

ARTICLE 6. Department Evaluation and Assessment

§ 355. Introduction to Department Evaluation and Assessment

This Article describes the methodology and criteria used by the Department to evaluate and assess a Plan, periodically evaluate and assess the implementation of a Plan, or evaluate and assess amendments to a Plan.

Note: Authority cited: Section 10733.2, Water Code.

Reference: Section 10733.2, Water Code.

§ 355.2. Department Review of Adopted Plan

(a) The Agency shall submit a copy of the adopted Plan to the Department for evaluation and the Department shall assign a submittal date to the Plan based on the day the Plan is received.

(b) The Department shall post the adopted Plan, submittal date, and materials submitted by the Agency on the Department's website within 20 days of receipt.

(c) The Department shall establish a period of no less than 60 days to receive public comments on the adopted Plan, as described in Section 353.8.

(d) If the Board has jurisdiction over the basin or a portion of the basin pursuant to Water Code Section 10735.2, the Department, after consultation with the Board, may proceed with an evaluation of a Plan.

(e) The Department shall evaluate a Plan within two years of its submittal date and issue a written assessment of the Plan, which shall be posted on the Department's website. The assessment shall include a determination of the status of the Plan, as follows:

(1) Approved. The Department shall approve a Plan that satisfies the requirements of the Act and is in substantial compliance with this Subchapter, based on the criteria described in Section 355.4.

(2) Incomplete. The Department has determined that the Plan has one or more deficiencies that preclude approval, but which may be capable of being corrected by the Agency in a timely manner. An incomplete Plan may be completed and resubmitted to the Department for evaluation as follows:

(A) A Plan that is determined to be incomplete prior to the statutory deadline may be revised and resubmitted to the Department prior to the applicable deadline.

(B) A Plan that is determined to be incomplete after the statutory deadline, or less than 180 days prior to the statutory deadline, may be revised and resubmitted to the Department if the Department has determined that the Plan has minor deficiencies that could be addressed by the Agency in a timely manner through corrective actions, which may be recommended by the Department.

(i) The Department may consult with the Agency to determine the amount of time needed by the Agency to address any deficiencies, not to exceed 180 days from the date the Department issues the assessment.

(ii) No time limit shall apply to address deficiencies to Plans submitted for low or very low priority basins.

(3) Inadequate. The Department shall disapprove a Plan if the Department, after consultation with the board, determines that a Plan is inadequate based on any of the following:

(A) The Plan does not satisfy the requirements of Section 355.4(a), and any deficiencies have not been corrected prior to the statutory deadline.

(B) The Plan contains significant deficiencies based on one or more criteria identified in Section 355.4(b), and any deficiencies have not been corrected prior to the statutory deadline.

(C) The Plan was determined to be incomplete, and the Agency has not taken sufficient actions to correct any deficiencies identified by the Department.

Note: Authority cited: Section 10733.2, Water Code.

Reference: Sections 10720.7, 10722.4, 10727, 10733, 10733.2, 10733.4, and 10735.2, Water Code.

§ 355.4. Criteria for Plan Evaluation

The basin shall be sustainably managed within 20 years of the applicable statutory deadline consistent with the objectives of the Act. The Department shall evaluate an adopted Plan for compliance with this requirement as follows:

(a) An adopted Plan must satisfy all of the following conditions:

(1) The Plan was submitted within the statutory deadline, as applicable.

(2) The Plan is complete and includes the information required by the Act and this Subchapter, including a coordination agreement, if required.

(3) The Plan, either on its own or in coordination with other Plans, covers the entire basin.

(4) The Agency has taken corrective actions, within the period described in Section 355.2, to address any deficiencies in the Plan identified by the Department.

(b) The Department shall evaluate a Plan that satisfies the requirements of Subsection (a) to determine whether the Plan, either individually or in coordination with other Plans, complies with the Act and substantially complies with the requirements of this Subchapter. Substantial compliance means that the supporting information is sufficiently detailed and the analyses sufficiently thorough and reasonable, in the judgment of the Department, to evaluate the Plan, and the Department determines that any discrepancy would not materially affect the ability of the Agency to achieve the sustainability goal for the basin, or the ability of the Department to evaluate the likelihood of the Plan to attain that goal. When evaluating whether a Plan is likely to achieve the sustainability goal for the basin, the Department shall consider the following:

(1) Whether the assumptions, criteria, findings, and objectives, including the sustainability goal, undesirable results, minimum thresholds, measurable objectives,

and interim milestones are reasonable and supported by the best available information and best available science.

- (2) Whether the Plan identifies reasonable measures and schedules to eliminate data gaps.
- (3) Whether sustainable management criteria and projects and management actions are commensurate with the level of understanding of the basin setting, based on the level of uncertainty, as reflected in the Plan.
- (4) Whether the interests of the beneficial uses and users of groundwater in the basin, and the land uses and property interests potentially affected by the use of groundwater in the basin, have been considered.
- (5) Whether the projects and management actions are feasible and likely to prevent undesirable results and ensure that the basin is operated within its sustainable yield.
- (6) Whether the Plan includes a reasonable assessment of overdraft conditions and includes reasonable means to mitigate overdraft, if present.
- (7) Whether the Plan will adversely affect the ability of an adjacent basin to implement its Plan or impede achievement of its sustainability goal.
- (8) Whether coordination agreements, if required, have been adopted by all relevant parties, and satisfy the requirements of the Act and this Subchapter.
- (9) Whether the Agency has the legal authority and financial resources necessary to implement the Plan.
- (10) Whether the Agency has adequately responded to comments that raise credible technical or policy issues with the Plan.

Note: Authority cited: Section 10733.2, Water Code.

Reference: Sections 10720.7, 10722.4, 10723.2, 10727, 10727.2, 10727.4, 10727.6, 10733, 10733.2, and 10733.4, Water Code.

§ 355.6. Periodic Review of Plan by Department

- (a) The Department shall periodically review an approved Plan to ensure the Plan, as implemented, remains consistent with the Act and in substantial compliance with this Subchapter, and is being implemented in a manner that will likely achieve the sustainability goal for the basin.
- (b) The Department shall evaluate approved Plans and issue an assessment at least every five years. The Department review shall be based on information provided in the annual reports and the periodic evaluation of the Plan prepared and submitted by the Agency.
- (c) The Department shall consider the following in determining whether a Plan and its implementation remain consistent with the Act:
 - (1) Whether the exceedances of any minimum thresholds or failure to meet any interim milestones are likely to affect the ability of the Agency to achieve the sustainability goal for the basin

(2) Whether the Agency is implementing projects and management actions consistent with the Plan, or that the Agency has demonstrated that actions described in the Plan have been rendered unnecessary based on changing basin conditions or an improved understanding of basin conditions.

(3) Whether the Agency is addressing data gaps and reducing the levels of uncertainty identified in the Plan.

(4) Whether the Plan continues to satisfy the criteria described in Section 355.4.

(d) The Department shall issue a written assessment of the review of the Plan, which shall be posted on the Department's website. The assessment shall include a determination of the status of the Plan, as follows:

(1) Approved. The Department shall approve the implementation of a Plan that remains in conformance with the requirements of the Act and is in substantial compliance with this Subchapter, based on the criteria described in this Section.

(2) Incomplete. The Department has determined that the Plan as implemented has one or more deficiencies that preclude approval, but which may be capable of being corrected by the Agency in a timely manner. An incomplete Plan may be completed and resubmitted to the Department for evaluation as follows:

(A) The Department shall identify deficiencies in the Plan as implemented, and may recommend corrective actions to address those deficiencies.

(B) The Department may consult with the Agency to determine the amount of time needed by the Agency to propose projects or management actions to address any deficiencies, not to exceed 180 days from the date the Department issues its assessment.

(3) Inadequate. The Department shall disapprove the implementation of a Plan if the Department, after consultation with the board, determines that a Plan is inadequate in accordance with Section 355.2.

(e) The Department may request from the Agency any information the Department deems necessary to evaluate the progress toward achieving the sustainability goal and the potential for adverse effects on adjacent basins.

(f) The Department may evaluate the implementation of a Plan at any time to determine whether the Plan is consistent with the objectives of the Act and in substantial compliance with this Subchapter.

Note: Authority cited: Section 10733.2, Water Code.

Reference: Sections 10728.2, 10733, 10733.2, 10733.4, and 10733.8, Water Code.

§ 355.8. Department Review of Annual Reports

The Department shall review annual reports as follows:

(a) The Department shall acknowledge the receipt of annual reports by written notice and post the report and related materials on the Department's website within 20 days of receipt.

(b) The Department shall provide written notice to the Agency if additional information is required.

(c) The Department shall review information contained in the annual report to determine whether the Plan is being implemented in a manner that will likely achieve the sustainability goal for the basin, pursuant to Section 355.6.

Note: Authority cited: Section 10733.2, Water Code.

Reference: Sections 10728, 10733.2, and 10733.8, Water Code.

§ 355.10. Plan Amendments

(a) Any amendment to a Plan shall be evaluated by the Department for consistency with the requirements of the Act and of this Subchapter.

(b) An Agency may amend a Plan at any time, and submit the amended Plan to the Department for evaluation pursuant to the requirements of this Subchapter.

(c) The Department shall evaluate the amended portions of the Plan and any new information that is relevant to the amendments or other Plan elements. Portions of the Plan that have not been amended will not be evaluated unless the Department determines the proposed amendment may result in changed conditions to other areas or to other aspects of the Plan.

(d) An amendment to a Plan shall be evaluated by the Department as follows:

(1) An amended Plan that has been submitted, but not yet approved by the Department, shall be evaluated during the initial evaluation period, in accordance with Sections 355.2 and 355.4.

(2) An amended Plan that has been approved by the Department, but determined to be incomplete or inadequate as a result of a periodic assessment pursuant to Section 355.6, shall be evaluated in accordance with Sections 355.2 and 355.4.

(3) An amendment to a Plan that has been approved by the Department shall be evaluated in accordance with Section 355.6, except that if the Department does not approve the amendment, the Agency may revise and resubmit another amendment at any time, provided that the status of the Plan remains unchanged.

Note: Authority cited: Section 10733.2, Water Code.

Reference: Sections 10727.2, 10728.4, 10733.2, and 10733.8, Water Code.

NOTE: This is an excerpt from the Groundwater Sustainability Regulations. Read the full regulations here:

https://water.ca.gov/LegacyFiles/groundwater/sgm/pdfs/GSP_Emergency_Regulations.pdf