.

22           F. If a farm located in the Santa Cruz active management area is  
23 irrigated with a combination of surface water not withdrawn from a well and  
24 effluent, or both, and water, other than stored water, withdrawn from a well,  
25 and uses of water by the farm from all sources for irrigation purposes in the  
26 accounting period:

27           1. Exceed the amount of the current irrigation water duty for the farm  
28 multiplied by the water duty acres in the farm, the amount of water, other  
29 than stored water, withdrawn from a well and used on the farm up to the  
30 amount of the excess, less any effluent used that does not qualify as stored  
31 water, shall be registered as a debit to the account.

32           2. Are less than the amount of the current irrigation water duty for  
33 the farm multiplied by the water duty acres in the farm, the amount of water  
34 not used which would have been water, other than stored water, withdrawn from  
35 a well shall be registered as a credit to the account.

36           G. Beginning January 1, 1995 through December 31, 1999, if a farm that  
37 qualifies under this subsection as determined pursuant to subsection H of  
38 this section is irrigated during an accounting period with a combination of  
39 surface water or effluent, or both, and groundwater, and uses of water by the  
40 farm from all sources for irrigation purposes, except for surface water,  
41 other than Colorado river water, released for beneficial use from storage,  
42 diversion or distribution facilities to avoid spilling that would otherwise  
43 occur due to uncontrolled surface water inflows that exceed facility  
44 capacity, in the accounting period:

1           1. Exceed the amount of the first intermediate irrigation water duty  
2 established for the farm pursuant to section 45-565 multiplied by the water  
3 duty acres in the farm, the amount of groundwater used up to the amount of  
4 the excess, less any effluent used, shall be registered as a debit to the  
5 account.

6           2. Are less than the amount of the current irrigation water duty for  
7 the farm multiplied by the water duty acres in the farm, the amount of water  
8 not used that would have been groundwater shall be registered as a credit to  
9 the account.

10          3. Exceed or equal the amount of the current irrigation water duty for  
11 the farm multiplied by the water duty acres in the farm but are less than or  
12 equal to the amount of the first intermediate irrigation water duty  
13 established for the farm pursuant to section 45-565 multiplied by the water  
14 duty acres in the farm, no credit or debit may be registered to the account.

15          H. A farm qualifies under subsection G of this section if it is  
16 located in an active management area other than the Santa Cruz active  
17 management area and either of the following applies:

18           1. The amount of groundwater used to irrigate the farm during the  
19 accounting period does not exceed an amount computed by multiplying the water  
20 duty acres in the farm by one and one-half acre-feet of water, except that  
21 an electrical district organized under title 48, chapter 12 or an irrigation  
22 district may apply to the director no later than March 31 of a year for an  
23 increase in that amount for that year for the farms located within the  
24 boundaries of the district that do not qualify under paragraph 2 of this  
25 subsection. The director shall grant the increase if the district  
26 demonstrates that it holds a contract for the purchase of hydroelectric power  
27 marketed by the western area power administration or the Arizona power  
28 authority and that the use of groundwater during that year by all of the  
29 farms within the boundaries of the district that do not qualify under  
30 paragraph 2 of this subsection in an amount that does not exceed one and  
31 one-half acre-feet of water multiplied by the total number of water duty  
32 acres of those farms would result in the district being unable to use its  
33 hydroelectric power capacity entitlement under the contract. If the director  
34 grants the increase, the director shall compute the maximum amount of  
35 groundwater that may be used by a farm within the district during the year  
36 in order to qualify under subsection G of this section as follows:

37           (a) Determine the total amount of groundwater that must be used during  
38 the year by all farms in the district that do not qualify under paragraph 2  
39 of this subsection to enable the district to efficiently use its  
40 hydroelectric kilowatt demand allocation.

41           (b) Divide the amount determined in subdivision (a) of this paragraph  
42 by the total number of water duty acres of the farms in the district that do  
43 not qualify under paragraph 2 of this subsection.

1 (c) Multiply the farm's water duty acres by the quotient in  
2 subdivision (b) of this paragraph or two acre-feet of water, whichever is  
3 less.

4 2. The farm is irrigated with water supplied by an irrigation district  
5 that owns or leases and operates all of the wells used to withdraw  
6 groundwater for irrigation use within the district, and the total amount of  
7 groundwater supplied by the irrigation district for irrigation use during the  
8 year does not exceed an amount computed by multiplying the total number of  
9 water duty acres within the irrigation district by one and one-half acre-feet  
10 of water, except that the irrigation district or an electrical district  
11 organized under title 48, chapter 12 may apply to the director no later than  
12 March 31 of a year for an increase in that amount for that year for the farms  
13 located within the boundaries of the irrigation district. The director shall  
14 grant the increase if the irrigation district or electrical district  
15 demonstrates that it holds a contract for the purchase of hydroelectric power  
16 marketed by the western area power administration or the Arizona power  
17 authority and that the irrigation district or electrical district would be  
18 unable to use its hydroelectric power capacity entitlement under the contract  
19 if the total amount of groundwater supplied by the irrigation district for  
20 irrigation use during the year does not exceed an amount computed by  
21 multiplying the total number of water duty acres within the irrigation  
22 district by one and one-half acre-feet of water. If the director grants the  
23 increase, the maximum amount of groundwater that may be supplied by the  
24 irrigation district for irrigation use during the year in order for the farms  
25 located within the boundaries of the irrigation district to qualify under  
26 subsection G of this section shall be the lesser of the following:

27 (a) The amount of groundwater that the director determines must be  
28 supplied by the irrigation district for irrigation use during the year to  
29 enable the irrigation district or electrical district to efficiently use its  
30 hydroelectric kilowatt demand allocation.

31 (b) An amount of groundwater computed by multiplying the total number  
32 of water duty acres within the irrigation district by two acre-feet of water.

33 I. The maximum excess amount of groundwater that may be used pursuant  
34 to this section is equal to fifty per cent of the current irrigation water  
35 duty for the farm multiplied by the water duty acres in the farm. An owner  
36 of an irrigation grandfathered right and the person using groundwater  
37 pursuant to the right violate this section if the flexibility account for the  
38 farm in which the irrigation acres to which the right is appurtenant are  
39 located is in arrears at any time in excess of this amount. Groundwater  
40 equal to the credit balance in the flexibility account may be used at any  
41 time.

42 J. In the Santa Cruz active management area, the maximum excess amount  
43 of water, other than stored water, withdrawn from a well that may be used  
44 pursuant to this section is equal to fifty per cent of the current irrigation  
45 water duty for the farm multiplied by the water duty acres in the farm. A

1 person using water, other than stored water, withdrawn from a well for an  
2 irrigation use in the Santa Cruz active management area violates this section  
3 if the flexibility account for the farm is in arrears at any time in excess  
4 of this amount. Water, other than stored water, withdrawn from a well in an  
5 amount equal to the credit balance in the flexibility account may be used at  
6 any time, except that if the water is surface water, the amount that may be  
7 used shall not exceed the amount allowed by the decreed or appropriative  
8 surface water right.

9 K. If an irrigation grandfathered right is conveyed for an irrigation  
10 use pursuant to section 45-472, each acre conveyed shall carry with it a  
11 proportional share of any debits or credits in the flexibility account for  
12 the farm. If an irrigation grandfathered right is conveyed for a  
13 non-irrigation use pursuant to section 45-472, each acre conveyed shall carry  
14 with it a proportional share of any debits in the flexibility account for the  
15 farm.

16 L. A person in an active management area other than the Santa Cruz  
17 active management area who is using groundwater pursuant to an irrigation  
18 grandfathered right and who is operating under a variance to the irrigation  
19 water duty pursuant to section 45-574:

20 1. May accumulate a maximum debit in an amount equal to fifty per cent  
21 of the current irrigation water duty for the farm multiplied by the water  
22 duty acres in the farm.

23 2. Shall accumulate credits pursuant to subsection C or D of this  
24 section.

25 M. A person in the Santa Cruz active management area who is using  
26 water, other than stored water, withdrawn from a well for an irrigation use  
27 and who is operating under a variance to the irrigation water duty pursuant  
28 to section 45-574:

29 1. May accumulate a maximum debit in an amount equal to fifty per cent  
30 of the current irrigation water duty for the farm multiplied by the water  
31 duty acres in the farm.

32 2. Shall accumulate credits pursuant to subsection E or F of this  
33 section.

34 N. In an active management area other than the Santa Cruz active  
35 management area, a person using groundwater pursuant to an irrigation  
36 grandfathered right shall file a report with the director each year which  
37 shall include the amount of groundwater used pursuant to the irrigation  
38 grandfathered right and such other information as the director shall require.  
39 In the Santa Cruz active management area, a person using water, other than  
40 stored water, withdrawn from a well for irrigation use shall file a report  
41 with the director each year which shall include the amount of water used on  
42 the farm and such other information as the director shall require. The  
43 director may consolidate the reporting requirements of this section with the  
44 reporting requirements of section 45-632. A PERSON USING GROUNDWATER  
45 PURSUANT TO AN IRRIGATION GRANDFATHERED RIGHT THAT IS REGULATED UNDER A BEST

1 MANAGEMENT PRACTICES PROGRAM ADOPTED BY THE DIRECTOR, PURSUANT TO SECTION  
2 45-566.02, SUBSECTION F, SECTION 45-567.02, SUBSECTION F OR SECTION  
3 45-568.02, SUBSECTION F, IS EXEMPT FROM THE REPORTING REQUIREMENTS OF THIS  
4 SUBSECTION FOR GROUNDWATER USED PURSUANT TO THE IRRIGATION GRANDFATHERED  
5 RIGHT, EXCEPT THAT THE PERSON SHALL FILE A REPORT WITH THE DIRECTOR EACH YEAR  
6 THAT INCLUDES THE INFORMATION REQUIRED BY THE BEST MANAGEMENT PRACTICES  
7 PROGRAM. A person using groundwater pursuant to an irrigation grandfathered  
8 right that is appurtenant to ten or fewer irrigation acres is exempt from the  
9 reporting requirements of this subsection for groundwater used pursuant to  
10 the irrigation grandfathered right unless one of the following applies:

11 1. The land to which the irrigation grandfathered right is appurtenant  
12 is part of an integrated farming operation.

13 2. Groundwater is withdrawn from the land to which the irrigation  
14 grandfathered right is appurtenant and delivered for use pursuant to either  
15 a service area right pursuant to article 6 of this chapter or a grandfathered  
16 groundwater right other than an irrigation grandfathered right that is  
17 appurtenant to irrigation acres that are exempt from irrigation water duties  
18 pursuant to section 45-563.02.

19 3. Groundwater is withdrawn from land that is both owned by the owner  
20 of the irrigation grandfathered right and contiguous to the land to which the  
21 irrigation grandfathered right is appurtenant and delivered for use pursuant  
22 to either a service area right pursuant to article 6 of this chapter or a  
23 grandfathered groundwater right other than an irrigation grandfathered right  
24 that is appurtenant to irrigation acres that are exempt from irrigation water  
25 duties pursuant to section 45-563.02.

26 0. A person who owns an irrigation grandfathered right that is  
27 appurtenant to irrigation acres that were capable of being irrigated as of  
28 December 31 of the preceding calendar year and whose farm has registered a  
29 credit balance to its flexibility account may convey or sell all or a portion  
30 of the credit balance to any person, including the conveyor or seller of the  
31 credit balance, who owns another irrigation grandfathered right or who uses  
32 groundwater pursuant to another irrigation grandfathered right, except that:

33 1. A credit balance that is registered to the flexibility account of  
34 a farm located within an irrigation district may be transferred only to:

35 (a) The flexibility account of a farm THAT IS located within the same  
36 irrigation district.

37 (b) THE FLEXIBILITY ACCOUNT OF A FARM THAT IS LOCATED OUTSIDE OF THAT  
38 IRRIGATION DISTRICT IF BOTH FARMS ARE LOCATED IN THE SAME GROUNDWATER  
39 SUB-BASIN AND THE SAME ACTIVE MANAGEMENT AREA AND IF THE FARM TO WHICH THE  
40 CREDITS ARE CONVEYED IS OWNED OR LEASED BY THE OWNER OR LESSEE OF THE FARM  
41 FROM WHICH THE CREDITS ARE CONVEYED.

42 2. A credit balance that is registered to the flexibility account of  
43 a farm that is not located within an irrigation district may be transferred  
44 only to:

1 (a) The flexibility account of a farm that is located within the same  
2 groundwater sub-basin and the same active management area and that is not  
3 located within an irrigation district.

4 (b) THE FLEXIBILITY ACCOUNT OF A FARM THAT IS LOCATED WITHIN THE SAME  
5 GROUNDWATER SUB-BASIN AND THE SAME ACTIVE MANAGEMENT AREA AND THAT IS LOCATED  
6 WITHIN AN IRRIGATION DISTRICT IF THE FARM TO WHICH THE CREDITS ARE CONVEYED  
7 IS OWNED OR LEASED BY THE OWNER OR LESSEE OF THE FARM FROM WHICH THE CREDITS  
8 ARE CONVEYED.

9 3. A credit registered to a flexibility account for a year may not be  
10 conveyed or sold after ~~March 31~~ of ONLY DURING the second calendar year  
11 following the year for which the credit was registered.

12 P. A person who sells or conveys all or a portion of a credit balance  
13 pursuant to subsection O of this section, and the person to whom the credit  
14 balance is sold or conveyed, shall notify the director of the sale or  
15 conveyance within thirty days after the sale or conveyance on a form  
16 prescribed and furnished by the director.

17 Q. The director shall establish and collect a reasonable fee from the  
18 conveyee or purchaser of a credit balance pursuant to subsection O of this  
19 section to cover the cost of administrative services and other expenses  
20 associated with registering a deduction to the conveyor's or seller's  
21 flexibility account balance and an addition to the conveyee's or purchaser's  
22 flexibility account balance pursuant to subsection R of this section. The  
23 conveyee or purchaser shall pay the fee at the time the notice required  
24 pursuant to subsection P of this section is given to the director.

25 R. A sale or conveyance of all or part of a credit balance under  
26 subsection O of this section is effective only if the director receives the  
27 notice required by subsection P of this section and the fee required by  
28 subsection Q of this section within thirty days after the sale or conveyance.  
29 After receiving the notice and the fee, the director shall register a  
30 deduction of the credit amount conveyed or sold from the conveyor's or  
31 seller's flexibility account balance and the corresponding addition to the  
32 conveyee's or purchaser's flexibility account balance. The deduction and  
33 addition to the flexibility account balances are effective as of the date of  
34 the sale or conveyance.

35 S. The director shall report to the president of the senate and the  
36 speaker of the house of representatives no later than June 30, 2002 on the  
37 effect of conveyances of flexibility account credit balances pursuant to  
38 subsection O, paragraph 2 of this section on the achievement of the  
39 management goal of each active management area as stated in section 45-562  
40 and on the conservation program included in the management plan for each  
41 active management area as provided in section 45-565, and any recommended  
42 changes to subsection O, paragraph 2 of this section.

43 T. Except for subsection N of this section, this section does not  
44 apply to:

1           1. A farm if the person entitled to use groundwater on the farm is  
2 exempt from the irrigation water duties established for the farm as provided  
3 in section 45-563.02, subsection A or if the director may not establish  
4 irrigation water duties for the farm as provided in section 45-563.02,  
5 subsection B.

6           2. A FARM IF WATER USE WITHIN THE FARM IS REGULATED UNDER A BEST  
7 MANAGEMENT PRACTICES PROGRAM ADOPTED BY THE DIRECTOR PURSUANT TO SECTION  
8 45-566.02, SUBSECTION F, SECTION 45-567.02, SUBSECTION F OR SECTION  
9 45-568.02, SUBSECTION F.

10           Sec. 4. Section 45-566, Arizona Revised Statutes, is amended to read:  
11           45-566. Management plan for third management period; guidelines

12           A. For the third management period, 2000 to 2010, the director shall  
13 promulgate a management plan for each initial active management area not  
14 later than January 1, 1998. The director:

15           1. Except as provided in section 45-411.01, subsection A and section  
16 45-563.02, subsection B, shall establish in each plan a new irrigation water  
17 duty for each farm unit to be reached by the end of the third management  
18 period and may establish one or more intermediate water duties to be reached  
19 at specified intervals during the third management period. Except as  
20 provided in subsection D of this section, the irrigation water duty or  
21 intermediate water duties for the third management period shall be calculated  
22 as the quantity of water reasonably required to irrigate the crops  
23 historically grown in the farm unit and shall ~~assume the maximum conservation~~  
24 ~~consistent with prudent long-term farm management practices within areas of~~  
25 ~~similar farming conditions, considering the time required to amortize~~  
26 ~~conservation investments and financing costs~~ BE COMPUTED BY DIVIDING THE  
27 TOTAL IRRIGATION REQUIREMENT PER ACRE OF THOSE CROPS BY AN IRRIGATION  
28 EFFICIENCY OF EIGHTY PER CENT, EXCEPT THAT A LOWER IRRIGATION EFFICIENCY MAY  
29 BE USED FOR A FARM UNIT OR PORTION OF A FARM UNIT DETERMINED BY THE DIRECTOR  
30 TO HAVE LIMITING SOILS OR EXCESSIVE SLOPES AND FOR A FARM UNIT WHERE ORCHARD  
31 CROPS WERE HISTORICALLY GROWN AND CONTINUE TO BE GROWN. After computing the  
32 irrigation water duty or intermediate water duties for the third management  
33 period, the director may adjust the highest twenty-five per cent of the water  
34 duties within an area of similar farming conditions by reducing each water  
35 duty in an amount up to ten per cent, except that in making the adjustment,  
36 no water duty may be reduced to an amount less than THE GREATER OF THE  
37 FOLLOWING:

38           (a) The highest water duty within the lowest seventy-five per cent of  
39 the water duties computed within the area of similar farming conditions for  
40 the third management period.

41           (b) A WATER DUTY COMPUTED FOR THE FARM UNIT UNDER THIS PARAGRAPH USING  
42 AN IRRIGATION EFFICIENCY OF EIGHTY PER CENT.

43           2. Shall establish in each plan, except the plan for the Santa Cruz  
44 active management area, additional conservation requirements for all  
45 non-irrigation uses of groundwater to be achieved by the end of the third

1 management period and may establish intermediate conservation requirements  
2 to be achieved at specified intervals during the third management period. In  
3 the plan for the Santa Cruz active management area, the director shall  
4 establish additional conservation requirements for all non-irrigation uses  
5 of water, other than stored water, withdrawn from a well to be achieved by  
6 the end of the third management period and may establish intermediate  
7 conservation requirements to be achieved at specified intervals during the  
8 third management period. For municipal uses, except as provided in section  
9 45-566.01 and paragraphs 3 and 4 of this subsection, the program in each plan  
10 shall require additional reasonable reductions in per capita use to those  
11 required in the second management period and use of such other conservation  
12 measures as may be appropriate for individual users. For industrial uses,  
13 including industrial uses within the exterior boundaries of the service area  
14 of a city, town, private water company or irrigation district, the program  
15 in each plan shall require the use of or establish conservation requirements  
16 based on the use of the latest commercially available conservation technology  
17 consistent with reasonable economic return.

18 3. Shall establish in each plan conservation or rate of use  
19 requirements for deliveries of untreated water by large untreated water  
20 providers based on the use of the latest commercially available conservation  
21 technology consistent with reasonable economic return.

22 4. Shall establish in each plan reasonable conservation requirements  
23 for small municipal providers.

24 5. Except as provided in section 45-411.01, subsection B, shall  
25 establish in each plan, except the plan for the Santa Cruz active management  
26 area, additional economically reasonable conservation requirements for the  
27 distribution of groundwater by cities, towns, private water companies and  
28 irrigation districts within their service areas. In the plan for the Santa  
29 Cruz active management area, the director shall establish additional  
30 economically reasonable conservation requirements for the distribution of  
31 water, other than stored water, withdrawn from wells, for cities, towns,  
32 private water companies and irrigation districts within their service areas.

33 6. Shall include in each plan a program for additional augmentation  
34 of the water supply of the active management area, if feasible, including  
35 incentives for artificial groundwater recharge.

36 7. Shall, in cooperation with the department of environmental quality,  
37 include in each plan an assessment of groundwater quality in the active  
38 management area and any proposed program for groundwater quality protection.  
39 Any such program shall be submitted to the legislature for any necessary  
40 enabling legislation or coordination with existing programs of the department  
41 of environmental quality.

42 8. Shall include in each plan a program for conservation assistance  
43 to water users within the active management area.

1           9. May include in each plan a program for the purchase and retirement  
2 of grandfathered rights by the department to begin no earlier than January  
3 1, 2006.

4           10. Shall establish in the plan for an active management area in which  
5 a groundwater replenishment district is located the historic annual net  
6 natural recharge for the groundwater replenishment district, computed by  
7 determining the net natural recharge, as defined by section 48-4401, for the  
8 groundwater basin beneath the district during calendar years 1967 through  
9 1996 and dividing the result by thirty.

10          11. Shall include in the plan for the Santa Cruz active management area  
11 criteria for the location of new wells and replacement wells in new locations  
12 consistent with the management goal of the active management area.

13          12. Shall include in the plan for the Santa Cruz active management area  
14 an evaluation of the potential impact of the plan on the Tucson active  
15 management area.

16          13. Shall include in the plans for the Tucson, Phoenix and Pinal active  
17 management areas recommendations to the Arizona water banking authority  
18 regarding all of the following:

19           (a) Whether additional water storage in the active management area  
20 would help to achieve the management goal for the active management area.

21           (b) Where additional water storage in the active management area would  
22 be most useful to achieve the management goal for the active management area.

23           (c) Whether extinguishment of long-term storage credits accrued or to  
24 be accrued by the Arizona water banking authority would help to achieve the  
25 management goal for the active management area.

26          B. Within thirty days after the management plan for the third  
27 management period is adopted, the director shall give written notice in the  
28 manner and to the persons prescribed in section 45-565, subsection B. Two  
29 years before the compliance date specified in the management plan for any  
30 irrigation water duty, intermediate water duty, conservation requirement or  
31 intermediate conservation requirement, the director shall give additional  
32 written notice by first class mail to the last known addresses of the persons  
33 prescribed in section 45-565, subsection B.

34          C. Except for a person who has obtained a variance under section  
35 45-574 or who is exempt from irrigation water duties under section 45-563.02,  
36 subsection A, all persons notified pursuant to subsection B of this section  
37 shall comply with the applicable irrigation water duty or conservation  
38 requirements for the third management period not later than January 1, 2010  
39 and shall remain in compliance until the compliance date for any applicable  
40 irrigation water duty or conservation requirements established in the  
41 management plan for the fourth management period. If intermediate water  
42 duties or intermediate conservation requirements have been established, a  
43 person to whom those water duties or conservation requirements apply shall  
44 comply with the intermediate water duties or conservation requirements not  
45 later than the compliance date specified in the management plan unless the

1 person obtains a variance pursuant to section 45-574 or is exempt from  
2 intermediate water duties under section 45-563.02, subsection A. A person  
3 who obtains a variance under section 45-574 shall comply with the applicable  
4 irrigation water duty or conservation requirements by the date specified in  
5 the variance and shall remain in compliance until the subsequent compliance  
6 date for any applicable irrigation water duty or conservation requirements  
7 established in the management plan for the third management period or, if  
8 that management plan does not establish any applicable subsequent compliance  
9 date, until the applicable compliance date established in the management plan  
10 for the fourth management period.

11 D. A person who is entitled to use groundwater pursuant to an  
12 irrigation grandfathered right may apply to the director at any time during  
13 the management period for an exemption from the irrigation water duties  
14 established pursuant to subsection A, paragraph 1 of this section. The  
15 director shall grant the exemption if the person demonstrates to the  
16 director's satisfaction that granting the exemption is consistent with  
17 achieving the management goal of the active management area and that one of  
18 the following applies:

19 1. Withdrawal of groundwater pursuant to the irrigation grandfathered  
20 right during the management period will intercept the groundwater that would  
21 otherwise flow out of and be lost to the active management area within the  
22 next fifteen years without entering another active management area.

23 2. Withdrawal of groundwater pursuant to the irrigation grandfathered  
24 right during the management period will prevent encroachment of a rising  
25 depth to groundwater level that will cause waterlogging problems within the  
26 next fifteen years.

27 Sec. 5. Section 45-566.02, Arizona Revised Statutes, is amended to  
28 read:

29 45-566.02. Alternative conservation programs for agriculture;  
30 third management period

31 A. In addition to the provisions of the management plan for the third  
32 management period prescribed by section 45-566, subsection A, paragraph 1,  
33 the director shall include in the management plan the historic cropping  
34 program prescribed by this section as an alternative agricultural  
35 conservation program that achieves conservation equivalent to that required  
36 by section 45-566, subsection A, paragraph 1.

37 B. The director shall establish the components of the historic  
38 cropping program in the management plan for the third management period to  
39 assure that conservation equivalent to that required by section 45-566,  
40 subsection A, paragraph 1 will be achieved. In addition to the program  
41 components established by the director, the historic cropping program shall  
42 include the following provisions:

43 1. The director shall calculate the maximum annual groundwater  
44 allotment as provided in section 45-465.

1           2. The director shall calculate the irrigation water duty in the same  
2 manner as that required by section 45-566, subsection A, paragraph 1 using  
3 an irrigation efficiency of seventy-five per cent. In areas deemed by the  
4 director to have limiting soils, the director may use an irrigation  
5 efficiency of seventy per cent for the water duty calculation.

6           3. The flexibility account provisions of section 45-467 apply except  
7 as otherwise provided in this section.

8           4. The director shall not register credits to the flexibility account  
9 established under section 45-467 that cause the credit balance to exceed  
10 seventy-five per cent of the maximum annual groundwater allotment established  
11 pursuant to this subsection.

12           5. Only owners of an irrigation grandfathered right may apply for  
13 participation in the historic cropping program.

14           C. In the management plan, the director shall establish criteria that  
15 the applicant shall satisfy to enter the historic cropping program to assure  
16 that conservation equivalent to that required by section 45-566, subsection  
17 A, paragraph 1 will be achieved. An owner of an irrigation grandfathered  
18 right may apply to participate in the historic cropping program by filing an  
19 application with the director. The director shall not approve an application  
20 for the historic cropping program unless the applicant satisfies the entrance  
21 criteria established by the director and the following conditions are  
22 satisfied:

23           1. The applicant's accumulation of credits in the applicant's  
24 flexibility account under section 45-467 is equal to or less than  
25 seventy-five per cent of the farm's maximum annual groundwater allotment  
26 established under section 45-566, subsection A, paragraph 1. To satisfy this  
27 condition, the applicant may either sell or convey any excess credits as  
28 provided by section 45-467 or the applicant may relinquish any excess  
29 credits.

30           2. The applicant's accumulation of debits in the applicant's  
31 flexibility account under section 45-467 is equal to or less than twenty-five  
32 per cent of the farm's maximum annual groundwater allotment established under  
33 section 45-566, subsection A, paragraph 1.

34           D. In the management plan, the director shall establish performance  
35 standards that the owner of an irrigation grandfathered right or any person  
36 using groundwater pursuant to that right shall satisfy while participating  
37 in the historic cropping program to assure that conservation equivalent to  
38 that required by section 45-566, subsection A, paragraph 1 will be  
39 achieved. After an owner of an irrigation grandfathered right has been  
40 approved for participation in the historic cropping program, the owner of the  
41 irrigation grandfathered right, and any person using groundwater pursuant to  
42 that right, shall meet both of the following conditions:

43           1. Comply with the performance standards established by the director.

1           2. Not accumulate debits to the flexibility account established under  
2 section 45-467 that exceed twenty-five per cent of the maximum annual  
3 groundwater allotment established under subsection B of this section. The  
4 owner of the irrigation grandfathered right, and any person entitled to use  
5 groundwater pursuant to that right, violate this section if the debit balance  
6 exceeds the amount stated in this paragraph.

7           E. Notwithstanding the provisions of section 45-467, an owner of an  
8 irrigation grandfathered right, while participating in the historic cropping  
9 program, shall not convey or sell flexibility account credits from, or  
10 purchase flexibility account credits for, the flexibility account regulated  
11 by the historic cropping program.

12           F. THE DIRECTOR SHALL INCLUDE IN A MODIFICATION TO THE MANAGEMENT PLAN  
13 FOR THE THIRD MANAGEMENT PERIOD A BEST MANAGEMENT PRACTICES PROGRAM THAT IS  
14 AN ALTERNATIVE TO THE AGRICULTURAL CONSERVATION PROGRAM REQUIRED BY SECTION  
15 45-566, SUBSECTION A, PARAGRAPH 1 AND THAT THE DIRECTOR DETERMINES WILL  
16 ACHIEVE CONSERVATION THAT IS AT LEAST EQUIVALENT TO THAT REQUIRED UNDER  
17 SECTION 45-566, SUBSECTION A, PARAGRAPH 1. THE BEST MANAGEMENT PRACTICES  
18 PROGRAM SHALL REQUIRE THE OWNER OF AN IRRIGATION GRANDFATHERED RIGHT AND ANY  
19 PERSON USING GROUNDWATER PURSUANT TO THE RIGHT TO IMPLEMENT SPECIFIC  
20 AGRICULTURAL CONSERVATION PRACTICES FOR WATER USE ON THE LAND OR FARM UNIT  
21 TO WHICH THE RIGHT IS APPURTENANT IN LIEU OF COMPLYING WITH AN IRRIGATION  
22 WATER DUTY AND A MAXIMUM ANNUAL GROUNDWATER ALLOTMENT. The director may  
23 include in the adoption of, or a modification to, the management plan for the  
24 third management period additional alternative agricultural conservation  
25 programs that the director determines achieve conservation that is at least  
26 equivalent to that required under section 45-566, subsection A,  
27 paragraph 1. The director may establish a cropped acreage program in which  
28 the maximum annual groundwater allotment is determined based on the crops  
29 grown during the calendar year in which the irrigation efficiency is applied.

30           Sec. 6. Section 45-567, Arizona Revised Statutes, is amended to read:

31           45-567. Management plan for fourth management period;  
32                                   guidelines

33           A. For the fourth management period, 2010 to 2020, the director shall  
34 promulgate a management plan for each initial active management area not  
35 later than January 1, 2008. The director:

36           1. Except as provided in section 45-563.02, subsection B, shall  
37 include in each plan ~~a new~~ AN irrigation water duty or intermediate water  
38 duties. ~~which~~ THESE duties shall be CALCULATED IN THE MANNER PROVIDED IN  
39 SECTION 45-566, SUBSECTION A, PARAGRAPH 1 AND SHALL BE subject to an  
40 exemption under subsection E of this section. In setting the irrigation  
41 water duty or intermediate water duties for the fourth management period, the  
42 director may adjust the highest twenty-five per cent of the final irrigation  
43 water duties established within an area of similar farming conditions  
44 pursuant to section 45-566 by reducing each water duty in an amount up to ten

1 per cent, except that, in making the adjustment, no water duty may be reduced  
2 to an amount less than THE GREATER OF THE FOLLOWING:

3 (a) The highest water duty within the lowest seventy-five per cent of  
4 the water duties COMPUTED within the area of similar farming conditions for  
5 the fourth management period.

6 (b) A WATER DUTY COMPUTED FOR THE FARM UNIT UNDER THIS PARAGRAPH USING  
7 AN IRRIGATION EFFICIENCY OF EIGHTY PER CENT.

8 2. May include in each plan, if feasible, additional conservation  
9 requirements for non-irrigation uses and intermediate conservation  
10 requirements which shall apply subject to the provisions of section  
11 45-567.01.

12 3. May include in each plan, if feasible, conservation or rate of use  
13 requirements for deliveries of untreated water by large untreated water  
14 providers based on the use of the latest commercially available conservation  
15 technology consistent with reasonable economic return.

16 4. May include in each plan, except the plan for the Santa Cruz active  
17 management area, if feasible, additional economically reasonable conservation  
18 requirements for the distribution of groundwater by cities, towns, private  
19 water companies and irrigation districts within their service areas. In the  
20 plan for the Santa Cruz active management area, the director may include, if  
21 feasible, additional economically reasonable conservation requirements for  
22 the distribution of water, other than stored water, withdrawn from wells, for  
23 cities, towns, private water companies and irrigation districts within their  
24 service areas.

25 5. May include in each plan, if feasible, a program for additional  
26 augmentation of the water supply of the active management area including  
27 incentives for artificial groundwater recharge.

28 6. May include in each plan, if feasible, in cooperation with the  
29 department of environmental quality, an assessment of groundwater quality in  
30 the active management area and any proposed program for groundwater quality  
31 protection. Any such program shall be submitted to the legislature for any  
32 necessary enabling legislation or coordination with existing programs of the  
33 department of environmental quality.

34 7. May include in each plan, if feasible, a program for conservation  
35 assistance to water users within the active management area.

36 8. May include in each plan, if feasible, a program for purchase and  
37 retirement of grandfathered rights by the department.

38 9. Shall include in the plan for the Santa Cruz active management area  
39 criteria for the location of new wells and replacement wells in new locations  
40 consistent with the management goal of the active management area.

41 10. Shall include in the plan for the Santa Cruz active management area  
42 an evaluation of the potential impact of the plan on the Tucson active  
43 management area.

1           11. Shall include in the plans for the Tucson, Phoenix and Pinal active  
2 management areas recommendations to the Arizona water banking authority  
3 regarding all of the following:

4           (a) Whether additional water storage in the active management area  
5 would help to achieve the management goal for the active management area.

6           (b) Where additional water storage in the active management area would  
7 be most useful to achieve the management goal for the active  
8 management area.

9           (c) Whether extinguishment of long-term storage credits accrued or to  
10 be accrued by the Arizona water banking authority would help to achieve the  
11 management goal for the active management area.

12           B. In the plans adopted under subsection A of this section, the  
13 director shall establish the historic annual net natural recharge for any  
14 groundwater replenishment district in the active management area, computed  
15 by determining the net natural recharge, as defined by section 48-4401, for  
16 the groundwater basin beneath the district during calendar years 1977 through  
17 2006 and dividing the result by thirty.

18           C. Within thirty days after the management plan for the fourth  
19 management period is adopted, the director shall give written notice in the  
20 manner and to the persons prescribed in section 45-565, subsection B. Two  
21 years before the compliance date specified in the management plan for any  
22 irrigation water duty, intermediate water duty, conservation requirement or  
23 intermediate conservation requirement, the director shall give additional  
24 written notice by first class mail to the last known addresses of the persons  
25 prescribed in section 45-565, subsection B.

26           D. Except for a person who obtains a variance under section 45-574 or  
27 who is exempt from irrigation water duties under section 45-563.02,  
28 subsection A, all persons notified pursuant to subsection C of this section  
29 shall comply with the applicable irrigation water duty or conservation  
30 requirements for the fourth management period not later than January 1, 2020  
31 and shall remain in compliance until the compliance date for any applicable  
32 irrigation water duty or conservation requirements established in the  
33 management plan for the fifth management period. If intermediate water  
34 duties or intermediate conservation requirements have been established, a  
35 person to whom those water duties or conservation requirements apply shall  
36 comply with the intermediate water duties or intermediate conservation  
37 requirements not later than the compliance date specified in the management  
38 plan, unless the person obtains a variance pursuant to section 45-574 or is  
39 exempt from intermediate water duties under section 45-563.02, subsection  
40 A. A person who obtains a variance under section 45-574 shall comply with  
41 the applicable irrigation water duty or conservation requirements by the date  
42 specified in the variance and shall remain in compliance until the subsequent  
43 compliance date for any applicable irrigation water duty or conservation  
44 requirements established in the management plan for the fourth management  
45 period or, if that management plan does not establish any applicable

1 subsequent compliance date, until the applicable compliance date established  
2 in the management plan for the fifth management period.

3 E. A person who is entitled to use groundwater pursuant to an  
4 irrigation grandfathered right may apply to the director at any time during  
5 the fourth management period for an exemption from the irrigation water  
6 duties established under subsection A, paragraph 1 of this section. The  
7 director shall grant the exemption if the person demonstrates to the  
8 director's satisfaction that granting the exemption is consistent with  
9 achieving the management goal of the active management area and that one of  
10 the following applies:

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

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

19 Sec. 7. Section 45-567.02, Arizona Revised Statutes, is amended to  
20 read:

21 45-567.02. Alternative conservation programs for agriculture;  
22 fourth management period

23 A. In addition to the provisions of the management plan for the fourth  
24 management period prescribed by section 45-567, subsection A, paragraph 1,  
25 the director shall include in the management plan the historic cropping  
26 program prescribed by this section as an alternative agricultural  
27 conservation program that achieves conservation equivalent to that required  
28 by section 45-567, subsection A, paragraph 1.

29 B. The director shall establish the components of the historic  
30 cropping program in the management plan for the fourth management period to  
31 assure that conservation equivalent to that required by section 45-567,  
32 subsection A, paragraph 1 will be achieved. In addition to the program  
33 components established by the director, the historic cropping program shall  
34 include the following provisions:

35 1. The director shall calculate the maximum annual groundwater  
36 allotment as provided in section 45-465.

37 2. The director shall calculate the irrigation water duty in the same  
38 manner as that required by section 45-567, subsection A, paragraph 1 using  
39 an irrigation efficiency of seventy-five per cent. In areas deemed by the  
40 director to have limiting soils, the director may use an irrigation  
41 efficiency of seventy per cent for the water duty calculation.

42 3. The flexibility account provisions of section 45-467 apply except  
43 as otherwise provided in this section.

1           4. The director shall not register credits to the flexibility account  
2 established under section 45-467 that cause the credit balance to exceed  
3 seventy-five per cent of the maximum annual groundwater allotment established  
4 pursuant to this subsection.

5           5. Only owners of an irrigation grandfathered right may apply for  
6 participation in the historic cropping program.

7           C. In the management plan, the director shall establish criteria that  
8 the applicant shall satisfy to enter the historic cropping program to assure  
9 that conservation equivalent to that required by section 45-567, subsection  
10 A, paragraph 1 will be achieved. An owner of an irrigation grandfathered  
11 right may apply to participate in the historic cropping program by filing an  
12 application with the director. The director shall not approve an application  
13 for the historic cropping program unless the applicant satisfies the entrance  
14 criteria established by the director and the following conditions are  
15 satisfied:

16           1. The applicant's accumulation of credits in the applicant's  
17 flexibility account under section 45-467 is equal to or less than  
18 seventy-five per cent of the farm's maximum annual groundwater allotment  
19 established under section 45-567, subsection A, paragraph 1. To satisfy this  
20 requirement, the applicant may either sell or convey any excess credits as  
21 provided by section 45-467 or the applicant may relinquish any excess  
22 credits.

23           2. The applicant's accumulation of debits in the applicant's  
24 flexibility account under section 45-467 is equal to or less than twenty-five  
25 per cent of the farm's maximum annual groundwater allotment established under  
26 section 45-567, subsection A, paragraph 1.

27           D. In the management plan, the director shall establish performance  
28 standards that the owner of an irrigation grandfathered right or any person  
29 using groundwater pursuant to that right shall satisfy while participating  
30 in the historic cropping program to assure that conservation equivalent to  
31 that required by section 45-567, subsection A, paragraph 1 will be achieved.  
32 After an owner of an irrigation grandfathered right has been approved for  
33 participation in the historic cropping program, the owner of that right, and  
34 any person using groundwater pursuant to that right, shall meet both of the  
35 following conditions:

36           1. Comply with the performance standards established by the director.

37           2. Not accumulate debits to the flexibility account established under  
38 section 45-467 that exceed twenty-five per cent of the maximum annual  
39 groundwater allotment established under subsection B of this section. The  
40 owner of the irrigation grandfathered right, and any person entitled to use  
41 groundwater pursuant to that right, violate this section if the debit balance  
42 exceeds the amount stated in this paragraph.

43           E. Notwithstanding the provisions of section 45-467, an owner of an  
44 irrigation grandfathered right, while participating in the historic cropping  
45 program, shall not convey or sell flexibility account credits from, or

1 purchase flexibility account credits for, the flexibility account regulated  
2 by the historic cropping program.

3 F. The director may include in the adoption of, or a modification to,  
4 the management plan for the fourth management period additional alternative  
5 agricultural conservation programs that the director determines achieve  
6 conservation that is at least equivalent to that required under section  
7 45-567, subsection A, paragraph 1., INCLUDING ONE OR BOTH OF THE FOLLOWING:

8 1. ~~The director may establish~~ A cropped acreage program in which the  
9 maximum annual groundwater allotment is determined based on the crops grown  
10 during the calendar year in which the irrigation efficiency is applied.

11 2. A BEST MANAGEMENT PRACTICES PROGRAM THAT REQUIRES THE OWNER OF AN  
12 IRRIGATION GRANDFATHERED RIGHT AND ANY PERSON USING GROUNDWATER PURSUANT TO  
13 THE RIGHT TO IMPLEMENT SPECIFIC AGRICULTURAL CONSERVATION PRACTICES FOR WATER  
14 USE ON THE LAND OR FARM UNIT TO WHICH THE RIGHT IS APPURTENANT IN LIEU OF  
15 COMPLYING WITH AN IRRIGATION WATER DUTY AND A MAXIMUM ANNUAL GROUNDWATER  
16 ALLOTMENT.

17 Sec. 8. Section 45-568, Arizona Revised Statutes, is amended to read:  
18 45-568. Management plan for fifth management period; guidelines

19 A. For the fifth management period, 2020 to 2025, the director shall  
20 promulgate a management plan for each initial active management area not  
21 later than January 1, 2019 pursuant to the guidelines prescribed in section  
22 45-567, subsections A and B, except that:

23 1. The director shall establish the historic annual net natural  
24 recharge for any groundwater replenishment district in the active management  
25 area, computed by determining the net natural recharge, as defined by section  
26 48-4401, for the groundwater basin beneath the district during calendar years  
27 1988 through 2017 and dividing the result by thirty.

28 2. The director may adjust the highest twenty-five per cent of the  
29 irrigation water duties established within an area of similar farming  
30 conditions pursuant to section 45-567 by reducing each water duty in an  
31 amount up to five per cent, except that in making the adjustment, no water  
32 duty may be reduced to an amount less than THE GREATER OF THE FOLLOWING:

33 (a) The highest water duty within the lowest seventy-five per cent of  
34 the water duties COMPUTED within the area of similar farming conditions for  
35 the fifth management period.

36 (b) A WATER DUTY COMPUTED FOR THE FARM UNIT UNDER THIS PARAGRAPH USING  
37 AN IRRIGATION EFFICIENCY OF EIGHTY PER CENT.

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

1 (a) Withdrawal of groundwater pursuant to the irrigation grandfathered  
2 right during the management period will intercept groundwater that would  
3 otherwise flow out of and be lost to the active management area in the next  
4 fifteen years without entering another active management area.

5 (b) Withdrawal of groundwater pursuant to the irrigation grandfathered  
6 right during the management period will prevent encroachment of a rising  
7 depth to groundwater level that will cause waterlogging problems within the  
8 next fifteen years.

9 B. Within thirty days after the management plan for the fifth  
10 management period is adopted, the director shall give written notice in the  
11 manner and to the persons prescribed in section 45-565, subsection B. Two  
12 years before the compliance date specified in the management plan for any  
13 irrigation water duty, intermediate water duty, conservation requirement or  
14 intermediate conservation requirement, the director shall give additional  
15 written notice by first class mail to the last known addresses of the persons  
16 prescribed in section 45-565, subsection B.

17 C. Except for a person who is exempt from irrigation water duties  
18 under section 45-563.02, subsection A, all persons notified pursuant to  
19 subsection B of this section shall comply with the applicable irrigation  
20 water duty or conservation requirements for the fifth management period not  
21 later than January 1, 2025 and shall remain in compliance until the  
22 legislature determines otherwise.

23 Sec. 9. Section 45-568.02, Arizona Revised Statutes, is amended to  
24 read:

25 45-568.02. Alternative conservation programs for agriculture;  
26 fifth management period

27 A. In addition to the provisions of the management plan for the fifth  
28 management period prescribed by section 45-568, subsection A, the director  
29 shall include in the management plan the historic cropping program prescribed  
30 by this section as an alternative agricultural conservation program that  
31 achieves conservation equivalent to that required by section 45-568,  
32 subsection A.

33 B. The director shall establish the components of the historic  
34 cropping program in the management plan for the fifth management period to  
35 assure that conservation equivalent to that required by section 45-568,  
36 subsection A will be achieved. In addition to the program components  
37 established by the director, the historic cropping program shall include the  
38 following provisions:

39 1. The director shall calculate the maximum annual groundwater  
40 allotment as provided in section 45-465.

41 2. The director shall calculate the irrigation water duty in the same  
42 manner as that required by section 45-568, subsection A using an irrigation  
43 efficiency of seventy-five per cent. In areas deemed by the director to have  
44 limiting soils, the director may use an irrigation efficiency of seventy per  
45 cent for the water duty calculation.

1           3. The flexibility account provisions of section 45-467 apply except  
2 as otherwise provided in this section.

3           4. The director shall not register credits to the flexibility account  
4 established under section 45-467 that cause the credit balance to exceed  
5 seventy-five per cent of the maximum annual groundwater allotment established  
6 pursuant to this subsection.

7           5. Only owners of an irrigation grandfathered right may apply for  
8 participation in the historic cropping program.

9           C. In the management plan, the director shall establish criteria that  
10 the applicant shall satisfy to enter the historic cropping program to assure  
11 that conservation equivalent to that required by section 45-568, subsection  
12 A will be achieved. An owner of an irrigation grandfathered right may apply  
13 to participate in the historic cropping program by filing an application with  
14 the director. The director shall not approve an application for the historic  
15 cropping program unless the applicant satisfies the entrance criteria  
16 established by the director and the following conditions are satisfied:

17           1. The applicant's accumulation of credits in the applicant's  
18 flexibility account under section 45-467 is equal to or less than  
19 seventy-five per cent of the farm's maximum annual groundwater allotment  
20 established under section 45-568, subsection A. To satisfy this requirement,  
21 the applicant may either sell or convey any excess credits as provided by  
22 section 45-467, or the applicant may relinquish any excess credits.

23           2. The applicant's accumulation of debits in the applicant's  
24 flexibility account under section 45-467 is equal to or less than twenty-five  
25 per cent of the farm's maximum annual groundwater allotment established under  
26 section 45-568, subsection A.

27           D. In the management plan, the director shall establish performance  
28 standards that the owner of an irrigation grandfathered right or any person  
29 using groundwater pursuant to that right shall satisfy while participating  
30 in the historic cropping program to assure that conservation equivalent to  
31 that required by section 45-568, subsection A will be achieved. After an  
32 owner of an irrigation grandfathered right has been approved for  
33 participation in the historic cropping program, the owner of that right, and  
34 any person using groundwater pursuant to that right, shall meet both of the  
35 following conditions:

36           1. Comply with the performance standards established by the director.

37           2. Not accumulate debits to the flexibility account established under  
38 section 45-467 that exceed twenty-five per cent of the maximum annual  
39 groundwater allotment established under subsection B of this section. The  
40 owner of the irrigation grandfathered right, and any person entitled to use  
41 groundwater pursuant to that right, violate this section if the debit balance  
42 exceeds the amount stated in this paragraph.

43           E. Notwithstanding the provisions of section 45-467, an owner of an  
44 irrigation grandfathered right, while participating in the historic cropping  
45 program, shall not convey or sell flexibility account credits from, or

1 purchase flexibility account credits for, the flexibility account regulated  
2 by the historic cropping program.

3 F. The director may include in the adoption of, or a modification to,  
4 the management plan for the fifth management period additional alternative  
5 agricultural conservation programs that the director determines achieve  
6 conservation that is at least equivalent to that required under section  
7 45-568, subsection A., INCLUDING ONE OR BOTH OF THE FOLLOWING:

8 1. ~~The director may establish~~ A cropped acreage program in which the  
9 maximum annual groundwater allotment is determined based on the crops grown  
10 during the calendar year in which the irrigation efficiency is applied.

11 2. A BEST MANAGEMENT PRACTICES PROGRAM THAT REQUIRES THE OWNER OF AN  
12 IRRIGATION GRANDFATHERED RIGHT AND ANY PERSON USING GROUNDWATER PURSUANT TO  
13 THE RIGHT TO IMPLEMENT SPECIFIC AGRICULTURAL CONSERVATION PRACTICES FOR WATER  
14 USE ON THE LAND OR FARM UNIT TO WHICH THE RIGHT IS APPURTENANT IN LIEU OF  
15 COMPLYING WITH AN IRRIGATION WATER DUTY AND A MAXIMUM ANNUAL GROUNDWATER  
16 ALLOTMENT.

APPROVED BY THE GOVERNOR MARCH 28, 2002.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 28, 2002.

Passed the House January 24, 2002,

Passed the Senate March 25, 2002,

by the following vote: 51 Ayes,

by the following vote: 23 Ayes,

2 Nays, 7 Not Voting

6 Nays, 1 Not Voting

[Signature]  
Speaker of the House

[Signature]  
President of the Senate

[Signature]  
Chief Clerk of the House

[Signature]  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

26 day of March, 2002,

at 1:15 o'clock P M.

[Signature]  
Secretary to the Governor

Approved this 28 day of

March, 2002,

at 10:45 o'clock A M.

[Signature]  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 28<sup>th</sup> day of March, 2002,

at 2:08 o'clock P M.

[Signature]  
Secretary of State

H.B. 2022