

AMENDED IN SENATE JUNE 18, 2009

AMENDED IN ASSEMBLY JUNE 1, 2009

AMENDED IN ASSEMBLY APRIL 13, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 49

Introduced by Assembly Members Feuer and Huffman

December 1, 2008

An act to add Part 2.55 (commencing with Section 10608) to, *to amend and repeal Section 10631.5 of*, and to repeal and add Part 2.8 (commencing with Section 10800) of, Division 6 of the Water Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

AB 49, as amended, Feuer. Water conservation: agricultural water management planning.

(1) Existing law requires the Department of Water Resources to convene an independent technical panel to provide information to the department and the Legislature on new demand management measures, technologies, and approaches. "Demand management measures" means those water conservation measures, programs, and incentives that prevent the waste of water and promote the reasonable and efficient use and reuse of available supplies.

This bill would require the state to achieve a 20% reduction in urban per capita water use in California by December 31, 2020. The state would be required to make incremental progress towards this goal by reducing per capita water use by at least 10% on or before December 31, 2015. The bill would require each urban retail water supplier to develop urban water use targets and interim urban water use targets by

December 31, 2010, in accordance with specified requirements. The bill would require agricultural water suppliers to implement water use efficiency best management practices and would impose related reporting requirements on agricultural water suppliers. The bill would require the department, in consultation with other state agencies, to develop a single standardized water use reporting form. The bill, with certain exceptions, would condition eligibility for certain water management grants or loans to urban water suppliers, *beginning July 1, 2016*, and agricultural water suppliers, *beginning July 1, 2013*, on the implementation of water conservation requirements established by the bill. *The bill would repeal on July 1, 2016, an existing requirement that conditions eligibility for certain water management grants or loan to an urban water supplier on the implementation of certain water demand management measures.*

(2) Existing law, until January 1, 1993, and thereafter only as specified, requires certain agricultural water suppliers to prepare and adopt water management plans.

This bill would substantially revise existing law relating to agricultural water management planning to require agricultural water suppliers to prepare and adopt agricultural water management plans with specified components on or before December 31, ~~2011~~ 2012, and *updated on or before* December 31, 2015, and on or before December 31 every 5 years thereafter. An agricultural water supplier that becomes an agricultural water supplier after December 31, 2012, would be required to prepare and adopt an agricultural water management plan within one year after becoming an agricultural water supplier. The agricultural water supplier would be required to notify each city or county within which the supplier provides water supplies with regard to the preparation or review of the plan. The bill would require the agricultural water supplier to submit copies of the plan to the department and other specified entities. The bill would provide that an agricultural water supplier is ineligible to receive specified state funds if the supplier does not prepare, adopt, and submit the plan in accordance with the requirements established by the bill.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Part 2.55 (commencing with Section 10608) is
2 added to Division 6 of the Water Code, to read:

3
4 PART 2.55. WATER CONSERVATION

5
6 CHAPTER 1. GENERAL DECLARATION AND POLICY

7
8 10608. The Legislature finds and declares all of the following:

9 (a) Water is a public resource that the California Constitution
10 protects against waste and unreasonable use.

11 (b) Growing population, climate change, and the need to protect
12 and grow California's economy while protecting and restoring our
13 fish and wildlife habitats make it essential that the state manage
14 its water resources as efficiently as possible.

15 (c) Reduced water use through conservation provides significant
16 energy and environmental benefits, and can help protect water
17 quality, improve streamflows, and reduce greenhouse gas
18 emissions.

19 (d) The success of state and local water conservation programs
20 to increase efficiency of water use is best determined on the basis
21 of measurable outcomes related to water use or efficiency.

22 (e) Improvements in technology and management practices
23 offer the potential for increasing water efficiency in California
24 over time, providing an essential water management tool to meet
25 the need for water for urban, agricultural, and environmental uses.

26 (f) The Governor has called for a 20 percent per capita reduction
27 in urban water use statewide by 2020.

28 (g) The factors used to formulate water use efficiency targets
29 can *vary* significantly from location to location based on factors
30 including weather, patterns of urban and suburban development,
31 and past efforts to enhance water use efficiency.

32 (h) Per capita water use is a valid measure of a water provider's
33 efforts to reduce urban water use within its service area. However,
34 per capita water use may be less useful for measuring relative
35 water use efficiency between different water providers. Differences
36 in weather, historical patterns of urban and suburban development,
37 and density of housing in a particular location need to be

1 considered when assessing per capita water use as a measure of
2 efficiency.

3 10608.4. It is the intent of the Legislature, by the enactment
4 of this part, to do all of the following:

5 (a) Require all water suppliers to increase the efficiency of use
6 of this essential resource.

7 (b) Establish a framework to meet the state targets for urban
8 water conservation identified in this part and called for by the
9 Governor.

10 (c) Measure increased efficiency of urban water use on a per
11 capita basis.

12 (d) Establish a method or methods for urban retail water
13 suppliers to determine targets for achieving increased water use
14 efficiency by the year 2020, in accordance with the Governor's
15 goal of a 20-percent reduction.

16 (e) Establish consistent water use efficiency planning and
17 implementation standards for urban water suppliers and agricultural
18 water suppliers.

19 (f) Promote urban water conservation standards that are
20 consistent with the California Urban Water Conservation Council's
21 adopted best management practices and the requirements for
22 demand management in Section 10631.

23 (g) Establish standards that recognize and provide credit to water
24 suppliers that made substantial capital investments in urban water
25 conservation since the drought of the early 1990s.

26 (h) Recognize and account for the investment of urban retail
27 water suppliers in providing recycled water for beneficial uses.

28 (i) Require implementation of specified best management
29 practices for agricultural water suppliers.

30 (j) Support the economic productivity of California's
31 agricultural, commercial, and industrial sectors.

32 10608.8. (a) This part does not limit or otherwise affect the
33 application of Section 1011.

34 (b) This part does not limit or otherwise affect the application
35 of Chapter 3.5 (commencing with Section 11340), Chapter 4
36 (commencing with Section 11370), Chapter 4.5 (commencing with
37 Section 11400), and Chapter 5 (commencing with Section 11500)
38 of Part 1 of Division 3 of Title 2 of the Government Code.

39 (c) This part does not require a reduction in the total water used
40 in the agricultural or urban sectors, because other factors such as

1 changes in agricultural economics or population growth may have
2 greater effects on water use. This part does not limit the economic
3 productivity of California’s agricultural, commercial, or industrial
4 sectors.

5
6 CHAPTER 2. DEFINITIONS
7

8 10608.12. Unless the context otherwise requires, the following
9 definitions govern the construction of this part:

10 (a) “Agricultural water supplier” means a water supplier, either
11 publicly or privately owned, providing water to more than 2,000
12 acres of agricultural land, or supplying more than 2,000 acre-feet
13 of agricultural water annually, excluding recycled water. An
14 agricultural water supplier includes a supplier or contractor for
15 water, regardless of the basis of right, which distributes or sells
16 water for ultimate resale to customers.

17 (b) “Base daily per capita water use” means the *as follows*:

18 (1) ~~The~~ urban retail water supplier’s estimate of its ~~existing~~
19 average gross daily water use per capita, reported in gallons per
20 capita per day and calculated over a continuous 10-year period
21 ending in 2004 or later.

22 (2) *For an urban retail water supplier that meets at least 10*
23 *percent of its 2008 metered retail water demand through recycled*
24 *water that is delivered within the service area of an urban retail*
25 *water supplier or its urban wholesale water supplier, the urban*
26 *retail water supplier may extend the calculation described in*
27 *paragraph (1) up to an additional five years to a maximum of a*
28 *continuous 15-year period ending in 2004 or later.*

29 (3) *For the purposes of paragraph (3) of subdivision (b) of*
30 *Section 10608.20, the urban retail water supplier’s estimate of its*
31 *average gross daily water use per capita, reported in gallons per*
32 *capita per day and calculated over a continuous five-year period*
33 *ending in 2007 or later.*

34 (c) “*Baseline commercial, industrial, and institutional water*
35 *use*” means an urban retail water supplier’s base daily per capita
36 water use for commercial, industrial, and institutional users.

37 (e)

38 (d) “Commercial water user” means a water user that provides
39 or distributes a product or service.

40 (d)

1 (e) “Compliance daily per capita water use” means the gross
2 daily water use per capita during ~~a~~ *the final year of the* reporting
3 period, reported in gallons per capita per day.

4 ~~(e)~~

5 (f) “Disadvantaged community” means a community with an
6 annual median household income that is less than 80 percent of
7 the statewide annual median household income.

8 ~~(f)~~

9 (g) “Gross water use” means the total volume of ~~treated or~~
10 ~~untreated water~~ *water, whether treated or untreated*, entering the
11 distribution system of an urban retail water supplier, excluding all
12 of the following:

13 (1) Recycled water *that is delivered within the service area of*
14 *an urban retail water supplier or its urban wholesale water*
15 *supplier.*

16 (2) The net volume of water that the urban retail water supplier
17 places into long-term storage.

18 (3) The volume of water the urban retail water supplier conveys
19 for use by another urban water supplier.

20 (4) If the urban retail water supplier elects to exclude agricultural
21 water use from its urban water use target, the volume of water
22 delivered for agricultural use.

23 ~~(g)~~

24 (h) “Industrial water user” means a water user that is primarily
25 a manufacturer or processor of materials as defined by the Standard
26 Industrial Classifications Code numbers 2000 through 3999.

27 ~~(h)~~

28 (i) “Institutional water user” means a water user dedicated to
29 public service. This includes higher education institutions, schools,
30 courts, churches, hospitals, and government facilities.

31 ~~(i)~~

32 (j) “Interim urban water use target” means ~~one-half of the~~
33 ~~difference~~ *the midpoint* between the urban retail water supplier’s
34 base daily per capita water use and the urban retail water supplier’s
35 urban water use target *for 2020*.

36 ~~(j)~~

37 (k) “Locally cost effective” means that the present value of the
38 local benefits of implementing an agricultural best management
39 practice is greater than or equal to the present value of the local
40 cost of implementing that measure.

1 ~~(k) “Recycled water” means water that, as a result of treatment~~
2 ~~of waste, is suitable for a direct beneficial use or a controlled use~~
3 ~~that would not otherwise occur.~~

4 (l) *“Recycled water” means recycled water, as defined in*
5 *subdivision (n) of Section 13050. “Recycled water” includes any*
6 *metered recycled water supplies, developed through planned*
7 *investment, treated to a minimum tertiary level, conveyed through*
8 *a distribution system constructed specifically for recycled water,*
9 *and used for indirect potable reuse through groundwater recharge*
10 *or reservoir augmentation.*

11 ~~(t)~~

12 (m) “Reporting period” means the years for which an urban
13 retail water supplier reports compliance with the urban water use
14 targets.

15 ~~(m)~~

16 (n) “Urban retail water supplier” means a water supplier, either
17 publicly or privately owned, that directly provides municipal water
18 to more than 3,000 end users or that supplies more than 3,000
19 acre-feet of water annually *at retail for municipal purposes.*

20 ~~(n)~~

21 (o) “Urban water use target” means the urban retail water
22 supplier’s targeted future daily per capita water use.

23 ~~(o)~~

24 (p) “Urban wholesale water supplier,” either publicly or
25 privately owned, means a water supplier that provides more than
26 3,000 acre-feet of water annually at wholesale for municipal
27 purposes.

28 ~~(p)~~

29 (q) “Water conservation” means the efficient management of
30 water resources for beneficial uses, preventing waste, or
31 accomplishing additional benefits with the same amount of water.

32
33 CHAPTER 3. URBAN WATER SUPPLIERS

34
35 10608.16. (a) The state shall achieve a 20-percent reduction
36 in urban per capita water use in California on or before December
37 31, 2020.

38 (b) The state shall make incremental progress towards the state
39 target specified in subdivision (a) by reducing per capita water use
40 by at least 10 percent on or before December 31, 2015.

1 10608.20. (a) (1) Each urban retail water supplier shall
 2 develop urban water use targets and interim urban water use targets
 3 by December 31, 2010. Urban retail water suppliers may elect to
 4 determine and report progress toward achieving these targets on
 5 an individual or regional basis, *as provided in subdivision (a) of*
 6 *Section 10608.28*, and may determine the targets on a fiscal year
 7 or calendar year basis.

8 (2) It is the intent of the Legislature that the urban water use
 9 targets described in subdivision (a) cumulatively result in a
 10 20-percent reduction from the baseline daily per capita water use
 11 by 2020.

12 (b) An urban retail water supplier shall adopt one of the
 13 following methods for determining its urban water use target
 14 pursuant to subdivision (a):

15 (1) Eighty percent of the urban retail water supplier’s baseline
 16 per capita daily water use.

17 (2) The per capita daily water use that is estimated using the
 18 sum of the following performance standards:

19 (A) For indoor residential water use, 55 gallons per capita daily
 20 water use as a provisional target. Upon completion of the
 21 department’s 2016 report to the Legislature pursuant to Section
 22 10608.42, this target may be adjusted.

23 (B) For landscape irrigated through dedicated or residential
 24 meters, water efficiency equivalent to the standards of the Model
 25 Water Efficient Landscape Ordinance set forth in Chapter 2.7
 26 (commencing with Section 490) of Division 2 of Title 23 of the
 27 California Code of Regulations, as in effect the later of the year
 28 of the landscape’s installation or 1992. An urban retail water
 29 supplier using this approach shall use satellite imagery, site visits,
 30 or other best available technology to develop an accurate estimate
 31 of landscaped areas.

32 (C) For commercial, industrial, and institutional uses, a
 33 10-percent reduction in water use *from the baseline commercial,*
 34 *industrial, and institutional water use* by 2015. Upon completion
 35 of the *task force* report described in Section 10608.43, targeted
 36 ~~savings equivalent to full implementation of the recommended~~
 37 ~~alternative best management practices identified in that report shall~~
 38 ~~be used for the 2020 target.~~ *for 2020 shall be based on the*
 39 *commercial, industrial, and institutional efficiency standards*
 40 *among the various sectors of water use established by the task*

1 *force pursuant to Section 10608.43. If the task force report is not*
2 *completed by April 1, 2012, the 10-percent targeted reduction in*
3 *water use shall be extended from 2015 to 2020.*

4 (D) For agricultural irrigation use, water efficiency equivalent
5 to the standards for landscape areas in the Model Water Efficient
6 Landscape Ordinance set forth in Chapter 2.7 (commencing with
7 Section 490) of Division 2 of Title 23 of the California Code of
8 Regulations, as in effect the later of the year of the landscape's
9 installation or 1992. An urban retail water supplier may elect to
10 exclude agricultural water use from its urban water use target. If
11 the urban retail water supplier elects to exclude agricultural water
12 use from its urban water use target and if the urban retail water
13 supplier is also an agricultural water supplier, it shall address
14 agricultural water use as set forth in Chapter 4 (commencing with
15 Section 10608.48).

16 (3) For urban water suppliers that were members of the
17 California Urban Water Conservation Council prior to 1994, and
18 ~~that are~~ *whose base daily per capita water use is at or below the*
19 *applicable state hydrologic region target, as set forth in the state's*
20 *draft 20x2020 Water Conservation Plan (dated April 30, 2009),*
21 *95 percent of base daily per capita water use. If the service area*
22 *of an urban water supplier encompasses more than one hydrologic*
23 *region, the supplier shall apportion its service area to each region*
24 *based on population or area. An urban retail water supplier may*
25 *adopt the criteria in this paragraph for determining its urban water*
26 *use target only if its base daily per capita water use is at or below*
27 *the hydrologic region target for each region within its service*
28 *area.*

29 (c) An urban retail water supplier shall include in its urban water
30 management plan required pursuant to Part 2.6 (commencing with
31 Section 10610) due in 2010 the baseline daily per capita water use,
32 urban water use target, interim urban water use target, and
33 compliance daily per capita water use, along with the bases for
34 determining those estimates ~~along with references to the data~~
35 ~~supporting those estimates, including references to supporting~~
36 ~~data.~~

37 (d) When calculating per capita values for the purposes of this
38 chapter, an urban retail water supplier shall determine population
39 using federal, state, and local population reports and projections.

1 (e) An urban retail water supplier may update its 2020 urban
 2 water use target in its 2015 urban water management plan required
 3 pursuant to Part 2.6 (commencing with Section 10610).

4 10608.24. (a) Each urban retail water supplier shall meet its
 5 interim urban water use target by December 31, 2015.

6 (b) Each urban retail water supplier shall meet its urban water
 7 use target by December 31, 2020.

8 (c) An urban retail water supplier’s compliance daily per capita
 9 water use shall be the measure of progress toward achievement of
 10 its urban water use target.

11 (d) When determining compliance daily per capita water use,
 12 an urban retail water supplier may consider weather-normalizing
 13 factors, including, but not limited to, any differences in
 14 evapotranspiration and rainfall in the baseline period compared to
 15 the compliance reporting period. If the urban retail water supplier
 16 elects to include weather-normalization factors in its estimate of
 17 compliance daily per capita water use, it shall provide the basis
 18 for, and data supporting, the weather-normalization factors in the
 19 report required by Section 10608.40.

20 10608.28. (a) An urban retail water supplier may meet its
 21 urban water use target within its retail service area, or by
 22 ~~participation in cooperative programs at geographic scales~~
 23 ~~including urban wholesale water supplier, regional water~~
 24 ~~management group, integrated regional water management funding~~
 25 ~~area, hydrologic region, or other appropriate geographic scales for~~
 26 ~~which computation methods have been developed by the~~
 27 ~~department.~~ *any of the following:*

- 28 (1) *Through an urban wholesale water supplier.*
- 29 (2) *Through a regional agency authorized to plan and implement*
 30 *water conservation, including, but not limited to, an agency*
 31 *established under the Bay Area Water Supply and Conservation*
 32 *Agency Act (Division 31 (commencing with Section 81300)).*
- 33 (3) *Through a regional water management group.*
- 34 (4) *By an integrated regional water management funding area.*
- 35 (5) *By hydrologic region.*
- 36 (6) *Through other appropriate geographic scales for which*
 37 *computation methods have been developed by the department.*

38 (b) An urban retail water supplier may meet its urban water use
 39 target entirely through efficiency gains in its residential water use
 40 sector, entirely through efficiency gains in its landscape water use

1 sector, entirely through efficiency gains in its commercial,
2 institutional, and industrial sector, or through ~~some combination~~
3 ~~between~~ *any combination among* these sectors.

4 10608.32. All costs incurred pursuant to this part by a water
5 utility regulated by the Public Utilities Commission may be
6 recoverable in rates subject to review and approval by the Public
7 Utilities Commission, and may be recorded in a memorandum
8 account and reviewed for reasonableness by staff of the Public
9 Utilities Commission.

10 10608.36. Urban wholesale water suppliers shall include in
11 the urban water management plans required pursuant to Part 2.6
12 (commencing with Section 10610) an assessment of their present
13 and proposed future measures, programs, and policies to help
14 achieve the water use reductions required by this part.

15 10608.40. Urban water retail suppliers shall report to the
16 department on their progress in meeting their urban water use
17 targets as part of their urban water management plans submitted
18 pursuant to Section 10631.

19 10608.42. The department shall review the 2015 urban water
20 management plans and report to the Legislature by December 31,
21 2016, on progress towards achieving a 20-percent reduction in
22 urban water use by 2020. The report may include recommendations
23 on changes to water efficiency standards or urban water use targets
24 in order to achieve the 20-percent reduction and to reflect updated
25 efficiency information and technology changes.

26 10608.43. The department shall, in conjunction with the
27 California Urban Water Conservation Council, by April 1, 2010,
28 convene a task force consisting of experts to develop alternative
29 best management practices for ~~the~~ commercial, industrial, and
30 institutional ~~sector~~ users. The task force shall submit a report to
31 the Legislature ~~with recommendations by April 1, 2012, by April~~
32 *1, 2012, that shall include a review of multiple sectors and that*
33 *shall establish water use efficiency standards for commercial,*
34 *industrial, and institutional users among various sectors of water*
35 *use.*

36 10608.44. State agencies shall reduce water use on facilities
37 they own or operate to support urban retail water suppliers in
38 meeting the target identified in Section 10608.16.

CHAPTER 4. AGRICULTURAL WATER SUPPLIERS

- 1
2
3 10608.48. (a) On or before July 31, 2012, an agricultural water
4 supplier shall implement water use efficiency best management
5 practices pursuant to subdivisions (b) and (c).
6 (b) Agricultural water suppliers shall implement all of the
7 following critical best management practices:
8 (1) Measure the volume of water delivered to customers with
9 sufficient accuracy to comply with subdivision (a) of Section
10 531.10 and to implement volumetric pricing pursuant to paragraph
11 (4).
12 (2) Designate a water conservation coordinator who will develop
13 and implement the water management plan and prepare progress
14 reports.
15 (3) Provide for the availability of water management services
16 to water users. These services may include, but are not limited to,
17 all of the following:
18 (A) On-farm irrigation and drainage system evaluations.
19 (B) Normal year and real-time irrigation scheduling and crop
20 evapotranspiration information.
21 (C) Surface water, groundwater, and drainage water quantity
22 and quality data.
23 (D) Agricultural water management educational programs and
24 materials for farmers, staff, and the public.
25 (4) Adopt a pricing structure for water customers based at least
26 in part on quantity delivered.
27 (5) Evaluate the policies of agencies that provide the supplier
28 with water to identify the potential for institutional changes to
29 allow more flexible water deliveries and storage.
30 (6) Evaluate and improve the efficiencies of the supplier's
31 pumps.
32 (c) Agricultural water suppliers shall implement additional best
33 management practices, including, but not limited to, practices to
34 accomplish all of the following, if the measures are locally
35 cost-effective and technically feasible:
36 (1) Facilitate alternative land use for lands with exceptionally
37 high water duties or whose irrigation contributes to significant
38 problems, including drainage.

- 1 (2) Facilitate use of available recycled water that otherwise
2 would not be used beneficially, meets all health and safety criteria,
3 and does not harm crops or soils.
- 4 (3) Facilitate the financing of capital improvements for on-farm
5 irrigation systems.
- 6 (4) Implement an incentive pricing structure that promotes one
7 or more of the following goals:
- 8 (A) More efficient water use at the farm level.
9 (B) Conjunctive use of groundwater.
10 (C) Appropriate increase of groundwater recharge.
11 (D) Reduction in problem drainage.
12 (E) Improved management of environmental resources.
13 (F) Effective management of all water sources throughout the
14 year by adjusting seasonal pricing structures based on current
15 conditions.
- 16 (5) Line or pipe distribution systems and construct regulatory
17 reservoirs to increase distribution system flexibility and capacity,
18 decrease maintenance, and reduce seepage.
- 19 (6) Increase flexibility in water ordering by, and delivery to,
20 water customers within operational limits.
- 21 (7) Construct and operate supplier spill and tailwater recovery
22 systems.
- 23 (8) Increase planned conjunctive use of surface and groundwater
24 within the supplier service area.
- 25 (9) Automate canal control structures.
- 26 (10) Facilitate or promote customer pump testing and evaluation.
- 27 (d) Agricultural water suppliers shall report to the department
28 on which best management practices have been implemented and
29 are planned to be implemented, an estimate of the water savings
30 that have occurred since the last report, and an estimate of the
31 water savings estimated to occur five and 10 years in the future.
32 If an agricultural water supplier determines that a best management
33 practice is not locally cost-effective or technically feasible, the
34 supplier shall submit information documenting that determination.
- 35 (e) The reports shall be submitted to the department on or before
36 December 31, 2012, and thereafter in years ending in zero
37 and years ending in five.
- 38 (f) Agricultural water supplier reporting requirements may be
39 met through the submission to the department of an agricultural
40 water management plan required pursuant to Section 10820, or

1 developed for the United States Bureau of Reclamation that is
2 consistent with this part.

3 (g) The reports shall be submitted using a standardized form
4 developed pursuant to Section ~~_____~~ 10608.52.

5 (h) *On or before December 31, 2013, December 31, 2016, and*
6 *December 31, 2021, the department, in consultation with the state*
7 *board, shall submit to the Legislature a report on the agricultural*
8 *best management practices that have been implemented and are*
9 *planned to be implemented and an assessment of the manner in*
10 *which the implementation of those best management practices has*
11 *affected and will affect agricultural operations, including estimated*
12 *water savings, if any.*

13 ~~(h)~~

14 (i) The department may update the best management practices
15 required pursuant to subdivisions (b) and (c), in consultation with
16 the Agricultural Water Management Council, the United States
17 Bureau of Reclamation, ~~and after technical and public input~~
18 ~~provided pursuant to Section _____.~~ *and the state board. All best*
19 *management practices for agricultural water use pursuant to this*
20 *chapter shall be adopted or revised by the department only after*
21 *the department conducts public hearings to allow participation of*
22 *the diverse geographical areas and interests of the state.*

23

24 CHAPTER 5. STANDARDIZED DATA COLLECTION

25

26 10608.52. (a) The department, in consultation with the board,
27 the California Bay-Delta Authority, the State Department of Public
28 Health, and the Public Utilities Commission, shall develop a single
29 standardized water use reporting form to meet the water use
30 information needs of each agency, *including the needs of urban*
31 *water suppliers that elect to determine and report progress toward*
32 *achieving targets on a regional basis as provided in subdivision*
33 *(a) of Section 10608.28.*

34 (b) At a minimum, the form shall be developed to accommodate
35 information sufficient to assess an urban water supplier's
36 compliance with conservation targets pursuant to Section 10608.24
37 and an agricultural water supplier's compliance with
38 implementation of best management practices pursuant to
39 subdivision (a) of Section 10608.48. *The form shall accommodate*

1 *reporting by water suppliers on an individual or regional basis*
2 *as provided in subdivision (a) of Section 10608.28.*

3
4 CHAPTER 6. FUNDING PROVISIONS
5

6 10608.56. (a) Beginning ~~August 1, 2016~~ *July 1, 2016*, the
7 terms of, and eligibility for, a water management grant or loan
8 made to urban retail water suppliers and awarded or administered
9 by the department, board, or California Bay-Delta Authority or its
10 successor agency shall be conditioned on the implementation of
11 this part.

12 (b) Beginning ~~January 1, 2013~~ *July 1, 2013*, the terms of, and
13 eligibility for, a water management grant or loan made to
14 agricultural water suppliers and awarded or administered by the
15 department, board, or California Bay-Delta Authority or its
16 successor agency shall be conditioned on the implementation of
17 this part.

18 (c) Notwithstanding subdivision (a), the department shall
19 determine that an urban retail water supplier is eligible for a water
20 management grant or loan even though the supplier has not met
21 the per capita reductions required pursuant to Section 10608.24,
22 if the urban retail water supplier has submitted to the department
23 for approval a schedule, financing plan, and budget, to be included
24 in the grant or loan agreement, for achieving the per capita
25 reductions. The supplier may request grant or loan funds to achieve
26 the per capita reductions to the extent the request is consistent with
27 the eligibility requirements applicable to the water management
28 funds.

29 (d) Notwithstanding subdivision (b), the department shall
30 determine that an agricultural water supplier is eligible for a water
31 management grant or loan even though the supplier is not
32 implementing all of the best management practices described in
33 Section 10608.48, if the agricultural water supplier has submitted
34 to the department for approval a schedule, financing plan, and
35 budget, to be included in the grant or loan agreement, for
36 implementation of the best management practices. The supplier
37 may request grant or loan funds to implement the best management
38 practices to the extent the request is consistent with the eligibility
39 requirements applicable to the water management funds.

1 (e) Notwithstanding subdivision (a), the department shall
 2 determine that an urban retail water supplier is eligible for a water
 3 management grant or loan even though the supplier has not met
 4 the per capita reductions required pursuant to Section 10608.24,
 5 if the urban retail water supplier has submitted to the department
 6 for approval documentation demonstrating that their entire service
 7 area qualifies as a disadvantaged community.

8 10608.60. (a) It is the intent of the Legislature that funds made
 9 available by Section 75026 of the Public Resources Code should
 10 be expended, consistent with Division 43 (commencing with
 11 Section 75001) of the Public Resources Code and upon
 12 appropriation by the Legislature, for grants to implement this part.
 13 In the allocation of funding, it is the intent of the Legislature that
 14 the department give consideration to disadvantaged communities
 15 to assist in implementing the requirements of this part.

16 (b) It is the intent of the Legislature that funds made available
 17 by Section 75041 of the Public Resources Code should be expended
 18 consistent with Division 43 (commencing with Section 75001) of
 19 the Public Resources Code and, upon appropriation by the
 20 Legislature, for direct expenditures to implement this part.

21
 22 CHAPTER 7. QUANTIFYING AGRICULTURAL WATER USE
 23 EFFICIENCY
 24

25 10608.64. The department shall develop a methodology for
 26 quantifying the efficiency of agricultural water use. Alternatives
 27 to be assessed shall include, but not be limited to, determination
 28 of efficiency levels based on crop type or irrigation system
 29 distribution uniformity. On or before December 31, 2011, the
 30 department shall report to the Legislature on a proposed
 31 methodology and a plan for implementation. The plan shall include
 32 the estimated implementation costs and the types of data needed
 33 to support the methodology.

34 *SEC. 2. Section 10631.5 of the Water Code is amended to read:*
 35 10631.5. (a) (1) Beginning January 1, 2009, the terms of, and
 36 eligibility for, a water management grant or loan made to an urban
 37 water supplier and awarded or administered by the department,
 38 state board, or California Bay-Delta Authority or its successor
 39 agency shall be conditioned on the implementation of the water

1 demand management measures described in Section 10631, as
2 determined by the department pursuant to subdivision (b).

3 (2) For the purposes of this section, water management grants
4 and loans include funding for programs and projects for surface
5 water or groundwater storage, recycling, desalination, water
6 conservation, water supply reliability, and water supply
7 augmentation. This section does not apply to water management
8 projects funded by the *federal* American Recovery and
9 Reinvestment Act of 2009 (Public Law 111-5).

10 (3) Notwithstanding paragraph (1), the department shall
11 determine that an urban water supplier is eligible for a water
12 management grant or loan even though the supplier is not
13 implementing all of the water demand management measures
14 described in Section 10631, if the urban water supplier has
15 submitted to the department for approval a schedule, financing
16 plan, and budget, to be included in the grant or loan agreement,
17 for implementation of the water demand management measures.
18 The supplier may request grant or loan funds to implement the
19 water demand management measures to the extent the request is
20 consistent with the eligibility requirements applicable to the water
21 management funds.

22 (4) (A) Notwithstanding paragraph (1), the department shall
23 determine that an urban water supplier is eligible for a water
24 management grant or loan even though the supplier is not
25 implementing all of the water demand management measures
26 described in Section 10631, if an urban water supplier submits to
27 the department for approval documentation demonstrating that a
28 water demand management measure is not locally cost effective.
29 If the department determines that the documentation submitted by
30 the urban water supplier fails to demonstrate that a water demand
31 management measure is not locally cost effective, the department
32 shall notify the urban water supplier and the agency administering
33 the grant or loan program within 120 days that the documentation
34 does not satisfy the requirements for an exemption, and include
35 in that notification a detailed statement to support the
36 determination.

37 (B) For purposes of this paragraph, “not locally cost effective”
38 means that the present value of the local benefits of implementing
39 a water demand management measure is less than the present value
40 of the local costs of implementing that measure.

1 (b) (1) The department, in consultation with the state board and
2 the California Bay-Delta Authority or its successor agency, and
3 after soliciting public comment regarding eligibility requirements,
4 shall develop eligibility requirements to implement the requirement
5 of paragraph (1) of subdivision (a). In establishing these eligibility
6 requirements, the department shall do both of the following:

7 (A) Consider the conservation measures described in the
8 Memorandum of Understanding Regarding Urban Water
9 Conservation in California, and alternative conservation approaches
10 that provide equal or greater water savings.

11 (B) Recognize the different legal, technical, fiscal, and practical
12 roles and responsibilities of wholesale water suppliers and retail
13 water suppliers.

14 (2) (A) For the purposes of this section, the department shall
15 determine whether an urban water supplier is implementing all of
16 the water demand management measures described in Section
17 10631 based on either, or a combination, of the following:

18 (i) Compliance on an individual basis.

19 (ii) Compliance on a regional basis. Regional compliance shall
20 require participation in a regional conservation program consisting
21 of two or more urban water suppliers that achieves the level of
22 conservation or water efficiency savings equivalent to the amount
23 of conservation or savings achieved if each of the participating
24 urban water suppliers implemented the water demand management
25 measures. The urban water supplier administering the regional
26 program shall provide participating urban water suppliers and the
27 department with data to demonstrate that the regional program is
28 consistent with this clause. The department shall review the data
29 to determine whether the urban water suppliers in the regional
30 program are meeting the eligibility requirements.

31 (B) The department may require additional information for any
32 determination pursuant to this section.

33 (3) The department shall not deny eligibility to an urban water
34 supplier in compliance with the requirements of this section that
35 is participating in a multiagency water project, or an integrated
36 regional water management plan, developed pursuant to Section
37 75026 of the Public Resources Code, solely on the basis that one
38 or more of the agencies participating in the project or plan is not
39 implementing all of the water demand management measures
40 described in Section 10631.

1 (c) In establishing guidelines pursuant to the specific funding
 2 authorization for any water management grant or loan program
 3 subject to this section, the agency administering the grant or loan
 4 program shall include in the guidelines the eligibility requirements
 5 developed by the department pursuant to subdivision (b).

6 (d) Upon receipt of a water management grant or loan
 7 application by an agency administering a grant and loan program
 8 subject to this section, the agency shall request an eligibility
 9 determination from the department with respect to the requirements
 10 of this section. The department shall respond to the request within
 11 60 days of the request.

12 (e) The urban water supplier may submit to the department
 13 copies of its annual reports and other relevant documents to assist
 14 the department in determining whether the urban water supplier
 15 is implementing or scheduling the implementation of water demand
 16 management activities. In addition, for urban water suppliers that
 17 are signatories to the Memorandum of Understanding Regarding
 18 Urban Water Conservation in California and submit biennial reports
 19 to the California Urban Water Conservation Council in accordance
 20 with the memorandum, the department may use these reports to
 21 assist in tracking the implementation of water demand management
 22 measures.

23 (f) *This section shall remain in effect only until July 1, 2016,*
 24 *and as of that date is repealed, unless a later enacted statute, that*
 25 *is enacted before July 1, 2016, deletes or extends that date.*

26 ~~SEC. 2.~~

27 ~~SEC. 3.~~ Part 2.8 (commencing with Section 10800) of Division
 28 6 of the Water Code is repealed.

29 ~~SEC. 3.~~

30 ~~SEC. 4.~~ Part 2.8 (commencing with Section 10800) is added
 31 to Division 6 of the Water Code, to read:

32
 33 PART 2.8. AGRICULTURAL WATER MANAGEMENT
 34 PLANNING

35
 36 CHAPTER 1. GENERAL DECLARATIONS AND POLICY

37
 38 10800. This part shall be known and may be cited as the
 39 Agricultural Water Management Planning Act.

40 10801. The Legislature finds and declares all of the following:

1 (a) The waters of the state are a limited and renewable resource.

2 (b) The California Constitution requires that water in the state
3 be used in a reasonable and beneficial manner.

4 (c) Urban water districts are required to adopt water management
5 plans.

6 (d) The conservation of agricultural water supplies is of great
7 statewide concern.

8 (e) There is a great amount of reuse of delivered water, both
9 inside and outside the water service areas.

10 (f) Significant noncrop beneficial uses are associated with
11 agricultural water use, including streamflows and wildlife habitat.

12 (g) Significant opportunities exist in some areas, through
13 improved irrigation water management, to conserve water or to
14 reduce the quantity of highly saline or toxic drainage water.

15 (h) Changes in water management practices should be carefully
16 planned and implemented to minimize adverse effects on other
17 beneficial uses currently being served.

18 (i) Agricultural water suppliers that receive water from the
19 Central Valley Project are required by federal law to prepare and
20 implement water conservation plans.

21 (j) Agricultural water users applying for a permit to appropriate
22 water from the board are required to prepare and implement water
23 conservation plans.

24 10802. The Legislature finds and declares that all of the
25 following are the policies of the state:

26 (a) The conservation of water shall be pursued actively to protect
27 both the people of the state and the state’s water resources.

28 (b) The conservation of agricultural water supplies shall be an
29 important criterion in public decisions with regard to water.

30 (c) Agricultural water suppliers shall be required to prepare
31 water management plans to achieve conservation of water.

32

33

CHAPTER 2. DEFINITIONS

34

35 10810. Unless the context otherwise requires, the definitions
36 set forth in this chapter govern the construction of this part.

37 10811. “Agricultural water management plan” or “plan” means
38 an agricultural water management plan prepared pursuant to this
39 part.

1 10812. “Agricultural water supplier” has the same meaning as
2 defined in Section 10608.12.

3 10813. “Customer” means a purchaser of water from a water
4 supplier who uses water for agricultural purposes.

5 10814. “Person” means any individual, firm, association,
6 organization, partnership, business, trust, corporation, company,
7 public agency, or any agency of that entity.

8 10815. “Public agency” means any city, county, city and
9 county, special district, or other public entity.

10 10816. “Urban water supplier” has the same meaning as set
11 forth in Section 10617.

12 10817. “Water conservation” means the efficient management
13 of water resources for beneficial uses, preventing waste, or
14 accomplishing additional benefits with the same amount of water.

15

16 CHAPTER 3. AGRICULTURAL WATER MANAGEMENT PLANS

17

18 Article 1. General Provisions

19

20 10820. (a) An agricultural water supplier shall prepare and
21 adopt an agricultural water management plan in the manner set
22 forth in this chapter on or before December 31, ~~2011~~, and 2012,
23 *and updated on* December 31, 2015, and on or before December
24 31 every five years thereafter.

25 (b) Every supplier that becomes an agricultural water supplier
26 after December 31, 2012, shall prepare and adopt an agricultural
27 water management plan within one year after the date it has become
28 an agricultural water supplier.

29 (c) A water supplier that indirectly provides water to customers
30 for agricultural purposes shall not prepare a plan pursuant to this
31 part without the consent of each agricultural water supplier that
32 directly provides that water to its customers.

33 10821. (a) An agricultural water supplier shall update its plan
34 at least once every five years on or before December 31, in years
35 ending in zero and five.

36 (b) An agricultural water supplier required to prepare a plan
37 pursuant to this part shall notify each city or county within which
38 the supplier provides water supplies that the agricultural water
39 supplier will be preparing the plan or reviewing the plan and
40 considering amendments or changes to the plan. The agricultural

1 water supplier may consult with, and obtain comments from, each
2 city or county that receives notice pursuant to this subdivision.

3 (c) The amendments to, or changes in, the plan shall be adopted
4 and submitted in the manner set forth in Article 3 (commencing
5 with Section 10840).

6

7

Article 2. Contents of Plans

8

9 10825. (a) It is the intent of the Legislature in enacting this
10 part to allow levels of water management planning commensurate
11 with the numbers of customers served and the volume of water
12 supplied.

13 (b) This part does not require the implementation of water
14 conservation programs or practices that are not locally cost
15 effective.

16 10826. An agricultural water management plan shall be adopted
17 in accordance with this chapter. The plan shall do all of the
18 following:

19 (a) Describe the agricultural water supplier and the service area,
20 including all of the following:

- 21 (1) Size of the service area.
- 22 (2) Location of the service area and its water management
23 facilities.
- 24 (3) Terrain and soils.
- 25 (4) Climate.
- 26 (5) Operating rules and regulations.
- 27 (6) Water delivery measurements or calculations.
- 28 (7) Water rate schedules and billing.
- 29 (8) Water shortage allocation policies.

30 (b) Describe the quantity and quality of water resources of the
31 agricultural water supplier, including all of the following:

- 32 (1) Surface water supply.
- 33 (2) Groundwater supply.
- 34 (3) Other water supplies.
- 35 (4) Source water quality monitoring practices.
- 36 (5) Water uses within the agricultural water supplier’s service
37 area, including all of the following:
 - 38 (A) Agricultural.
 - 39 (B) Environmental.
 - 40 (C) Recreational.

- 1 (D) Municipal and industrial.
- 2 (E) Groundwater recharge.
- 3 (F) Transfers and exchanges.
- 4 (G) Other water uses.
- 5 (6) Drainage from the water supplier's service area.
- 6 (7) Water accounting, including all of the following:
- 7 (A) Quantifying the water supplier's water supplies.
- 8 (B) Tabulating water uses.
- 9 (C) Overall water budget.
- 10 (8) Water supply reliability.
- 11 (c) Include an analysis, based on available information, of the
- 12 effect of climate change on future water supplies.
- 13 (d) Describe previous water management activities.
- 14 (e) Include in the plan the water use efficiency information
- 15 required pursuant to Section 10608.48.
- 16 10827. Agricultural water suppliers that are members of the
- 17 Agricultural Water Management Council, and that submit water
- 18 management plans to that council in accordance with the
- 19 "Memorandum of Understanding Regarding Efficient Water
- 20 Management Practices By Agricultural Water Suppliers In
- 21 California," dated January 1, 1999, may submit the water
- 22 management plans identifying water demand management
- 23 measures currently being implemented, or scheduled for
- 24 implementation, to satisfy the requirements of Section 10826.
- 25 10828. (a) Agricultural water suppliers that are required to
- 26 submit water conservation plans to the United States Bureau of
- 27 Reclamation pursuant to either the Central Valley Project
- 28 Improvement Act (Public Law 102-575) or the Reclamation
- 29 Reform Act of 1982, or both, may submit those water conservation
- 30 plans to satisfy the requirements of Section 10826, if both of the
- 31 following apply:
- 32 (1) The agricultural water supplier has adopted and submitted
- 33 the water conservation plan to the United States Bureau of
- 34 Reclamation within the previous four years.
- 35 (2) The United States Bureau of Reclamation has accepted the
- 36 water conservation plan as adequate.
- 37 (b) This part does not require agricultural water suppliers that
- 38 are required to submit water conservation plans to the United States
- 39 Bureau of Reclamation pursuant to either the Central Valley Project
- 40 Improvement Act (Public Law 102-575) or the Reclamation

1 Reform Act of 1982, or both, to prepare and adopt water
 2 conservation plans according to a schedule that is different from
 3 that required by the United States Bureau of Reclamation.
 4 10829. An agricultural water supplier may satisfy the
 5 requirements of this part by adopting an urban water management
 6 plan pursuant to Part 2.6 (commencing with Section 10610) or by
 7 participation in areawide, regional, watershed, or basinwide water
 8 management planning if those plans meet or exceed the
 9 requirements of this part.

10

11 Article 3. Adoption and Implementation of Plans

12

13 10840. Every agricultural water supplier shall prepare its plan
 14 pursuant to Article 2 (commencing with Section 10825).

15 10841. Prior to adopting a plan, the agricultural water supplier
 16 shall make the proposed plan available for public inspection, and
 17 shall hold a public hearing on the plan. Prior to the hearing, notice
 18 of the time and place of hearing shall be published within the
 19 jurisdiction of the publicly owned agricultural water supplier
 20 pursuant to Section 6066 of the Government Code. A privately
 21 owned agricultural water supplier shall provide an equivalent notice
 22 within its service area. After the hearing, the plan shall be adopted
 23 as prepared or as modified during or after the hearing.

24 10842. An agricultural water supplier shall implement the plan
 25 adopted pursuant to this chapter in accordance with the schedule
 26 set forth in its plan, as determined by the governing body of the
 27 agricultural water supplier.

28 10843. (a) An agricultural water supplier shall submit to the
 29 entities identified in subdivision (b) a copy of its plan no later than
 30 30 days after the adoption of the plan. Copies of amendments or
 31 changes to the plans shall be submitted to the entities identified in
 32 subdivision (b) within 30 days after the adoption of the
 33 amendments or changes.

34 (b) An agricultural water supplier shall submit a copy of its plan
 35 and amendments or changes to the plan to each of the following
 36 entities:

37 (1) The department.

38 (2) Any city, county, or city and county within which the
 39 agricultural water supplier provides water supplies.

1 (3) Any groundwater management entity within which
2 jurisdiction the agricultural water supplier extracts or provides
3 water supplies.

4 (4) Any urban water supplier within which jurisdiction the
5 agricultural water supplier provides water supplies.

6 (5) Any city or county library within which jurisdiction the
7 agricultural water supplier provides water supplies.

8 (6) The California State Library.

9 (7) Any local agency formation commission serving a county
10 within which the agricultural water supplier provides water
11 supplies.

12 10844. (a) Not later than 30 days after the date of adopting its
13 plan, the agricultural water supplier shall make the plan available
14 for public review on the agricultural water supplier's Internet Web
15 site.

16 (b) An agricultural water supplier that does not have an Internet
17 Web site shall submit to the department, not later than 30 days
18 after the date of adopting its plan, a copy of the adopted plan in
19 an electronic format. The department shall make the plan available
20 for public review on the department's Internet Web site.

21 10845. (a) The department shall prepare and submit to the
22 Legislature, on or before December 31, ~~2012~~ 2013, and thereafter
23 in the years ending in six and years ending in one, a report
24 summarizing the status of the plans adopted pursuant to this part.

25 (b) The report prepared by the department shall identify the
26 outstanding elements of any plan adopted pursuant to this part.
27 The report shall include an evaluation of the effectiveness of this
28 part in promoting efficient agricultural water management practices
29 and recommendations relating to proposed changes to this part, as
30 appropriate.

31 (c) The department shall provide a copy of the report to each
32 agricultural water supplier that has submitted its plan to the
33 department. The department shall also prepare reports and provide
34 data for any legislative hearing designed to consider the
35 effectiveness of plans submitted pursuant to this part.

36 (d) This section does not authorize the department, in preparing
37 the report, to approve, disapprove, or critique individual plans
38 submitted pursuant to this part.

CHAPTER 4. MISCELLANEOUS PROVISIONS

1
2
3 10850. (a) Any action or proceeding to attack, review, set
4 aside, void, or annul the acts or decisions of an agricultural water
5 supplier on the grounds of noncompliance with this part shall be
6 brought pursuant to Section 1085 of the Code of Civil Procedure,
7 and the court's review of compliance or noncompliance with this
8 part shall extend to whether the plan, or portion thereof, or revision
9 thereto, substantially complies with the requirements of this part.

10 (b) An action or proceeding alleging failure to adopt a plan shall
11 be commenced within 18 months after that adoption is required
12 by this part.

13 (c) Any action or proceeding alleging that a plan, or action taken
14 pursuant to the plan, does not comply with this part shall be
15 commenced within 120 days after submitting the plan or
16 amendments to the plan to entities in accordance with Section
17 10844 or the taking of that action.

18 (d) In an action or proceeding to attack, review, set aside, void,
19 or annul the acts or decisions of an agricultural water supplier
20 made pursuant to this part at a properly noticed public hearing, the
21 issues raised shall be limited to those raised in the public hearing,
22 or in written correspondence delivered to the agricultural water
23 supplier prior to, or at, the public hearing, except if the court finds
24 either of the following:

25 (1) The issue could not have been raised at the public hearing
26 by a person exercising reasonable diligence.

27 (2) The body conducting the public hearing prevented the issue
28 from being raised at the public hearing.

29 10851. The California Environmental Quality Act (Division
30 13 (commencing with Section 21000) of the Public Resources
31 Code) does not apply to the preparation and adoption of plans
32 pursuant to this part. This part does not exempt projects for
33 implementation of the plan or for expanded or additional water
34 supplies from the California Environmental Quality Act.

35 10852. An agricultural water supplier that does not prepare,
36 adopt, and submit its agricultural water management plan in
37 accordance with this part is ineligible to receive funds made
38 available pursuant to any program administered by the board, the
39 department, or the California Bay-Delta Authority, or participate
40 in any drought assistance program administered by the state, until

- 1 the agricultural water management plan is submitted pursuant to
- 2 this part.

O