



Action Item: Incorporation by reference of the Agricultural Aggregated Farm-Gate Delivery Report, Form 1404 to the Agricultural Water Measurement Regulation

Background

On May 8, 2012, the California Water Commission approved the Department of Water Resources' (DWR) final Agricultural Water Measurement Regulation for submittal to the Office of Administrative Law (OAL). During the OAL's 30-day review period of the regulation, it was brought to DWR's attention that the Agricultural Aggregated Farm-Gate Delivery Report, Form 1404, was inadvertently omitted from the rulemaking package sent to OAL.

This form has been discussed publically throughout the development of the regulation with the intent of incorporating it by reference in the regulation. DWR is not proposing to make any changes to the form itself, but rather to include language in the regulation about the form.

Addition to the Agenda

An exception in Bagley-Keene (Government Code §11125.3) allows the Commission to take action on items not appearing on the posted agenda provided two-thirds of the members (or all of the members present at the meeting) vote agreeing that there is a need for immediate action on an item that came to the attention of the Commission after the agenda was posted.

If the Commission votes unanimously to add this item to the agenda, it can be deliberated and acted upon immediately. This would allow the Commission to vote to incorporate the Agricultural Aggregated Farm-Gate Delivery Report, Form 1404 by reference into the Agricultural Water Measurement Regulation. If approved, this action would be followed by an additional 15-day public comment period in which comments will be limited to the language change in the regulation incorporating the form by reference. If postponed to a later meeting, DWR would fail to meet OAL's one-year deadline to submit the final regulation.

Should the Commission approve the suggested changes to the regulation, staff recommends giving DWR additional authority to complete the OAL approval process. If after the 15-day public comment period there are no substantive changes to the regulation, staff recommends the Commission give DWR the authority to submit the regulation directly to OAL for approval. Furthermore, if it is determined additional processing time is required, staff recommends the Commission authorize DWR staff to withdraw the rule for an additional 10 days and then resubmit it to OAL for an expedited review.

Agenda Item

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Attachments

Agricultural Aggregated Farm-Gate Delivery Report, Form 1404

Draft Resolution 2012-27

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