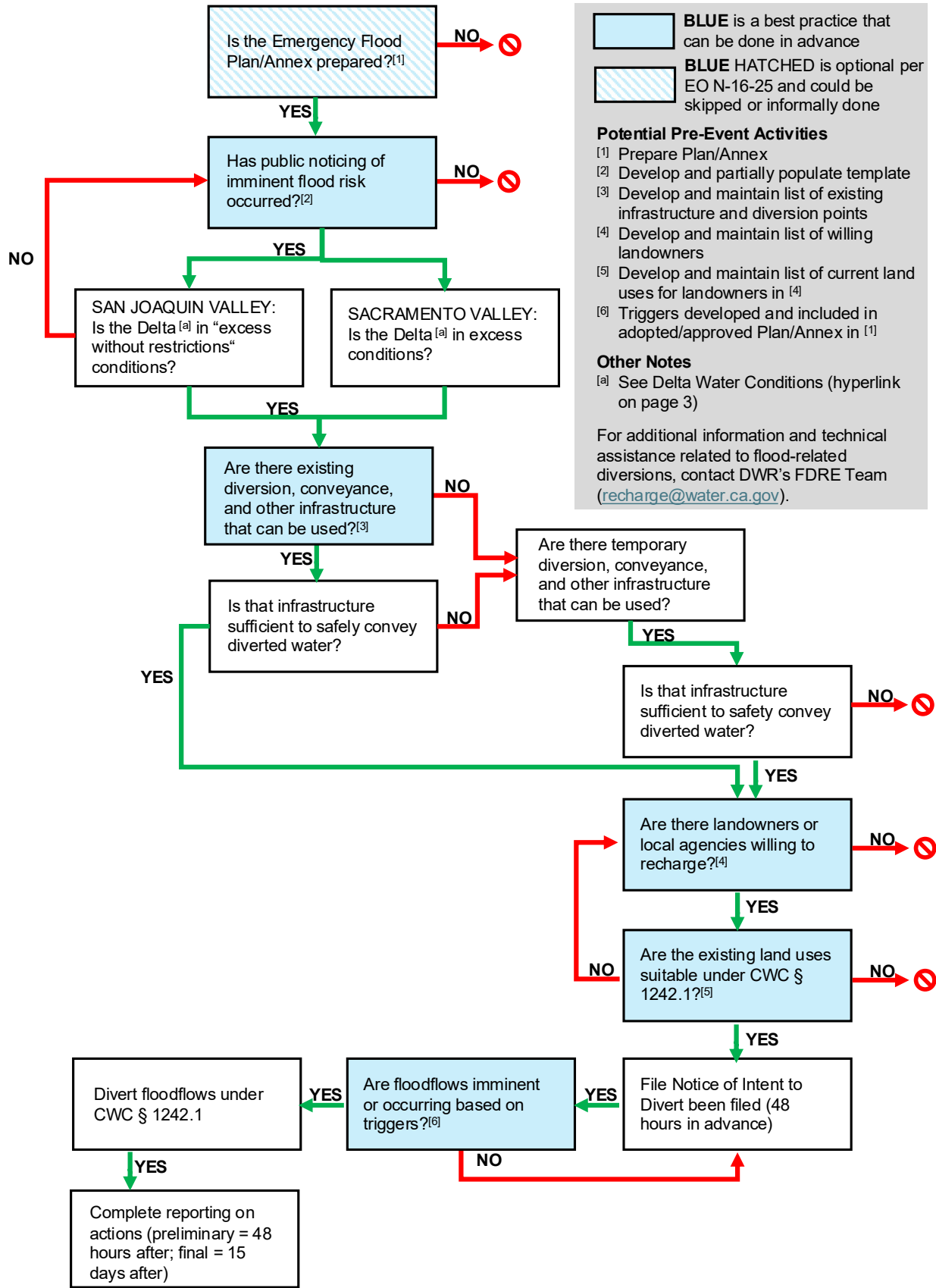




Background

In response to powerful winter storms and flood emergencies, Governor Newsom issued multiple Executive Orders (EO) in 2023 that allowed for the diversion of floodflows without a water right. Later that year, Senate Bill (Senate Bill) 122 modified the California Water Code (CWC), enacting some of the EO language.

Highlights from CWC § 1242.1 and the most recent EO (EO N-16-25) are included below. Hyperlinks to the full texts, along with other references, are included on page 3.

Purpose of This Document

The purpose of this document is to assist local and regional entities that are considering development and implementation of an action under CWC § 1242.1 by providing general guidance; related information and definitions; and a flowchart of questions to consider.

This document is intended to supplement discussions with and information from the California Department of Water Resources (DWR), State Water Resources Control Board (SWB), other agencies, local/regional entities, legal counsel, etc.

CWC § 1242.1 Highlights

What

- Allows for diversions of floodflows for the purpose of recharge without the need of a water right, when all stated conditions are met.
- Does not create a water right (no ownership or control of recharged water).

Who

- Any party can utilize this provision in the CWC, and diverters are required to comply with CWC § 1242.1 conditions.

When

- Local or regional agency must make public notice of imminent risk of flooding.
- Flood determination is based on flood risk in the agency’s most recent adopted local flood control or general plan.**
 - For diversions in the Sacramento watershed, the Delta must be in excess conditions. For diversions in the San Joaquin watershed, the Delta must be in “excess without restrictions” conditions.
- Sunset date of January 1, 2029.

How

- Existing diversion infrastructure or pumps, or temporary pumps with fish screens.
- No new construction or permanent diversion infrastructure.

Where

- Not allowed in certain areas (e.g., animal facilities, applied fertilizer, native landscapes).



EO N-16-25 Highlights

- Enacted in early 2025.
- Suspends the requirement for an adopted flood plan to divert excess water, but all other CWC § 1242.1 conditions apply.
- Only applies in select counties.

Managed Aquifer Recharge

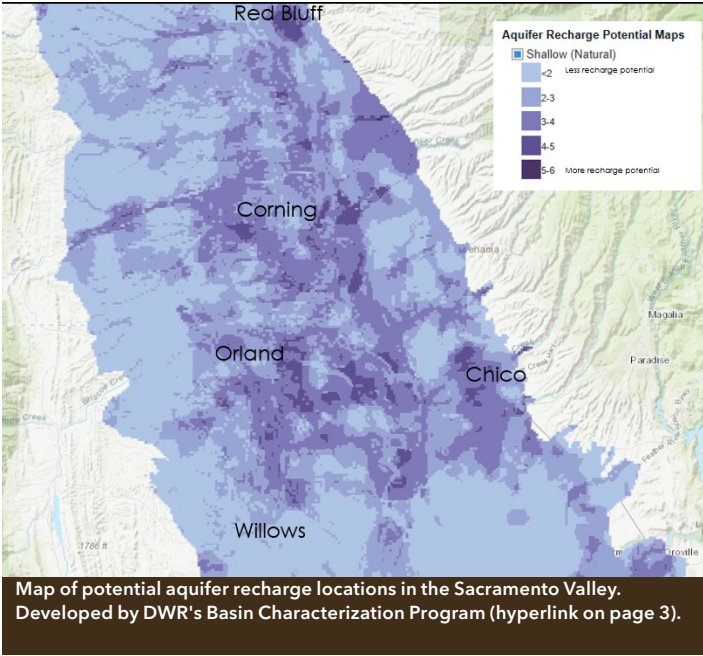
Managed Aquifer Recharge (MAR) is water intentionally infiltrated from the land surface or directly injected into an aquifer for replenishment, later use, and/or long-term water resources management. An aquifer system commonly includes three recharge and discharge elements:

Recharge areas where surface water moves to groundwater.

Storage media (sands, gravels, silt, and clay) that store groundwater.

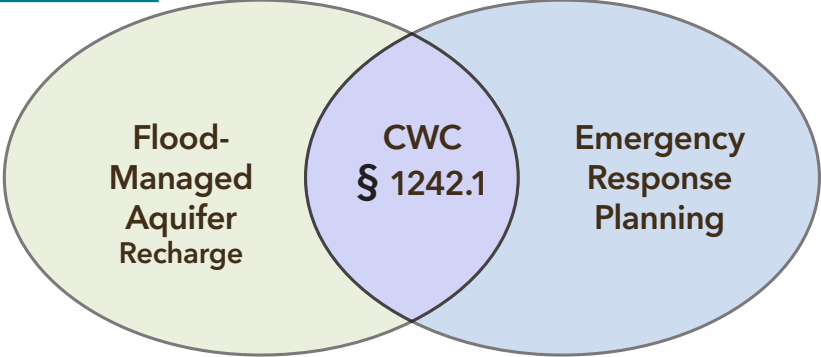
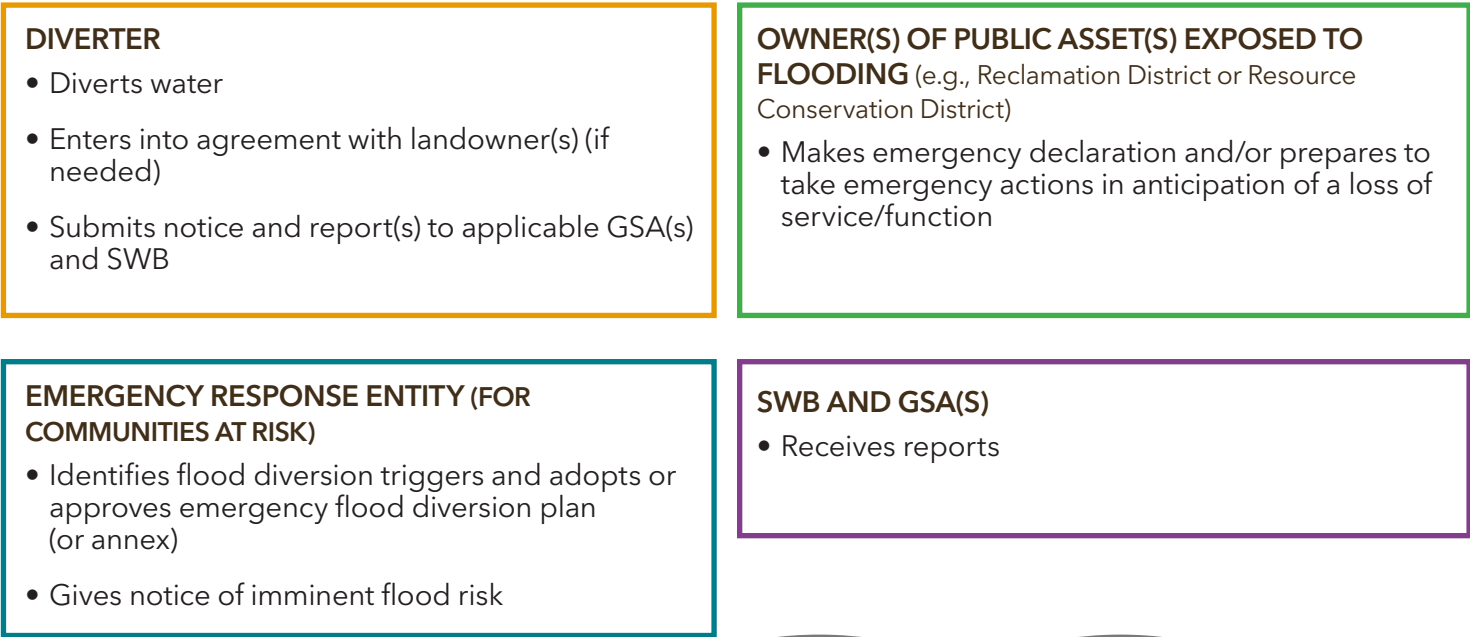
Discharge areas consisting of wells, springs, and surface water bodies such as rivers, lakes, and wetlands.

As with many natural systems, these elements interact in numerous ways.



Roles and Responsibilities

As described in an emergency flood diversion plan (or annex to an existing emergency plan), many entities have roles and responsibilities to divert water under CWC § 1242.1.



Emergency Flood Diversion Plan (or Annex to Emergency Operations Plan) Elements

Though not a requirement of CWC § 1242.1, developing an Emergency Flood Diversion Plan (or Annex) is a best practice. This Plan (or Annex) addresses the intent of a local plan of flood protection (CWC § 8201) or a general plan. This Plan (or Annex) describes “what is needed and who does it” related to diverting floodwater for recharge under CWC § 1242.1. Prepared in advance, it is intended to help streamline the process.

1. Statement of emergency authorities and responsibilities (including the need for a local emergency declaration).
2. Identification of all types of flood hazards.
3. Identification of recent flood impacts including (1) available photos, (2) assets at risk, (3) parcel information for inundation areas, or (4) location of the compromised existing flood defense system.
4. Identification of flood defense systems (e.g., levees, detention basins, floodways, waterways, dams with flood control space)
5. Identification of potential diversion and recharge areas.
6. Description of land uses in areas of impact and areas of recharge.
7. List of communities at risk of flooding that could benefit from emergency diversions and resulting future water supplies.
8. Discussion of consistency of existing emergency response plans for the communities (see #7), regional Groundwater Sustainability Plans, and evacuation plans for the recharge areas.
9. Identification of flood diversion triggers (both on and off) based on the identified flood hazards (see #2). Triggers may be associated with forecasted water levels/river stages, forecasted flow rates/reservoir releases, upstream precipitation (observed or forecasted), or observed inundation areas.
10. Discussion of the status of coordination with water suppliers (including Groundwater Sustainability Agencies) on how the management of floodflows could bolster local water supplies.
11. Process for recording and reporting on the time, duration, and volume of water diverted and any observed abnormalities associated with the water course. (Hyperlink to SWB reporting form below.)

Resources and More Information

Additional resources and information can be obtained from the following sources:

- **FDRE Initiative Brochure** (DWR)
- **Groundwater Recharge and Related Activities** (DWR)
- **Basin Characterization Program** (DWR)
- **California Water Code Section 1242.1 Guidance** (SWB)
- **Permits for Groundwater Recharge** (SWB)
- **Sustainable Conservation’s Technical Resource Library**
- **CWC § 1242.1 full text**
- **EO N-16-25 full text**
- **Delta Water Conditions**
- **Flood Recharge Diversions (CWC §1242.1 Reporting Forms** (SWB)
- DWR Sustainable Groundwater Management Office email: recharge@water.ca.gov
- DWR Division of Flood Operations email: michael.mierzwa@water.ca.gov