

AMENDED IMPLEMENTING RULES AND REGULATIONS

FOR THE MCMULLIN AREA GROUNDWATER SUSTAINABILITY AGENCY GROUNDWATER WELL METERING, MEASUREMENT, MONITORING AND CONSTRUCTION POLICY AND RELATED POLICIES

(Adopted October 6, 2021) Amended: July 6, 2022 (Res. 22-03) Proposed eff 01/10/24

1. Purpose

- a) The purpose of this document is to provide specific guidance to landowners and their respective vendors and contractors when contemplating new and/or replacement well construction and/or retrofitting of existing wells. These Implementing Rules and Regulations apply to wells that are designed to produce more than two (2) acre feet of water annually, and commencing July 7, 2022, to domestic and other wells designed to produce two (2) acre feet of water or less annually (as detailed below), located on lands within the boundary of the McMullin Area Groundwater Sustainability Agency (“MAGSA”). This document provides guidance regarding well depth and the requisite acquisition and installation of well metering, measurement and/or monitoring hardware to assure compliance with the MAGSA’s associated standing policies in that regard. Specifically, these Implementing Rules and Regulations outline the acceptable range of type, performance, accuracy and reliability of required hardware for compliance with said policies. As a Groundwater Sustainability Agency (“GSA”), properly organized pursuant to the Sustainable Groundwater Management Act of 2014 (Water Code section 10720 et seq.) (“SGMA”), MAGSA is authorized to adopt rules, regulations, ordinances, and resolutions for purposes of fulfilling its obligations as a GSA. (Water Code § 10725.2(b).) MAGSA adopts these Implementing Rules and Regulations pursuant to this authority.

- b) All newly constructed, deepened and/or replacement wells drilled within the MAGSA service area are subject to permit approval by the Fresno County Department of Public Health, Environmental Health Division, (“Fresno County Health”) and shall be further regulated by MAGSA, as set forth herein. A new well is any well, designed to produce more than two (2) acre feet of water annually, that does not presently exist but is proposed to be constructed. A replacement well is a specific kind of new well that is located within 300 feet of an existing well, with the existing well appropriately designated for abandonment and destruction, and owned by the same Party that intends to construct the new well. Procedures set forth herein are not meant to duplicate or replace well permitting and well abandonment/destruction procedures implemented by Fresno County. Fresno County Health is cooperating with MAGSA by providing additional information to applicant landowners seeking to drill new or replacement wells within MAGSA on MAGSA’s supplemental requirements to more easily facilitate compliance by the landowners and their contractors with these Implementing Rules and Regulations. **Fresno County Health is in no way responsible for enforcement of these Implementing Rules and Regulations.**

- c) Existing wells not already in compliance with these Implementing Rules and Regulations are subject to additional retrofitting and or modification requirements, as further set forth herein, in order to comply with SGMA and/or the policies adopted by MAGSA relative thereto.

2. Scope

- 2.1 These Implementing Rules and Regulations apply to any and all groundwater wells, designed to produce more than two (2) acre feet of water annually, currently existing within the MAGSA service area and to wells which shall be constructed during the period within which these rules and regulations shall be in effect, and are intended to clarify the specifications for compliance with existing standing MAGSA policies, as appropriate.
- 2.2 These Implementing Rules and Regulations also apply to groundwater wells designed to produce two (2) acre feet of water or less annually, including domestic groundwater wells, to the extent that the owners of such groundwater wells wish to seek relief under any shallow-well relief mitigation program instituted now, or in the future, within the MAGSA.

3. Recitals

WHEREAS, MAGSA is a joint powers authority formed pursuant to the Joint Exercise of Powers Act (Gov't Code section 6500 et seq.) and acts pursuant to that authority;

WHEREAS, MAGSA's mission is to: (1) sustainably manage, protect and maintain the groundwater resources within the McMullin Area of the Kings Subbasin consistent with SGMA for the benefit of water users within the McMullin Area of the Kings Subbasin, Basin No. 5-22.08 as identified in the Department of Water Resources' Bulletin 118 and designated as subject to conditions of critical overdraft; and (2) to coordinate with other GSAs and management activities throughout the region;

WHEREAS, pursuant to Water Code section 10725.2, the MAGSA Board of Directors is authorized to adopt rules, regulations, ordinances and resolutions for the purpose of complying with SGMA;

WHEREAS, MAGSA, in carrying out its mission, has a continuous need to acquire groundwater data, including, but not limited to, well location, well construction, geological profiles, water quality detail, water level data and extraction quantity (pumping data) from its landowners within the McMullin Area, and to compile and manage those data in a Confidential Data Management System;

WHEREAS, MAGSA has and plans to continue to develop and/or acquire confidential, technical and proprietary information related, but not limited to, well location, well construction, geological profile, groundwater level data and extraction quantity (pumping data), groundwater production data and groundwater quality information for the McMullin Area ("Confidential Information") and desires to ensure that any Confidential Information that may be disclosed to MAGSA is treated in the strictest confidence consistent with the requirements of the law;

WHEREAS, MAGSA has adopted the following policies which remain as standing policies of MAGSA, the provisions of which are incorporated herein by reference as if set forth herein:

1. **Policy No. 2020-02**, dated June 3, 2020, entitled the McMullin Area Groundwater Sustainability Agency Accountability and Transparency Policy; and
2. **Policy No. 2020-06**, dated September 2, 2020, entitled the McMullin Area Groundwater Sustainability Agency Groundwater Data Policy; and
3. **Policy No. 2021-09**, dated February 3, 2021, entitled the McMullin Area Groundwater Sustainability Agency Groundwater Well Metering, Measurement, Monitoring and Construction Policy.

WHEREAS, the aforementioned policies contain language specifying adoption of clarifying implementing regulations to carry out their stated intent (please see policies for specific directives and references);

NOW, THEREFORE, BE IT RESOLVED that the following Implementing Rules and Regulations shall provide the clarifying implementing regulation as specified in said policies, shall be effective upon adoption, and shall remain in effect until further modified or rescinded.

Implementing Rules and Regulations

2021.01 Well Registration

- a) All existing groundwater wells located within MAGSA’s service area designed to produce more than two (2) acre feet of water annually shall be registered with MAGSA no later than January 1, 2022.
- b) Registration of domestic groundwater wells located within MAGSA’s service area designed to produce two (2) acre feet of water or less annually, while not required, is highly recommended. The well location information may assist MAGSA in providing assistance to the domestic well owners in the event of well issues which manifest themselves now or in the future.
- c) All new groundwater wells located within MAGSA’s service area designed to produce more than two (2) acre feet of water annually shall be registered with MAGSA no later than January 1, 2022 or within thirty (30) days of commencement of drilling for new well, whichever occurs later.
- d) “Registration” shall include (to the extent known to landowner at the time of registration) well owner’s (landowner) name and contact information, assessor’s parcel number, well geo-location, date of construction (or reasonable estimate), well construction detail, a copy of the well completion report (if available), overall depth of well, and other such relevant information, as may, from time to time by appropriate regulation or ordinance, be

determined to be necessary by MAGSA for implementation of its Groundwater Sustainability Plan (“GSP”) and compliance with SGMA.

- e) Groundwater well registration information shall be provided on a MAGSA issued confidential registration form, as the same may be amended and supplemented from time to time, an initial example of which is included as Attachment A to these Implementing Rules and Regulations.

2021.02 Well Construction

- a) All new groundwater wells designed to produce more than two (2) acre feet of water annually shall meet standards established in the Department of Water Resources’ Bulletin 74 or as the same may be hereafter revised, or as established by Fresno County Department of Public Health, Environmental Health Division, whichever is more stringent, and shall be subject to permitting as required by Fresno County Health.
- b) **Recommended Minimum Depth of 300 Feet.** While no specific depth is required, MAGSA recommends construction and development of all wells (Agricultural and Domestic) within MAGSA to a depth of at least three hundred (300) feet below surface elevation in order to avoid impacts due to declining groundwater levels. Shallow well mitigation programs, which MAGSA may develop to assist with domestic well groundwater elevation issues in the future, **shall not apply to any wells that are drilled to a depth of less than 300 feet on or after July 7, 2022.**
- c) **Moratorium on Deep Wells.** Construction of “Deep Wells” (as used herein, this term means those wells that pierce the Corcoran Clay layer underlying MAGSA) has been directly associated with chronic subsidence in the Central Valley. Subsidence is an identified Sustainability Indicator in the McMullin Area GSA’s Groundwater Sustainability Plan and is an area of concern within MAGSA. (See GSP, section 5.6.) In order to provide an opportunity to better understand the number of wells currently constructed to extend below the Corcoran Clay and to gather sufficient additional data to be used to assess the effect of those and any additional well construction to depths below the Corcoran Clay layer within the GSA, MAGSA will not provide a verification to the County for, or otherwise approve, any new or replacement well application proposing to construct a well within MAGSA’s boundaries to a depth which is understood by MAGSA to extend below the depth of the Corcoran Clay layer at the specified location. This Moratorium on Deep Wells (temporarily halting well drilling through and below the Corcoran Clay) shall commence July 7, 2022 and continue thereafter until sufficient data, in MAGSA’s sole discretion, is available to adequately assess said concerns.
- d) New groundwater wells and replacement groundwater wells designed to produce more than two (2) acre feet of water annually, which will be constructed within MAGSA’s

boundaries shall, in addition to all hardware and appurtenant power supply requirements required for Fresno County permitting, include all of the following:

- i. An electromagnetic flow metering device that meets the specifications set forth herein in Section 2021.03;
- ii. A water quality sampling spigot (90 degree from horizontal downward facing spigot, capable of producing a smooth and laminar flow) on the discharge piping; and
- iii. A groundwater elevation sounding tube of at least one (1) inch in diameter, accessing the inside of the casing and constructed to a depth at least 100 feet below the existing static water level, to facilitate accurate water elevation measurements.

2021.03 Well Metering

- a) MAGSA policy requires all groundwater wells designed to produce more than two (2) acre feet of water annually located within MAGSA's boundaries to be outfitted with compliant electromagnetic flow metering devices, located as the first element in line on the well discharge pipe, on or before January 31, 2025. Similarly, and consistent with the above for existing well locations, all newly constructed groundwater wells or replacement groundwater wells designed to produce more than two (2) acre feet of water annually are required to include an electromagnetic flow metering device on the new or replacement well at the time of construction thereof. In complying with these groundwater well metering requirements, all landowners and/or well owners shall ensure that all groundwater wells located within MAGSA's boundaries have an electromagnetic flow metering device that meets the following criteria and/or specifications:
 - i. The meter shall be either a flange type or a saddle type meter;
 - ii. The meter shall be an electromagnetic flow meter and microprocessor based signal converter capable of communicating with remote telemetry;
 - iii. The meter shall contain a flow sensor based on Faraday's law of electromagnetic induction;
 - iv. The meter shall be accurate to within plus or minus two percent ($\pm 2\%$) of actual flow;
 - v. The meter shall report actual flow rate and contain an aggregate flow totalizer to capture production volume, with flow reported in cubic feet per second and total pumping reported in acre-feet;
 - vi. Each meter shall be appropriately sized for the production rate and discharge piping of the well;
 - vii. Each meter shall have a measurement range that matches the expected range of production rates from the well on which it is installed.

- b) Installation of all meters shall be performed by a MAGSA-approved contractor. Meters must be installed in strict adherence to all applicable manufacturer specifications.
- c) Testing and/or calibration of meters shall be performed by a MAGSA and/or manufacturer-approved contractor at intervals specified by the meter manufacturer. Calibration records shall be made available to MAGSA, or MAGSA's data management contractor, following calibration updates.

2021.04 Well Monitoring

- a) Data collection, reporting and management are indispensable elements of the MAGSA GSP. The data will need to be collected, stored and managed in a precise, accurate, secure and confidential manner to successfully place MAGSA in a position of achieving sustainability at the earliest possible time while maintaining the highest levels of confidentiality for landowners' Confidential Information as allowed by law.
- b) Effective January 1, 2024 and thereafter, the installation of qualifying remote telemetry on each groundwater well shall be an additional equipment requirement. MAGSA has contracted for the provision of secure data management services to each individual landowner and that contractor has remote telemetry recommendations which will provide maximum efficiencies in this regard.
- c) Under optimal circumstances,,groundwater well owners shall contract for services with and provide to MAGSA's data management contractor, through the method approved by MAGSA, meter reading and recordation of each groundwater well's groundwater production data on at least a monthly basis beginning the month following the installation of its new groundwater meter or written confirmation from MAGSA that its existing meter meets the provisions of section 2021.03(a) above, and continuing thereafter for each successive month.

2021.05 Enforcement

- a) While MAGSA enjoys tremendous support from its landowners and stakeholders in moving positively toward achievement of its sustainability goals, circumstances arise from time to time which require additional measures to assist in that regard.
- b) Landowners are expected to meet the obligations and deadlines established by these Implementing Rules and Regulations. Failure to comply will incur a warning that allows not more than thirty (30) days to achieve compliance. Failure to meet the deadline established in the warning will result in MAGSA arranging for or performing the required work or task and the subsequent billing to the landowner for the any costs, charges or fees required to comply.

- c) Landowners shall be responsible for compliance with these Implementing Rules and Regulations by any lessee on their property.
- d) If MAGSA has cause to believe that a landowner's groundwater production is in excess of that reported to MAGSA by the landowner, MAGSA may request additional information from the landowner to substantiate the reported production amount.
- e) In the event the situation does not resolve itself to MAGSA's satisfaction, MAGSA may send the landowner a letter setting forth: (1) the nature and extent of the under reporting; (2) the steps that the entity must take in order to come into compliance; (3) a specific deadline for the entity to complete the necessary steps; and (4) a warning that MAGSA reserves the right to utilize additional legal and practical methods to compel the landowner to complete the requirements if the necessary steps are not completed by the specified deadline. Deadlines will be set based upon a reasonable estimate of the time necessary to complete the process.
- f) The remedies identified in these Implementing Rules and Regulations are not intended to be exclusive. Any other remedy available to MAGSA in law or equity may be employed at the discretion of MAGSA to address any circumstance related to management of the Basin in accordance with the SGMA, the MAGSA GSP, the MAGSA standing policies and these Implementing Rules and Regulations.