

**To: Fethi Benjemaa, California Department of Water Resources**

**From: Sheri Looper, The Bureau of Reclamation (Reclamation)**

**Date: 10-4-2011**

**Subject: Public Comment for the Agricultural Water Measurement Regulation**

---

After hearing repeated comments at the ASC, A2 subcommittee, and the California Water Commission meetings regarding federal contractors being exempted from measurement under the much debated applicability Section 597(i), we would like to take this opportunity to further clarify the Mid-Pacific's Region Water Management Planning Criteria and how it relates to water measurement for the Central Valley Project (CVP).

In 1982, the Reclamation Reform Act (RRA) passed, requiring all districts that entered into a repayment contract or water service contract pursuant to Federal Reclamation law or the Water Supply Act of 1958, as amended (43 U.S.C. 390b), to develop a water conservation plan (Plan). These Plans were to contain definite goals, appropriate water conservation measures, and a time schedule for meeting the water conservation objectives. The completion of these Plans became a provision in Reclamation's water supply contracts.

In 1992, the Central Valley Project Improvement Act (CVPIA) passed, supplementing the water conservation provisions of RRA. CVPIA required Reclamation to establish Best Management Practices (BMPs) and criteria (known herein after as Standard Criteria) for evaluating the adequacy of all water conservation plans developed by CVP contractors, including those plans required by RRA. Further, CVPIA required that all contracting districts or agencies entering into, renewing, or amending water service or repayment contracts for Central Valley Project water shall ensure that all surface water delivery systems within its boundaries are equipped with water measuring devices or water measuring methods of comparable effectiveness acceptable to the Secretary within five years of the date of contract execution, amendment or renewal. CVPIA also required that any new surface water delivery systems installed within its boundaries, on or after the date of contract renewal, also be equipped with measurement devices.

The requirements for water conservation Plans under CVPIA are much more rigorous and prescriptive than those in Section 210(b) of RRA. CVPIA changed the landscape of water conservation in the Central Valley and accelerated the water use efficiency efforts of CVP contractors. In creating the BMPs and Standard Criteria, water measurement became critical BMP 1 (non-exemptible). The BMP states that CVP contractors must measure the volume of water delivered by the contractor to each customer, except Class II water<sup>1</sup>, with devices that are operated and maintained to a reasonable degree of accuracy, under most conditions, to +/- 6 percent by volume. The reporting of this is encompassed within a District's Plan that is submitted under the Standard Criteria. To date, all districts submitting Plans under the Standard Criteria

---

<sup>1</sup> Class II water is defined as the supply of water which can be made available for delivery from Millerton Lake and the Friant-Kern and Madera Canals in addition to the supply of Class I Water. Because of its uncertainty as to availability and time of occurrence, such water will be undependable in character and will be furnished only if, as, and when it can be made available as determined by the Contracting Officer.

are held to the +/- 6 percent in field accuracy. This represents 2,132,561 irrigable acres within the Central Valley, of which 2,045,999 acres have the potential to be affected by this regulation.

A second point of contention during the SBX 7-7 meetings for agricultural water measurement seemed to be the misunderstanding that CVP contractors did not bill in part by volume of water delivered. Critical BMP 4 requires contractors to adopt a water pricing structure for their water users based at least in part on quantity delivered.

During the meetings regarding the agricultural water measurement regulation, we heard concerns that Reclamation does not require all contractors to measure; and therefore Section 597(i) would give a broad exemption to several Reclamation contractors. A small percentage of our contractors are currently implementing an "as least as effective as (Standard Criteria)" Pilot Plan, and some of our contractors receive only Class II water. While these two groups of contractors are not currently required to meet the +/- 6 percent by volume accuracy standard, the debated applicability Section 597(i) explicitly states that CVP contractors would be deemed in compliance with the regulation

“if all irrigation water delivered by that water supplier to each customer is delivered through measurement devices that meet the United States Bureau of Reclamation accuracy standards defined in Reclamation’s Conservation and Efficiency Criteria Standards of 2008” (Standard Criteria).

Section 597(i) would **not** exempt any federal contractors because those contractors not meeting the +/- 6 percent by volume or not using the Standard Criteria would not be deemed in compliance of the State regulation. The only other CVP contractors that are not held to the Standard Criteria; and therefore, measurement, are districts that receive only irrigation water from any Federal Reclamation project and deliver said water to less than 2,000 acres of land or contractors that receive any combination of irrigation and/or urban water amounting to less than a current five-year average of 2,000 acre-feet from any Federal Reclamation project. These contractors fall well below the acreage thresholds of the State regulation.

It should be noted that Reclamation worked with DWR staff and consultants in the wording of Section 597(i) to ensure that no federal contractors were exempted from measurement. The original language proposed by DWR for this applicability statement did in fact exempt several Reclamation contractors.

Plans submitted under the Standard Criteria contain the measurement compliance information. These Plans undergo a multi-tiered review and acceptance process that is different and much more rigorous than typical RRA Plans. The following process is specific to Plans submitted under the Standard Criteria.

At minimum, two technical staff members review each Plan for adequacy in meeting the Standard Criteria and proper implementation of the BMPs. Often times, there is considerable communication back and forth for clarifications and supporting documentation between districts and Reclamation before Plans are deemed adequate. Once the Plan is deemed adequate by the technical staff, the Plan is listed in the Federal register and the Plan is released for a 30-day

public review and comment period. If no comments are received (which is most often the case), the Plan is considered accepted. If public comments are received, the comments are addressed, and depending on the significance of required changes based on comments, the Plan may or may not be sent out for another public review.

Reclamation tracks Plan compliance carefully and implements several strategies to deal with non-compliance. These strategies include, but are not limited to the following:

- Restrictions on contract renewals or assignments
- Ineligibility for any Reclamation grant program
- Restrictions on rescheduling
- Restrictions on water banking
- Restrictions on inclusion and exclusion requests

We hope this information clarifies certain aspects of the Reclamation program and answers any questions about our process. Thank you for the opportunity to comment, and we congratulate the Department of Water Resources on their quest to fulfill the requirements of SB X 7-7.

Sincerely,  
Sheri Looper  
CVP Water Resource Program specialist