

Appendix C

AWMP Act and Related Regulations

B.5 Legislative History, Current Legislation and Regulations, and Related Programs

A. Legislative History

1. Agricultural Water Management Planning Act of 1986 (AB 1658)

AB 1658 (1986) required all agricultural water suppliers delivering over 50,000 acre-feet of water per year to prepare an Information Report and identify whether the district has a significant opportunity to conserve water or reduce the quantity of saline or toxic drainage water through improved irrigation water management. The legislation applied to the 80 largest agricultural water suppliers in California. The districts that had a significant opportunity to conserve water or reduce drainage were required to prepare water management plans. The legislation required that DWR provide funding to the water suppliers to prepare informational reports and for the preparation of water management plans. This legislation was required to sunset on January 1, 1993.

2. AB 3616 Agricultural Efficient Water Management Act of 1990

This legislation required DWR to establish an advisory committee consisting of state, federal, and local agencies; agricultural communities, California university system; environmental and public interest groups; and other interested parties to develop a list of efficient water management practices for agricultural water suppliers. In addition, then California Governor Pete Wilson directed the AB 3616 Advisory Committee to develop a Memorandum of Understanding between the agricultural and environmental communities and other interested parties to further address efficient use of agricultural water in California.

3. Water Code §531.1 - AB 1404 (2007) Water Measurement Information

The AB 1404 requires agricultural water suppliers to submit to DWR an annual report that includes measured aggregated farm-gate deliveries data on a monthly or bi-monthly basis. The submittals are also to include farm-gate measurement programs or practices to document implementation of “Best Professional Practices” (BMPs). If water measurement is not locally cost-effective, then the agricultural water supplier may provide supporting documentation to DWR.

B. Executive Orders

On May 20, 2013, with near record-low precipitation in California, Governor Edmund G. Brown Jr. issued an Executive Order to streamline approvals for voluntary water transfers to assist California's agricultural industry, stating that agriculture is vital to the health of California's economy.

On January 17, 2014, Governor Brown proclaimed a State of Emergency given the historic drought conditions in California. In the State of Emergency declaration, Governor Brown directed state officials to assist farmers and communities that are economically impacted by dry conditions and

to ensure the state can respond if Californians face drinking water shortages. The Governor also directed state agencies to use less water and hire more firefighters and initiated a greatly expanded water conservation public awareness campaign.

On April 1, 2015, Governor Brown announced actions that will save water, increase enforcement to prevent wasteful water use, streamline the state's drought response and invest in new technologies that will make California more drought resilient following the lowest snowpack ever recorded and with no end to the drought in sight. The Executive Order also directed agricultural water suppliers to include a detailed drought management plan in their agricultural water management plans, and directed agricultural water suppliers that provide 10,000 to 25,000 irrigated acres to develop and submit to DWR such plans.

C. Current Legislation and Regulations

- 1. SB X7-7 Water Conservation (Steinberg, Statute of 2009)**
- 2. Agricultural Water Measurement
(Title 23 California Code of Regulations, §597 et seq., 2011)**

D. Related Programs

- 1. California Water Plan Update**
<http://www.waterplan.water.ca.gov/cwpu2013/index.cfm>
- 2. California Agricultural Water Management Council Efficient Water Management Practices (EWMPs)**
- 3. Integrated Regional Water Management Plans**
<http://www.water.ca.gov/irwm/index.cfm>
- 4. Bureau of Reclamation Water management/conservation plans (CVPIA).**
For the most current Standard Criteria, see:
http://www.usbr.gov/mp/watershare/documents/Water_mgmt/index.html
- 5. Bureau of Reclamation RRA Plans**
<http://www.usbr.gov/rra/>
- 6. Bureau of Reclamation 2008 Conservation Efficiency Standards (PL 102-575)**
http://www.usbr.gov/mp/cvpia/title_34/public_law_complete.html

B.6 Text of the Water Code Pertaining to Agricultural Water Suppliers

[Indentations added for clarity]

Chapter 4. Agricultural Water Suppliers

10608.48.

(a) On or before July 31, 2012, an agricultural water supplier shall implement efficient water management practices pursuant to subdivisions (b) and (c).

(b) Agricultural water suppliers shall implement all of the following critical efficient management practices:

(1) Measure the volume of water delivered to customers with sufficient accuracy to comply with subdivision (a) of Section 531.10 and to implement paragraph (2).

(2) Adopt a pricing structure for water customers based at least in part on quantity delivered.

(c) Agricultural water suppliers shall implement additional efficient management practices, including, but not limited to, practices to accomplish all of the following, if the measures are locally cost effective and technically feasible:

(1) Facilitate alternative land use for lands with exceptionally high water duties or whose irrigation contributes to significant problems, including drainage.

(2) Facilitate use of available recycled water that otherwise would not be used beneficially, meets all health and safety criteria, and does not harm crops or soils.

(3) Facilitate the financing of capital improvements for on-farm irrigation systems.

(4) Implement an incentive pricing structure that promotes one or more of the following goals:

(A) More efficient water use at the farm level.

(B) Conjunctive use of groundwater.

(C) Appropriate increase of groundwater recharge.

(D) Reduction in problem drainage.

(E) Improved management of environmental resources.

(F) Effective management of all water sources throughout the year by adjusting seasonal pricing structures based on current conditions.

(5) Expand line or pipe distribution systems, and construct regulatory reservoirs to increase distribution system flexibility and capacity, decrease maintenance, and reduce seepage.

(6) Increase flexibility in water ordering by, and delivery to, water customers within operational limits.

(7) Construct and operate supplier spill and tailwater recovery systems.

(8) Increase planned conjunctive use of surface water and groundwater within the supplier service area.

(9) Automate canal control structures.

(10) Facilitate or promote customer pump testing and evaluation.

(11) Designate a water conservation coordinator who will develop and implement the water management plan and prepare progress reports.

(12) Provide for the availability of water management services to water users. These services may include, but are not limited to, all of the following:

(A) On-farm irrigation and drainage system evaluations.

(B) Normal year and real-time irrigation scheduling and crop evapotranspiration information.

(C) Surface water, groundwater, and drainage water quantity and quality data.

(D) Agricultural water management educational programs and materials for farmers, staff, and the public.

(13) Evaluate the policies of agencies that provide the supplier with water to identify the potential for institutional changes to allow more flexible water deliveries and storage.

(14) Evaluate and improve the efficiencies of the supplier's pumps.

(d) Agricultural water suppliers shall include in the agricultural water management plans required pursuant to Part 2.8 (commencing with Section 10800) a report on which efficient water management practices have been implemented and are planned to be implemented, an estimate of the water use efficiency improvements that have occurred since the last report, and an estimate of the water use efficiency improvements estimated to occur five and 10 years in the future. If an agricultural water supplier determines that an efficient water management practice is not locally cost effective or technically feasible, the supplier shall submit information documenting that determination.

(e) The data shall be reported using a standardized form developed pursuant to Section 10608.52.

(f) An agricultural water supplier may meet the requirements of subdivisions (d) and (e) by submitting to the department a water conservation plan submitted to the United States Bureau of Reclamation that meets the requirements described in Section 10828.

(g) On or before December 31, 2013, December 31, 2016, and December 31, 2021, the department, in consultation with the board, shall submit to the Legislature a report on the agricultural efficient water management practices that have been implemented and are planned to be implemented and an assessment of the manner in which the implementation of those efficient water management practices has affected and will affect agricultural operations, including estimated water use efficiency improvements, if any.

(h) The department may update the efficient water management practices required pursuant to subdivision (c), in consultation with the Agricultural Water Management Council, the United States Bureau of Reclamation, and the board. All efficient water management practices for agricultural water use pursuant to this chapter shall be adopted or revised by the department only after the department conducts public hearings to allow participation of the diverse geographical areas and interests of the state.

(i)

(1) The department shall adopt regulations that provide for a range of options that agricultural water suppliers may use or implement to comply with the measurement requirement in paragraph (1) of subdivision (b).

(2) The initial adoption of a regulation authorized by this subdivision is deemed to address an emergency, for purposes of Sections 11346.1 and 11349.6 of the Government Code, and the department is hereby exempted for that purpose from the requirements of subdivision (b) of Section 11346.1 of the Government Code. After the initial adoption of an emergency regulation pursuant to this subdivision, the department shall not request approval from the Office of Administrative Law to readopt the regulation as an emergency regulation pursuant to Section 11346.1 of the Government Code.

Chapter 5. Sustainable Water Management

10608.50.

(a) The department, in consultation with the board, shall promote implementation of regional water resources management practices through increased incentives and removal of barriers consistent with state and federal law. Potential changes may include, but are not limited to, all of the following:

(1) Revisions to the requirements for urban and agricultural water management plans.

(2) Revisions to the requirements for integrated regional water management plans.

- (3) Revisions to the eligibility for state water management grants and loans.*
- (4) Revisions to state or local permitting requirements that increase water supply opportunities, but do not weaken water quality protection under state and federal law.*
- (5) Increased funding for research, feasibility studies, and project construction.*
- (6) Expanding technical and educational support for local land use and water management agencies.*

(b) No later than January 1, 2011, and updated as part of the California Water Plan, the department, in consultation with the board, and with public input, shall propose new statewide targets, or review and update existing statewide targets, for regional water resources management practices, including, but not limited to, recycled water, brackish groundwater desalination, and infiltration and direct use of urban stormwater runoff.

10608.64. The department, in consultation with the Agricultural Water Management Council, academic experts, and other stakeholders, shall develop a methodology for quantifying the efficiency of agricultural water use. Alternatives to be assessed shall include, but not be limited to, determination of efficiency levels based on crop type or irrigation system distribution uniformity. On or before December 31, 2011, the department shall report to the Legislature on a proposed methodology and a plan for implementation. The plan shall include the estimated implementation costs and the types of data needed to support the methodology. Nothing in this section authorizes the department to implement a methodology established pursuant to this section.

PART 2.8. AGRICULTURAL WATER MANAGEMENT PLANNING

Chapter 1. General Declarations and Policy

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

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

- (a) The waters of the state are a limited and renewable resource.*
- (b) The California Constitution requires that water in the state be used in a reasonable and beneficial manner.*
- (c) Urban water districts are required to adopt water management plans.*
- (d) The conservation of agricultural water supplies is of great statewide concern.*
- (e) There is a great amount of reuse of delivered water, both inside and outside the water service areas.*
- (f) Significant noncrop beneficial uses are associated with agricultural water use, including streamflows and wildlife habitat.*

- (g) Significant opportunities exist in some areas, through improved irrigation water management, to conserve water or to reduce the quantity of highly saline or toxic drainage water.*
- (h) Changes in water management practices should be carefully planned and implemented to minimize adverse effects on other beneficial uses currently being served.*
- (i) Agricultural water suppliers that receive water from the federal Central Valley Project are required by federal law to prepare and implement water conservation plans.*
- (j) Agricultural water users applying for a permit to appropriate water from the board are required to prepare and implement water conservation plans.*

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

- (a) The conservation of water shall be pursued actively to protect both the people of the state and the state's water resources.*
- (b) The conservation of agricultural water supplies shall be an important criterion in public decisions with regard to water.*
- (c) Agricultural water suppliers shall be required to prepare water management plans to achieve conservation of water.*

Chapter 2. Definitions

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

10811. "Agricultural water management plan" or "plan" means an agricultural water management plan prepared pursuant to this part.

10812. "Agricultural water supplier" has the same meaning as defined in Section 10608.12.

10813. "Customer" means a purchaser of water from a water supplier who uses water for agricultural purposes.

10814. "Person" means any individual, firm, association, organization, partnership, business, trust, corporation, company, public agency, or any agency of that entity.

10815. "Public agency" means any city, county, city and county, special district, or other public entity.

10816. "Urban water supplier" has the same meaning as set forth in Section 10617.

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

Chapter 3. Agricultural Water Management Plans
Article 1. General Provisions

10820.

(a) An agricultural water supplier shall prepare and adopt an agricultural water management plan in the manner set forth in this chapter on or before December 31, 2012, and shall update that plan on December 31, 2015, and on or before December 31 every five years thereafter.

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

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

10821.

(a) An agricultural water supplier required to prepare a plan pursuant to this part shall notify each city or county within which the supplier provides water supplies that the agricultural water supplier will be preparing the plan or reviewing the plan and considering amendments or changes to the plan. The agricultural water supplier may consult with, and obtain comments from, each city or county that receives notice pursuant to this subdivision.

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

Article 2. Contents of Plans

10825.

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

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

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

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

(1) Size of the service area.

(2) Location of the service area and its water management facilities.

- (3) *Terrain and soils.*
- (4) *Climate.*
- (5) *Operating rules and regulations.*
- (6) *Water delivery measurements or calculations.*
- (7) *Water rate schedules and billing.*
- (8) *Water shortage allocation policies.*

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

- (1) *Surface water supply.*
- (2) *Groundwater supply.*
- (3) *Other water supplies.*
- (4) *Source water quality monitoring practices.*
- (5) *Water uses within the agricultural water supplier's service area, including all of the following:*

- (A) *Agricultural.*
- (B) *Environmental.*
- (C) *Recreational.*
- (D) *Municipal and industrial.*
- (E) *Groundwater recharge.*
- (F) *Transfers and exchanges.*
- (G) *Other water uses.*

- (6) *Drainage from the water supplier's service area.*
- (7) *Water accounting, including all of the following:*

- (A) *Quantifying the water supplier's water supplies.*
- (B) *Tabulating water uses.*
- (C) *Overall water budget.*

- (8) *Water supply reliability.*

(c) Include an analysis, based on available information, of the effect of climate change on future water supplies.

(d) Describe previous water management activities.

(e) Include in the plan the water use efficiency information required pursuant to Section 10608.48.

10827. Agricultural water suppliers that are members of the Agricultural Water Management Council, and that submit water management plans to that council in accordance with the "Memorandum of Understanding Regarding Efficient Water Management Practices By Agricultural Water Suppliers In California," dated January 1, 1999, may submit the water management plans identifying water demand

management measures currently being implemented, or scheduled for implementation, to satisfy the requirements of Section 10826.

10828.

(a) Agricultural water suppliers that are required to submit water conservation plans to the United States Bureau of Reclamation pursuant to either the Central Valley Project Improvement Act (Public Law 102-575) or the Reclamation Reform Act of 1982, or both, may submit those water conservation plans to satisfy the requirements of Section 10826, if both of the following apply:

(1) The agricultural water supplier has adopted and submitted the water conservation plan to the United States Bureau of Reclamation within the previous four years.

(2) The United States Bureau of Reclamation has accepted the water conservation plan as adequate.

(b) This part does not require agricultural water suppliers that are required to submit water conservation plans to the United States Bureau of Reclamation pursuant to either the Central Valley Project Improvement Act (Public Law 102-575) or the Reclamation Reform Act of 1982, or both, to prepare and adopt water conservation plans according to a schedule that is different from that required by the United States Bureau of Reclamation.

10829. *An agricultural water supplier may satisfy the requirements of this part by adopting an urban water management plan pursuant to Part 2.6 (commencing with Section 10610) or by participation in areawide, regional, watershed, or basinwide water management planning if those plans meet or exceed the requirements of this part.*

Article 3. Adoption and Implementation of Plans

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

10841. *Prior to adopting a plan, the agricultural water supplier shall make the proposed plan available for public inspection, and shall hold a public hearing on the plan. Prior to the hearing, notice of the time and place of hearing shall be published within the jurisdiction of the publicly owned agricultural water supplier pursuant to Section 6066 of the Government Code. A privately owned agricultural water supplier shall provide an equivalent notice within its service area and shall provide a reasonably equivalent opportunity that would otherwise be afforded through a public hearing process for interested parties to provide input on the plan. After the hearing, the plan shall be adopted as prepared or as modified during or after the hearing.*

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

10843.

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

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

(1) The department.

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

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

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

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

(6) The California State Library.

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

10844.

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

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

10845.

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

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

(c) The department shall provide a copy of the report to each agricultural water supplier that has submitted its plan to the department. The department shall also prepare reports and provide data

for any legislative hearing designed to consider the effectiveness of plans submitted pursuant to this part.

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

Chapter 4. Miscellaneous Provisions

10850.

(a) Any action or proceeding to attack, review, set aside, void, or annul the acts or decisions of an agricultural water supplier on the grounds of noncompliance with this part shall be commenced as follows:

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

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

(b) In an action or proceeding to attack, review, set aside, void, or annul a plan, or an action taken pursuant to the plan by an agricultural water supplier, on the grounds of noncompliance with this part, the inquiry shall extend only to whether there was a prejudicial abuse of discretion. Abuse of discretion is established if the agricultural water supplier has not proceeded in a manner required by law, or if the action by the agricultural water supplier is not supported by substantial evidence.

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

10852. An agricultural water supplier is not eligible for a water grant or loan awarded or administered by the state unless the supplier complies with this part.

10853. No agricultural water supplier that provides water to less than 25,000 irrigated acres, excluding recycled water, shall be required to implement the requirements of this part or Part 2.55 (commencing with Section 10608) unless sufficient funding has specifically been provided to that water supplier for these purposes.

SEC. 5. This act shall take effect only if Senate Bill 1 and Senate Bill 6 of the 2009–10 Seventh Extraordinary Session of the Legislature are enacted and become effective.

<http://www.water.ca.gov/wateruseefficiency/sb7/committees/ag/a2/>

§597. Agricultural Water Measurement

Under the authority included under California Water Code §10608.48(i)(1), the Department of Water Resources (Department) is required to adopt regulations that provide for a range of options that agricultural water suppliers may use or implement to comply with the measurement requirements in paragraph (1) of subdivision (b) of §10608.48.

For reference, §10608.48(b) of the California Water Code states that:

Agricultural water suppliers shall implement all of the following critical efficient management practices:

(1) Measure the volume of water delivered to customers with sufficient accuracy to comply with subdivision (a) of Section 531.10 and to implement paragraph (2).

(2) Adopt a pricing structure for water customers based at least in part on quantity delivered.

For further reference, §531.10(a) of the California Water Code requires that:

(a) An agricultural water supplier shall submit an annual report to the department that summarizes aggregated farm-gate delivery data, on a monthly or bi-monthly basis, using best professional practices.

Notes:

(1) Paragraphs (1) and (2) of §10608.48(b) specify agricultural water suppliers' reporting of aggregated farm-gate water delivery and adopting a volumetric water pricing structure as the purposes of water measurement. However, this article only addresses developing a range of options for water measurement.

(2) Agricultural water suppliers reporting agricultural water deliveries measured under this article shall use the “Agricultural Aggregated Farm – Gate Delivery Reporting Format for Article 2” (Rev. 6-20-12), developed for this article and hereby incorporated by reference.

(3) The Department shall report on the availability of new commercially available water measurement technologies and impediments to implementation of this article when reporting to the Legislature the status of adopted Agricultural Water Management Plans in plan submittal years 2012, 2015 and every five years thereafter as required by California Water Code §10845. The Department shall also report the findings to the California Water Commission.

Note: Authority cited: Section 10608.48, Water Code. Reference: Sections 531.10, 10608.48 (b), 10608.48 (i), 10608.52 (b) and 10845 Water Code.

§597.1. Applicability

(a) An agricultural water supplier providing water to 25,000 irrigated acres or more, excluding acres that receive only recycled water, is subject to this article.

(b) A wholesale agricultural water supplier providing water to another agricultural water supplier (the receiving water supplier) for ultimate resale to customers is subject to this article at the location at which control of the water is transferred to the receiving water supplier. However, the wholesale agricultural water supplier is not required to measure the receiving agricultural water supplier's deliveries to its customers.

(c) A water supplier providing water to wildlife refuges or habitat lands where (1) the refuges or habitat lands are under a contractual relationship with the water supplier, and (2) the water supplier meets the irrigated acreage criteria of Water Code §10608.12(a), is subject to this article.

(d) An agricultural water supplier providing water to less than 10,000 irrigated acres, excluding acres that receive only recycled water, is not subject to this article.

(e) An agricultural water supplier providing water to 10,000 or more irrigated acres but less than 25,000 irrigated acres, excluding acres that receive only recycled water, is not subject to this article unless sufficient funding is provided specifically for that purpose, as stated under Water Code §10853.

(f) A canal authority or other entity that conveys or delivers water through facilities owned by a federal agency is not subject to this article.

(g) Pursuant to Water Code §10608.8(d), an agricultural water supplier “that is a party to the Quantification Settlement Agreement, as defined in subdivision (a) of Section 1 of Chapter 617 of the Statutes of 2002, during the period within which the Quantification Settlement Agreement remains in effect,” is not subject to this article.

(h) Pursuant to Water Code §10608.12(a), the Department is not subject to this article.

Note: Authority cited: Section 10608.48, Water Code. Reference: Sections 10608.12 (a), 10608.48 (d), 10608.48 (f), 10828, and 10853 Water Code.

§597.2. Definitions

(a) For purposes of this article, the terms used are defined in this section.

- (1) “Accuracy” means the measured volume relative to the actual volume, expressed as a percent. The percent shall be calculated as $100 \times (\text{measured value} - \text{actual value}) / \text{actual value}$, where “measured value” is the value indicated by the device or determined through calculations using a measured value by the device, such as flow rate, combined with a duration of flow, and “actual value” is the value as determined through laboratory, design or field testing protocols using best professional practices.
- (2) “Agricultural water supplier,” as defined in Water Code §10608.12(a), means a water supplier, either publicly or privately owned, providing water to 10,000 or more irrigated acres, excluding acres that receive only recycled water. “Agricultural water supplier” includes a supplier or contractor for water, regardless of the basis of right, which distributes or sells water for ultimate resale to customers. “Agricultural water supplier” does not include the Department.
- (3) “Approved by an engineer” means a California-registered Professional Engineer has reviewed, signed and stamped the plans, design, testing, inspection, and/or documentation report for a measurement device as described in this article.
- (4) “Best professional practices” means practices attaining to and maintaining accuracy of measurement and reporting devices and methods described in this article, such as operation and maintenance procedures and practices recommended by measurement device manufacturers, designers, and industry professionals.
- (5) “Customer” means the purchaser of water from an agricultural water supplier who has a contractual arrangement with the agricultural water supplier for the service of conveying water to the customer delivery point.
- (6) “Delivery point” means the location at which the agricultural water supplier transfers control of delivered water to a customer or group of customers. In most instances, the transfer of control occurs at the farm-gate, which is therefore, a delivery point.
- (7) “Existing measurement device,” means a measurement device that was installed in the field prior to the effective date of this article.
- (8) “Farm-gate,” as defined in Water Code §531(f), means the point at which water is delivered from the agricultural water supplier’s distribution system to each of its customers.

(9) “Irrigated acres,” for purposes of applicability of this article, is calculated as the average of the previous five-year acreage within the agricultural water supplier’s service area that has received irrigation water from the agricultural water supplier.

(10) “Manufactured device” means a device that is manufactured by a commercial enterprise, often under exclusive legal rights of the manufacturer, for direct off-the-shelf purchase and installation. Such devices are capable of directly measuring flow rate, velocity, or accumulating the volume of water delivered, without the need for additional components that are built on-site or in-house.

(11) “Measurement device” means a device by which an agricultural water supplier determines the numeric value of flow rate, velocity or volume of the water passing a designated delivery point. A measurement device may be a manufactured device, on-site built device or in-house built device.

(12) “New or replacement measurement device” means a measurement device installed after the effective date of this article.

(13) “Recycled water” is defined in subdivision (n) of §13050 of the Water Code as water that, as a result of treatment of waste, is suitable for a direct beneficial use or a controlled use that would not otherwise occur, and is therefore considered a valuable resource.

(14) “Type of device” means a measurement device that is manufactured or built to perform similar functions. For example, rectangular, v-notch, and broad crested weirs are one type of device. Similarly, all submerged orifice gates are considered one type of device.

Note: Authority cited: Section 10608.48, Water Code. Reference: Sections 10608.12 (a), 10608.12 (m), 10608.48, and 10813 Water Code.

§597.3 Range of Options for Agricultural Water Measurement

An agricultural water supplier subject to this article shall measure surface water and groundwater that it delivers to its customers pursuant to the accuracy standards in this section. The supplier may choose any applicable single measurement option or combination of options listed in paragraphs (a) or (b) of this section. Measurement device accuracy and operation shall be certified, tested, inspected and/or analyzed as described in §597.4 of this article.

(a) Measurement Options at the Delivery Point or Farm-gate of a Single Customer

An agricultural water supplier shall measure water delivered at the delivery point or farm-gate of a single customer using one of the following measurement options. The stated numerical accuracy for each measurement option is for the volume delivered. If a device measures a value other than volume, for example, flow rate,

velocity or water elevation, the accuracy certification must incorporate the measurements or calculations required to convert the measured value to volume as described in §597.4(e).

(1) An existing measurement device shall be certified to be accurate to within ±12% by volume.

and.

(2) A new or replacement measurement device shall be certified to be accurate to within:

(A) ±5% by volume in the laboratory if using a laboratory certification; (B) ±10% by volume in the field if using a non-laboratory certification.

(b) Measurement Options at a Location Upstream of the Delivery Points or Farm-gates of Multiple Customers

(1) An agricultural water supplier may measure water delivered at a location upstream of the delivery points or farm-gates of multiple customers using one of the measurement options described in §597.3(a) if the downstream individual customer's delivery points meet either of the following conditions:

(A) The agricultural water supplier does not have legal access to the delivery points of individual customers or group of customers needed to install, measure, maintain, operate, and monitor a measurement device.

Or,

(B) An engineer determines that, due to small differentials in water level or large fluctuations in flow rate or velocity that occur during the delivery season at a single farm-gate, accuracy standards of measurement options in §597.3(a) cannot be met by installing a measurement device or devices (manufactured or on-site built or in-house built devices with or without additional components such as gauging rod, water level control structure at the farm-gate, etc.). If conditions change such that the accuracy standards of measurement options in §597.3(a) at the farm-gate can be met, an agricultural water supplier shall include in its Agricultural Water Management Plan, a schedule, budget and finance plan to demonstrate progress to measure water at the farm-gate in compliance with §597.3(a) of this article.

(2) An agricultural water supplier choosing an option under paragraph (b)(1) of this section shall provide the following current documentation in its Agricultural Water Management Plan(s) submitted pursuant to Water Code §10826:

(A) When applicable, to demonstrate lack of legal access at delivery points of individual customers or group of customers downstream of the point of measurement, the agricultural water supplier's legal counsel shall certify to the Department that it does not have legal access to measure water at customers delivery points and that it has sought and been denied access from its customers to measure water at those points.

(B) When applicable, the agricultural water supplier shall document the water measurement device unavailability and that the water level or flow conditions described in §597.3(b)(1)(B) exist at individual customer's delivery points downstream of the point of measurement as approved by an engineer.

(C) The agricultural water supplier shall document all of the following criteria about the methodology it uses to apportion the volume of water delivered to the individual downstream customers:

(i) How it accounts for differences in water use among the individual customers based on but not limited to the duration of water delivery to the individual customers, annual customer water use patterns, irrigated acreage, crops planted, and on-farm irrigation system,

and;

(ii) That it is sufficient for establishing a pricing structure based at least in part on the volume delivered,

and;

(iii) That it was approved by the agricultural water supplier's governing board or body.

Note: Authority cited: Section 10608.48, Water Code. Reference: Sections 531.10, 10608.48 (i) (1), and 10826 Water Code.

§597.4 Accuracy Certification, Records Retention, Device Performance, and Reporting

(a) Initial Certification of Device Accuracy

The accuracy of an existing, new or replacement measurement device or type of device, as required in §597.3, shall be initially certified and documented as follows:

(1) For existing measurement devices, the device accuracy required in section 597.3(a) shall be initially certified and documented by either:

(A) Field-testing that is completed on a random and statistically representative sample of the existing measurement devices as described in §597.4(b)(1) and §597.4(b)(2). Field-testing shall be performed by individuals trained in the use of field-testing equipment, and documented in a report approved by an engineer.

Or,

(B) Field-inspections and analysis completed for every existing measurement device as described in §597.4(b)(3). Field-inspections and analysis shall be performed by trained individuals in the use of field inspection and analysis, and documented in a report approved by an engineer.

(2) For new or replacement measurement devices, the device accuracy required in sections 597.3 (a)(2) shall be initially certified and documented by either:

(A) Laboratory Certification prior to installation of a measurement device as documented by the manufacturer or an entity, institution or individual that tested the device following industry-established protocols such as the National Institute for Standards and Testing (NIST) traceability standards. Documentation shall include the manufacturer's literature or the results of laboratory testing of an individual device or type of device.

Or,

(B) Non-Laboratory Certification after the installation of a measurement device in the field, as documented by either:

(i) An affidavit approved by an engineer submitted to the agricultural water supplier of either (1) the design and installation of an individual device at a specified location, or (2) the standardized design and installation for a group of measurement devices for each type of device installed at specified locations.

Or,

(ii) A report submitted to the agricultural water supplier and approved by an engineer documenting the field-testing performed on the installed measurement device or type of device, by individuals trained in the use of field testing equipment.

(b) Protocols for Field-Testing and Field-Inspection and Analysis of Existing Devices

(1) Field-testing shall be performed for a sample of existing measurement devices according to manufacturer's recommendations or design specifications and following best professional practices. It is recommended that the sample size be no less than 10% of existing devices, with a minimum of 5, and not to exceed 100 individual devices for any particular device type. Alternatively, the supplier may develop its own sampling plan using an accepted statistical methodology.

(2) If during the field-testing of existing measurement devices, more than one quarter of the samples for any particular device type do not meet the criteria pursuant to §597.3(a), the agricultural water supplier shall provide in its Agricultural Water

Management Plan, a plan to test an additional 10% of its existing devices, with a minimum of 5, but not to exceed an additional 100 individual devices for the particular device type. This second round of field-testing and corrective actions shall be completed within three years of the initial field-testing.

(3) Field-inspections and analysis protocols shall be performed and the results shall be approved by an engineer for every existing measurement device to demonstrate that the design and installation standards used for the installation of existing measurement devices meet the accuracy standards of §597.3(a) and operation and maintenance protocols meet best professional practices.

(c) Records Retention

Records documenting compliance with the requirements in §597.3 and §597.4 shall be maintained by the agricultural water supplier for ten years or two Agricultural Water Management Plan cycles.

(d) Performance Requirements

(1) All measurement devices shall be correctly installed, maintained, operated, inspected, and monitored as described by the manufacturer, the laboratory or the registered Professional Engineer that has signed and stamped certification of the device, and pursuant to best professional practices.

(2) If an installed measurement device no longer meets the accuracy requirements of §597.3(a) based on either field-testing or field-inspections and analysis as defined in sections 597.4 (a) and (b) for either the initial accuracy certification or during operations and maintenance, then the agricultural water supplier shall take appropriate corrective action, including but not limited to, repair or replacement to achieve the requirements of this article.

(e) Reporting in Agricultural Water Management Plans

Agricultural water suppliers shall report the following information in their Agricultural Water Management Plan(s):

(1) Documentation as required to demonstrate compliance with §597.3 (b), as outlined in section §597.3(b)(2), and §597.4(b)(2).

(2) A description of best professional practices about, but not limited to, the (1) collection of water measurement data, (2) frequency of measurements, (3) method for determining irrigated acres, and (4) quality control and quality assurance procedures.

(3) If a water measurement device measures flow rate, velocity or water elevation, and does not report the total volume of water delivered, the agricultural water supplier must document in its Agricultural Water Management Plan how it converted the

measured value to volume. The protocols must follow best professional practices and include the following methods for determining volumetric deliveries:

(A) For devices that measure flow-rate, documentation shall describe protocols used to measure the duration of water delivery where volume is derived by the following formula: Volume = flow rate x duration of delivery.

(B) For devices that measure velocity only, the documentation shall describe protocols associated with the measurement of the cross-sectional area of flow and duration of water delivery, where volume is derived by the following formula: Volume = velocity x cross-section flow area x duration of delivery.

(C) For devices that measure water elevation at the device (e.g. flow over a weir or differential elevation on either side of a device), the documentation shall describe protocols associated with the measurement of elevation that was used to derive flow rate at the device. The documentation will also describe the method or formula used to derive volume from the measured elevation value(s).

(4) If an existing water measurement device is determined to be out of compliance with §597.3, and the agricultural water supplier is unable to bring it into compliance before submitting its Agricultural Water Management Plan in December 2012, the agricultural water supplier shall provide in its 2012 plan, a schedule, budget and finance plan for taking corrective action in three years or less.

Note: Authority cited: Section 10608.48, Water Code. Reference: Sections 531.10, 10608.48 (i) (1), and 10826 Water Code.

B.7 Text of the Governor's Executive Orders Pertaining to Agricultural Water Suppliers

May 20, 2013
Executive Order B-21-13

...

NOW, THEREFORE, I, EDMUND G. BROWN JR., Governor of the State of California, do hereby issue this Order to become effective immediately.

IT IS HEREBY ORDERED that the Department of Water Resources (DWR) and the State Water Resources Control Board (SWRCB) take immediate action to address the dry conditions and water delivery limitations, by doing the following:

1. Expedite processing of one-year water transfers for 2013 and assist water transfer proponents and suppliers as necessary, provided that the transfers will not harm other legal users of water and will not unreasonably affect fish, wildlife, or other in-stream beneficial uses.
2. The SWRCB shall expedite review and processing of water transfer petitions in accordance with applicable provisions of the Water Code.
3. The DWR shall expedite and facilitate water transfer proposals in accordance with applicable provisions of the Water Code.
4. The DWR shall coordinate State Water Project operations, in cooperation with Central Valley Project operations, to alleviate critical impacts to San Joaquin Valley agriculture.
5. The DWR shall continue to analyze trends in groundwater levels in the San Joaquin Valley, together with impacts of groundwater extraction on land subsidence.
6. The DWR and the SWRCB shall make all efforts to coordinate with relevant federal agencies, water districts, and water agencies to expedite the review and approval of water transfers in California.

This order is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity, against the State of California, its agencies, departments, entities, officers, employees, or any other person.

I FURTHER DIRECT that as soon as hereafter possible, this Executive Order be filed in the Office of the Secretary of State and that widespread publicity and notice be given to this Executive Order.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 20th day of May 2013.

EDMUND G. BROWN JR.
Governor of California

ATTEST:

DEBRA BOWEN
Secretary of State

January 17, 2014
A PROCLAMATION OF A STATE OF EMERGENCY

...

IT IS HEREBY ORDERED THAT:

1.State agencies, led by the Department of Water Resources, will execute a statewide water conservation campaign to make all Californians aware of the drought and encourage personal actions to reduce water usage. This campaign will be built on the existing Save Our Water campaign (www.saveourh20.org) and will coordinate with local water agencies. This campaign will call on Californians to reduce their water usage by 20 percent.

...

4.The Department of Water Resources and the State Water Resources Control Board (Water Board) will expedite the processing of water transfers, as called for in Executive Order B-21-13. Voluntary water transfers from one water right holder to another enables water to flow where it is needed most.

5.The Water Board will immediately consider petitions requesting consolidation of the places of use of the State Water Project and Federal Central Valley Project, which would streamline water transfers and exchanges between water users within the areas of these two major water projects.

6.The Department of Water Resources and the Water Board will accelerate funding for water supply enhancement projects that can break ground this year and will explore if any existing unspent funds can be repurposed to enable near-term water conservation projects.

7.The Water Board will put water right holders throughout the state on notice that they may be directed to cease or reduce water diversions based on water shortages.

8.The Water Board will consider modifying requirements for reservoir releases or diversion limitations, where existing requirements were established to implement a water quality control plan. These changes would enable water to be conserved upstream later in the year to protect cold water pools for salmon and steelhead, maintain water supply, and improve water quality.

9.The Department of Water Resources and the Water Board will take actions necessary to make water immediately available, and, for purposes of carrying out directives 5 and 8, Water Code section 13247 and Division 13 (commencing with section 21000) of the Public Resources Code and regulations adopted pursuant to that Division are suspended on the basis that strict compliance with them will prevent, hinder, or delay the mitigation of the effects of the emergency. Department of Water Resources and the Water Board shall maintain on their websites a list of the activities or approvals for which these provisions are suspended.

...

11.The Department of Water Resources will evaluate changing groundwater levels, land subsidence, and agricultural land fallowing as the drought persists and will provide a public update by April 30 that identifies groundwater basins with water shortages and details gaps in groundwater monitoring.

12.The Department of Water Resources will work with counties to help ensure that well drillers submit required groundwater well logs for newly constructed and deepened wells in a timely manner and the Office of Emergency Services will work with local authorities to enable early notice of areas experiencing problems with residential groundwater sources.

13.The California Department of Food and Agriculture will launch a one-stop website (www.cdffa.ca.gov/drought) that provides timely updates on the drought and connects farmers to state and federal programs that they can access during the drought.

...

I FURTHER DIRECT that as soon as hereafter possible, this Proclamation be filed in the Office of the Secretary of State and that widespread publicity and notice be given of this Proclamation.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 17th day of January, 2014.

EDMUND G. BROWN JR.,
Governor of California

ATTEST:

DEBRA BOWEN,
Secretary of State

April 25, 2014
A PROCLAMATION OF A CONTINUED STATE OF EMERGENCY

...

IT IS HEREBY ORDERED THAT:

1. The orders and provisions contained in Proclamation No. 1-17-2014, dated January 17, 2014, remain in full force and effect except as modified herein.

2. The Department of Water Resources and the State Water Resources Control Board (Water Board) will immediately and expeditiously process requests to move water to areas of need, including requests involving voluntary water transfers, forbearance agreements, water exchanges, or other means. If necessary, the Department will request that the Water Board consider changes to water right permits to enable such voluntary movements of water.

...

5. All state agencies that distribute funding for projects that impact water resources, including groundwater resources, will require recipients of future financial assistance to have appropriate conservation and efficiency programs in place.

...

9. The Department of Water Resources will expedite the consideration and, where appropriate, the implementation, of pump-back delivery of water through the State Water Project on behalf of water districts.

...

11. The Department of Water Resources will conduct intensive outreach and provide technical assistance to local agencies in order to increase groundwater monitoring in areas where the drought has significant impacts, and develop updated contour maps where new data becomes available in order to more accurately capture changing groundwater levels. The Department will provide a public update by November 30 that identifies groundwater basins with water shortages, details remaining gaps in groundwater monitoring, and updates its monitoring of land subsidence and agricultural land fallowing.

...

13. The Department of Water Resources and the Water Board, in coordination with other state agencies, will provide appropriate assistance to public agencies or private water companies in establishing temporary water supply connections to mitigate effects of the drought.

...

15. Pursuant to the drought legislation I signed into law on March 1, 2014, by July 1, 2014, the California Department of Food and Agriculture, in consultation with the Department of Water Resources and Water Board, will establish and implement a program to provide financial incentives to agricultural operations to invest in water irrigation treatment and distribution systems that reduce water and energy use, augment supply, and increase water and energy efficiency in agricultural applications.

...

19. For several actions called for in this proclamation, environmental review required by the California Environmental Quality Act is suspended to allow these actions to take place as quickly as possible. Specifically, for actions taken by state agencies pursuant to directives 2, 3, 6-10, 13, 15, and 17, for all actions taken pursuant to directive 12 when the Office of Planning and Research concurs that local action is required, and for all necessary permits needed to implement these respective actions, Division 13 (commencing with section 21000) of the Public Resources Code and regulations adopted pursuant to that Division are hereby suspended. The entities implementing these directives will maintain on their websites a list of the activities or approvals for which these provisions are suspended. This suspension and that provided in paragraph 9 of the January 17,

2014 Proclamation will expire on December 31, 2014, except that actions started prior to that date shall not be subject to Division 13 for the time required to complete them.

20. For several actions called for in this proclamation, certain regulatory requirements of the Water Code are suspended to allow these actions to take place as quickly as possible. Specifically, for actions taken pursuant to directive 2, section 13247 of the Water Code is suspended. The 30-day comment period provided in section 1726(f) of the Water Code is also suspended for actions taken pursuant to directive 2, but the Water Board will provide for a 15-day comment period. For actions taken by state agencies pursuant to directives 6 and 7, Chapter 3 of Part 3 (commencing with section 85225) of the Water Code is suspended. The entities implementing these directives will maintain on their websites a list of the activities or approvals for which these provisions are suspended.

I FURTHER DIRECT that as soon as hereafter possible, this Proclamation shall be filed in the Office of the Secretary of State and that widespread publicity and notice be given to this Proclamation.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 25th day of April, 2014

EDMUND G. BROWN JR.
Governor of California

ATTEST:

DEBRA BOWEN
Secretary of State

April 1, 2015
Executive Order B-29-15

...

IT IS HEREBY ORDERED THAT:

1. The orders and provisions contained in my January 17, 2014 Proclamation, my April 25, 2014 Proclamation, and Executive Orders B-26-14 and B-28-14 remain in full force and effect except as modified herein.

...

INCREASE ENFORCEMENT AGAINST WATER WASTE

...

12. Agricultural water suppliers that supply water to more than 25,000 acres shall include in their required 2015 Agricultural Water Management Plans a detailed drought management plan that describes the actions and measures the supplier will take to manage water demand during drought. The Department shall require those plans to include quantification of water supplies and demands for 2013, 2014, 2015 to the extent data is available. The Department will provide technical assistance to water suppliers in preparing the plans.

13. Agricultural water suppliers that supply water to 10,000 to 25,000 acres of irrigated lands shall develop Agricultural Water Management Plans and submit the plans to the Department by July 1, 2016. These plans shall include a detailed drought management plan and quantification of water supplies and demands in 2013, 2014, and 2015, to the extent that data is available. The Department shall give priority in grant funding to agricultural water suppliers that supply water to 10,000 to 25,000 acres of land for development and implementation of Agricultural Water Management Plans.

...

This Executive Order is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity, against the State of California, its agencies, departments, entities, employees, or any other person.

I FURTHER DIRECT that as soon as hereafter possible, this Order shall be filed in the Office of the Secretary of State and that widespread publicity and notice be given to this Order.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 1st day of April, 2015

EDMUND G. BROWN JR.
Governor of California

ATTEST:

ALEX PADILLA
Secretary of State

Figure 3 Aggregated Farm-gate Delivery Reporting Form

State of California

The Natural Resources Agency

Department of Water Resources

Agricultural Aggregated Farm-Gate¹ Delivery Reporting Form for Article 2.

Title 23, Division 2, Chapter 5.1, Article 2 of the CCR requires water supplier subject to the regulation to report to DWR the previous calendar year's aggregated farm gate delivery by July 31 of the subsequent year.

1. Water Supplier Information

Name: _____

Address: _____

Phone Number: _____

Fax: _____

Total Number of Farm-Gates: _____

Number of Measured Farm-Gates: _____

Irrigated Acreage for Reporting Period: _____

Total Service Area Acreage: _____

2. Contact information

Name: _____

Title: _____

Address: _____

Phone Number: _____

Fax: _____

E-mail: _____

Submittal date: _____

Reporting year: _____

3. Aggregated Farm-Gate Delivery Data²: (provide monthly or bimonthly data, acre-feet)

		Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
Monthly Deliveries														
Bimonthly Deliveries	Jan-Feb			Mar-Apr			May-Jun			Jul-Aug			Nov-Dec	

4. Explanations, Comments and Best Professional Practices³:

Note: An agricultural water supplier's total water use may be different from Aggregated Farm-Gate deliveries because measurement at these points may not account for other practices (such as groundwater recharge/conjunctive use, water transfers, wheeling to other agencies, urban use, etc).

1. "Farm-gate" means the point at which water is delivered from the agricultural water supplier's distribution system to each of its individual customers as specified in the Agricultural Water Measurement Regulation (Title 23, Division 2, Chapter 5.1, Article 2 of the CCR).

2. "Aggregated farm-gate delivery data" means information reflecting the total volume of water an agricultural water supplier provides to its customers and is calculated by totaling its deliveries to customers.

3. "Best Professional Practices" is defined in Title 23, Division 2, Chapter 5.1, Article 2 of the CCR, Section 597.2.

Article 2 Form - Rev. 8/28/2013