California Code of Regulations
Title 23. Waters
Division 2. Department of Water Resources
Chapter 5.1. Water Conservation Act of 2009
Article 1. Industrial Process Water Exclusion in the Calculation of Gross Water Use

§596. Process Water

(a) An urban retail water supplier that has a substantial percentage of industrial water use in its service area is eligible to exclude the process water use of existing industrial water customers from the calculation of its gross water use to avoid a disproportionate burden on another customer sector.

(b) The Department of Water Resources will review and assess the implementation of this article and may amend its provisions upon considering the recommendations of the Commercial, Industrial and Institutional task force convened pursuant to section 10608.43 of the Water Code.

(c) This regulation supplements "Methodologies for Calculating Baseline and Compliance Urban Per Capita Water Use for Consistent Implementation of the Water Conservation Act of 2009" and the "Method 4 for Determining Water Use Targets", hereby incorporated by reference.

Note: Authority cited: Section 10608.20, Water Code. Reference: Sections 10608.20(e), 10608.24(e), and 10608.43 Water Code.

§596.1. Applicability and Definitions

(a) Sections 596.2 through 596.5 describe criteria and methods whereby an urban retail water supplier may deduct process water use when calculating their gross water use in developing their urban water use targets.

(b) The terms used in this article are defined in this subdivision.

(1) "commercial water user" means a water user that provides or distributes a product or service. Examples include commercial businesses and retail stores, office buildings, restaurants, hotels and motels, laundries, food stores, and car washes.

(2) "disadvantaged community" means a community with an annual median household income that is less than 80 percent of the statewide annual median household income.

(3) "distribution system" means a water conveyance system that delivers water to a residential, commercial, or industrial customer and for public uses such as fire safety where the source of water is either raw or potable water.

(4) "drought emergency" means a water shortage emergency condition that exists when there would be insufficient water for human consumption, sanitation and fire protection, as set forth in California Water Code Section 350-359 and Government Code Section 8550-8551.

(5) "gross water use" means the total volume of water, whether treated or untreated, entering the distribution system of an urban retail water supplier, excluding all of the following:

(A) Recycled water that is delivered within the service area of an urban retail water supplier or its urban wholesale water supplier

(B) The net volume of water that the urban retail water supplier places into long-term storage

(C) The volume of water the urban retail water supplier conveys for use by another urban water supplier

(D) The volume of water delivered for agricultural use, except as otherwise provided in subdivision (f) of Section 10608.24 of the Water Code.

(6) "incidental water use" means water that is used by industry for purposes not related to producing a product or product content or research and development. This includes incidental cooling, air conditioning, heating, landscape irrigation, sanitation, bathrooms, cleaning, food preparation, kitchens, or other water uses not related to the manufacturing of a product or research and development.

(7) "industrial water user" means a manufacturer or processor of materials as defined by the North American Industry Classification System (NAICS) code sectors 31 to 33, inclusive, or an entity that is a water user primarily engaged in research and development. An industrial water user is primarily involved in product manufacturing and processing activities and research and development of products, such as those related to chemicals, food, beverage bottling, paper and allied products, steel, electronics and computers, metal finishing, petroleum refining, and transportation equipment. Data centers dedicated to research and development are considered an industrial water user.

(8) "institutional water user" means a water user dedicated to public service. This type of user includes, among other users, higher education institutions, schools, courts, churches, hospitals, government facilities, and nonprofit research institutions.

(9) "local agency" means any municipality, such as a city or county government or public water agency.

(10) "non-industrial water use" means gross water use minus industrial water use.

(11) "process water" means water used by industrial water users for producing a product or product content, or water used for research and development. Process water includes, but is not limited to; the continuous manufacturing processes, water used for testing, cleaning and maintaining equipment. Water used to cool machinery or buildings used in the manufacturing process or necessary to maintain product quality or chemical characteristics for product manufacturing or control rooms, data centers, laboratories, clean rooms and other industrial facility units that are integral to the manufacturing or research and development process shall be considered process water. Water used in the manufacturing process that is necessary for complying with local, State and federal health and safety laws, and is not incidental water, shall be considered process water. Process water does not include incidental, commercial or institutional water uses.

(12) "recycled water" means water that is used to offset potable demand, including recycled water supplied for direct use and indirect potable reuse that meets the following requirements, where applicable:

(A) For groundwater recharge, including recharge through spreading basins, water supplies that are all of the following:

(i) Metered.

(ii) Developed through planned investment by the urban water supplier or a wastewater treatment agency.

(iii) Treated to a minimum tertiary level.

(iv) Delivered within the service area of an urban retail water supplier or its urban wholesale water supplier that helps an urban retail water supplier meet its urban water use target.

(B) For reservoir augmentation, water supplies that meet the criteria of subdivision (A) and are conveyed through a distribution system constructed specifically for recycled water.

(13) "urban retail water supplier" means a water supplier, either publicly or privately owned, that directly provides potable municipal water to more than 3,000 end users or that supplies more than 3,000 acre-feet of potable water annually at retail for municipal purposes.

(14) "Urban Water Management Plan" means a plan prepared pursuant to California Water Code Division 6 Part 2.6. A plan shall describe and evaluate sources of supply, reasonable and practical efficient uses, reclamation and demand management activities. The components of the plan may vary according to an individual community or area's characteristics and its capabilities to efficiently use and conserve water. The plan shall address measures for residential, commercial, governmental, and industrial water demand management as set forth in Article 2 (commencing with Section 10630) of Chapter 3. In addition, a strategy and time schedule for implementation shall be included in the plan.

Note: Authority cited: Section 10608.20, Water Code. Reference: Sections 10608.12, 10608.20, and 10631Water Code.

§596.2 Criteria for Excluding Industrial Process Water Use from Gross Water Use Calculation

When calculating its gross water use, an urban retail water supplier may elect to exclude up to 100 percent of process water use from its gross water use if any one of the following criteria is met in its service area:

(a) Total industrial water use is equal to or greater than 12 percent of gross water use, or

(b) Total industrial water use is equal to or greater than 15 gallons per capita per day, or

(c) Non-industrial water use is equal to or less than 120 gallons per capita per day if the water supplier has self-certified the sufficiency of its water conservation program with the Department of Water Resources under the provisions of section 10631.5 of the Water Code, or

(d) The population as a whole within the supplier's service area meets the criteria for a disadvantaged community.

Note: Authority cited: Section 10608.20, Water Code. Reference: Sections 10608.20 and 10608.24 Water Code.

§596.3. Quantification and Verification of Total Industrial Process and Industrial Incidental Water.

The volumes of water uses in Section 596.3 shall be for the same period as urban water suppliers calculate their baseline daily per capita water use and reported in their Urban Water Management Plans.

(a) The volume of process water use shall be verified and separated from incidental water use.

(1) To establish a baseline for determining process water use, urban retail water suppliers shall calculate the process water use over a continuous ten year period ending no earlier than December 31, 2004, and no later than December 31, 2010.

(2) Verification of process water volumes can be accomplished by metering, sub-metering or other means determined suitable and verifiable by the urban retail water supplier and reported in their Urban Water Management Plans and reviewed by the Department of Water Resources.

(b) In cases where the urban retail water supplier provides only a portion of an industrial water user's water supply, the urban retail water supplier shall prorate the volume of process water use excluded from gross water use by considering the average share of the industrial water use that it supplied over a continuous ten year period ending no earlier than December 31, 2004, and no later than December 31, 2010.

The verification of the proportion of industrial water use supplied shall be accomplished through metering, sub-metering, or other means determined suitable and verifiable by the urban water supplier such as audits, historic manufacturing output or suppliers' billing records and as reported in their Urban Water Management Plans.

Example. If an urban water supplier delivered only 60 percent of the average annual water used by an industrial water user, the urban supplier can only use that 60 percent of industrial water in determining if it is eligible to exclude process water from its gross water use; and if it is eligible, it can exclude only 60 percent of the volume of process water used by such industrial water user.

Note: Authority cited: Section 10608.20, Water Code. Reference: Sections 10608.20 and 10608.24 Water Code.

§596.4. Existing Industrial Customers

When implementing this article, urban retail water suppliers shall meet the following provisions:

(a) Any ordinance or resolution adopted by an urban retail water supplier after November 10, 2009 shall not require industrial water customers existing as of November 10, 2009 to undertake changes in product formulation, operations, or equipment that would reduce process water use.

(b) An urban retail water supplier may encourage existing industrial customers to utilize water efficiency technologies, methodologies, or practices through the use of financial and technical assistance.

(c) This section shall not limit an ordinance or resolution adopted pursuant to a declaration of drought emergency by an urban retail water supplier.

Note: Authority cited: Section 10608.20, Water Code. Reference: Section 10608.26 Water Code.

§596.5 New and Retrofitted Industries

Local agencies and water suppliers shall encourage newly-established and retrofitted industries to adopt industry-specific water conservation practices and technologies where such technologies exist.

Note: Authority cited: Section 10608.20, Water Code. Reference: Section 10608.20 Water Code.