



Lake Oroville (08/02/2022)

MWELO Rulemaking Consideration for Adoption

May 15, 2024



CALIFORNIA DEPARTMENT OF
WATER RESOURCES

Agenda

- Overview of MWELO
- Review Draft Amendments
- Key Comments and Responses
- Final Regulations for Approval
- Next Steps



What is MWELO?

- Statewide model for local agencies to implement and enforce minimum water-efficiency standards in landscape design, construction, management, and maintenance.
- Drives water-efficiency through water budgets and thoughtful soil management, and selection of plants, irrigation, and alternative water sources.
- Applies to landscape projects meeting size requirements, requiring a building or landscape permit, plan check, or design review.

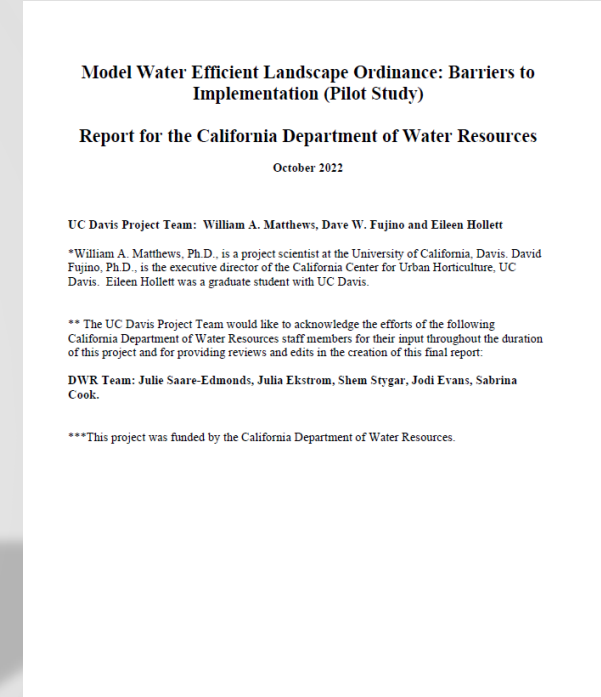
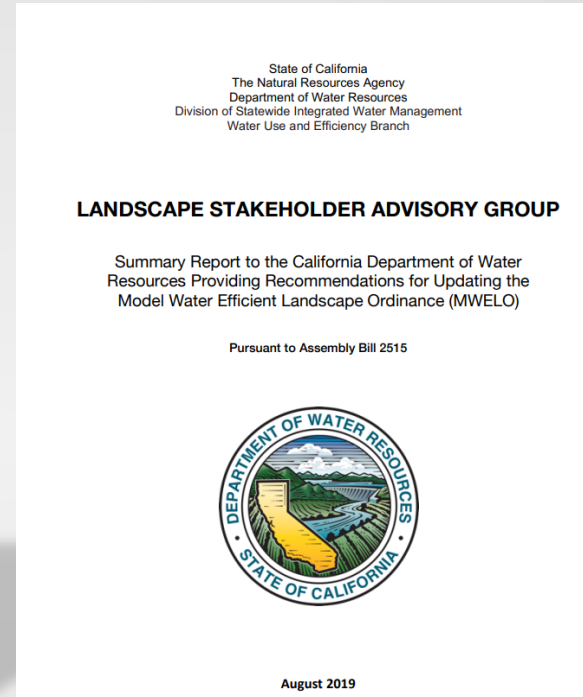
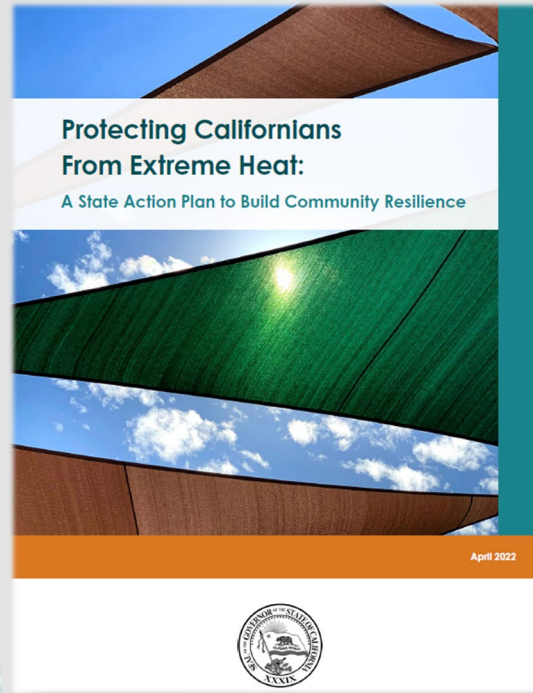
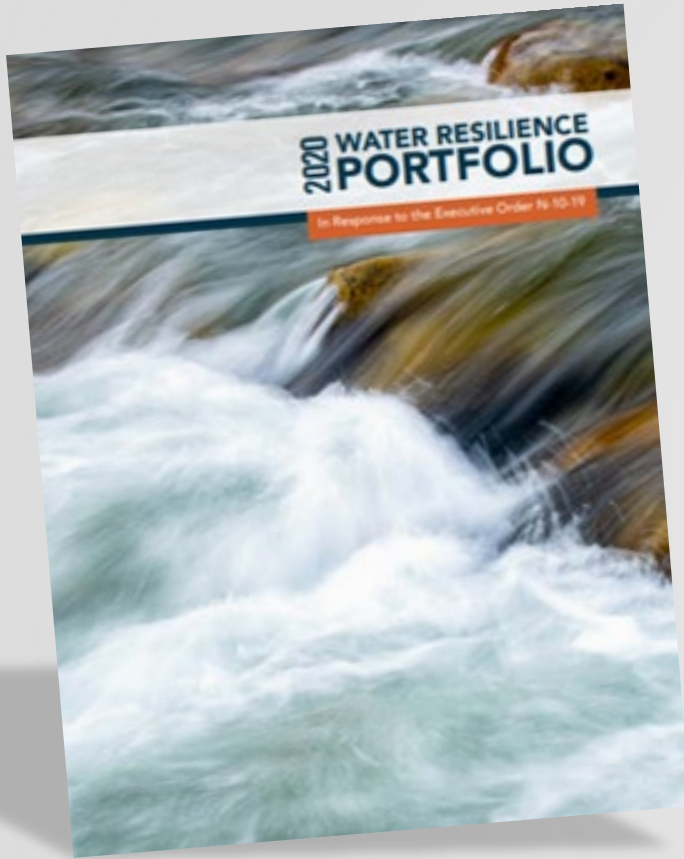


MWELO Implementation

- Adoption, implementation, and enforcement required
 - 500 plus local agencies
 - Local ordinances can be stricter
- References many other codes
 - Stormwater, Gray Water, Recycled Water, Fire Safe Landscaping, Invasive Plants, Plumbing Code, Business and Professions Code, etc.
- Two Compliance Pathways
 - Prescriptive: Stricter but easier to implement; projects less than 2,500 sf
 - Performance: Greater flexibility; any landscape project size
- Local agencies required to annually report to DWR



Reports supporting update



Governor's Water Resilience Portfolio (July 2020)
"Action 2.2 - Simplify the Model Water Efficient Landscape Ordinance"



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Desired Improvements



MWELO has been correctly implemented but can be difficult to understand:

- Disorganization can introduce confusion and misunderstanding.
- Ambiguities and lack of clarity can make it difficult to understand what is required.
- Improve implementation and reporting:
 - *For 2022, 258 of 500+ reported*
 - *As of April 2024, 270 reported*



Scope of Amendments

- Objectives
 - Reduce ambiguity and improve clarity
 - Does not modify or add requirements
 - Implement two new Government Code sections
 - Reorganization of 2015 MWELo
 - Organize by following the landscape design process: Landscape design, installation, maintenance and management



2015 MWELO

Exhibit B

DRAFT 2023 MWELO

Contents

§ 490. Purpose.....	2
§ 490.1. Applicability.....	3
§ 491. Definitions.....	4
▲ § 492. Provisions for New Construction or Rehabilitated Landscapes.....	10
§ 492.1. Compliance with Landscape Documentation Package.....	11
○ § 492.2. Penalties.....	12
§ 492.3. Elements of the Landscape Documentation Package.....	12
§ 492.4. Water Efficient Landscape Worksheet.....	13
§ 492.5. Soil Management Report.....	13
▲ § 492.6. Landscape Design Plan.....	14
§ 492.7. Irrigation Design Plan.....	17
§ 492.8. Grading Design Plan.....	20
§ 492.9. Certificate of Completion.....	21
§ 492.10. Irrigation Scheduling.....	22
§ 492.11. Landscape and Irrigation Maintenance Schedule.....	23
§ 492.12. Irrigation Audit, Irrigation Survey, and Irrigation Water Use Analysis.....	23
◆ § 492.13. Irrigation Efficiency.....	24
○ § 492.14. Recycled Water.....	24
○ § 492.15. Graywater Systems.....	25
○ § 492.16. Stormwater Management and Rainwater Retention.....	25
○ § 492.17. Public Education.....	26
○ § 492.18. Environmental Review.....	27
§ 493. Provisions for Existing Landscapes.....	27
§ 493.1. Irrigation Audit, Irrigation Survey, and Irrigation Water Use Analysis.....	28
○ § 493.2. Water Waste Prevention.....	28
◆ § 494. Effective Precipitation.....	29
§ 495. Reporting.....	29
Appendix D - Prescriptive Compliance Option.....	30

Contents

§ 490. Purpose.....	3
☆ § 490.1. General Provisions.....	4
§ 490.2. Definitions.....	8
§ 491. Applicability.....	17
§ 491.1 Provisions for Existing Landscapes.....	18
☆ § 491.2 Provisions for New Construction or Rehabilitated Landscapes.....	19
☆ § 491.3 Compliance Responsibilities.....	19
§ 491.4. Elements of the Landscape Documentation Package.....	20
§ 492. Prescriptive Compliance Option.....	21
☆ § 493. Performance Compliance Option.....	23
§ 493.1 Soil Management Report.....	
§ 493.2. Landscape Design Plan.....	
§ 493.2.1 Grading Design Plan.....	
§ 493.2.2 Irrigation Design Plan.....	
§ 493.3 Water Efficient Landscape Worksheet.....	
§ 493.4 Irrigation Scheduling.....	35
§ 493.5 Landscape and Irrigation Maintenance Schedule.....	36
☆ § 493.6 Irrigation Audit.....	36
☆ § 494. Certificate of Completion Package.....	37
§ 495. Reporting.....	38

Performance
Compliance
Option
Requirements

- Moved into 490.1. General Provisions
- ▲ Portions moved into the General Provisions section
- ☆ New / Renamed Sections to improve understanding
- ◆ Moved requirements into appropriate sections
- EXAMPLES Showing reorganization to improve understanding

Reorganization of Appendices

2015 MWELO Appendices:

- **Appendix A:** Reference Evapotranspiration (ET_o) Table
- **Appendix B:** Sample Water Efficient Landscape Worksheet
- **Appendix C:** Sample Certificate of Completion
- **Appendix D:** Prescriptive Compliance Option

DRAFT 2023 MWELO Appendices:

- **Appendix A:** Sample Water Efficient Landscape Worksheet
- **Appendix B:** Sample Certificate of Completion Package
- **Appendix C:** Reference Evapotranspiration (ET_o) Table
- ~~**Appendix D:** Prescriptive Compliance Option~~
 - Becomes §492. Prescriptive Compliance Option



Appendix C: Reference Evapotranspiration (ET_o) Table

Data	2015 MWELO	DRAFT 2023 Amendments
Number of Cities	319	677
Local ET _o Values	Variety of sources	California Irrigation Management Information System (CIMIS)
Time Period for Local ET _o values	Varies	2004 to 2021



Clarifying definitions (example)

- “Designer of record” replaces definitions for:
 - certified irrigation designer, landscape architect, landscape contractor

(15) “designer of record” for the purposes of this ordinance means the professional practitioner or project applicant functioning and providing services in compliance with the Business and Professions Code (BPC) Division 3 – Professions and Vocations Generally, Chapter 3.5. Landscape Architecture, Article 3. Application of Chapter [5640-5644].



Amended Definitions (*examples*)

(41 ~~42~~) “landscape area” (LA) means all the irrigated planting areas, turfgrass areas, and water features in a landscape design plan subject to the Maximum Applied Water Allowance calculation. The irrigated landscape area does not include footprints of buildings or structures, sidewalks, driveways, parking lots, decks, patios, gravel or stone walks, other pervious or non-pervious hardscapes, and other non-irrigated areas designated for non-development (e.g., open spaces and existing native vegetation) and is the sum of the landscape projects’ regular landscape areas (RLA) and special landscape areas (SLA). $LA = RLA + SLA$.

(72 ~~73~~) “regular landscape area” (RLA) is the portion of the irrigated landscape area that is not a special landscape area. $RLA = LA - SLA$.

(79 ~~80~~) “Special Landscape Area” (SLA) means an irrigated area that may be all or part of the landscape project and is permanently and solely dedicated to edible plants such as orchards and vegetable gardens, recreational areas, areas irrigated with recycled water, or water features using recycled water.



Clarifying Definitions: MAWA Example

2015 MWELO definition:

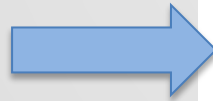
(tt) “Maximum Applied Water Allowance” (MAWA) means the upper limit of annual applied water for the established landscaped area as specified in Section 492.4. It is based upon the area's reference evapotranspiration, the ET Adjustment Factor, and the size of the landscape area. The Estimated Total Water Use shall not exceed the Maximum Applied Water Allowance. Special Landscape Areas, including recreation areas, areas permanently and solely dedicated to edible plants such as orchards and vegetable gardens, and areas irrigated with recycled water are subject to the MAWA with an ETAF not to exceed 1.0. $MAWA = (ET_o) (0.62) [(ETAF \times LA) + ((1-ETAF) \times SLA)]$

Amended definition:

(50 51) “Maximum Applied Water Allowance” (MAWA) means the upper limit of annual applied water for the established landscaped area as specified in Section 493.3. It is based upon the area's reference evapotranspiration, the maximum ET Adjustment Factor allowed, and the size of the regular landscape area (RLA) and the special landscape area (SLA). $MAWA = (ET_o) \times (0.62) \times [ETAF \times RLA + 1.0 \times SLA]$



Prescriptive Compliance: Organization Example



§ 492. Appendix D Prescriptive Compliance Option.

- (a) This appendix section contains prescriptive requirements, which may be used as a compliance option to the Model Water Efficient Landscape Ordinance. for new construction projects with a landscape area between 500 and 2,500 square feet.
- (b) Compliance with the following items requirements of this section is mandatory and must be documented in the Landscape Documentation Package (see Section 491.4.(a)) on a landscape design plan in order to use the prescriptive compliance option:
- (1) Submit a Landscape Documentation Package which includes the following elements:
- (A) date
 - (B) project applicant
 - (C) project address (if available, parcel and/or lot number(s))
 - (D) total landscape area (square feet), including a breakdown of turf and plant material
 - (E) project type (e.g., new, rehabilitated, public, private, cemetery, homeowner-installed)
 - (F) water supply type (e.g., potable, recycled, well) and identify the local retail water purveyor if the applicant is not served by a private well
 - (G) contact information for the project applicant and property owner
 - (H) applicant signature and date with statement, "I agree to comply with the requirements of the prescriptive compliance option to the MWELO". **[MOVED TO 491.4 FOR ORDER CLARITY]**
- (c) Landscape project requirements
- (1 2) Incorporate compost at a rate of at least four cubic yards per 1,000 square feet to a depth of six inches into landscape area. (unless contra-indicated by a soil test); Soils with greater than 6% organic matter in the top 6 inches of soil are exempt from adding compost and tilling.



Incorporating Government Code updates

GC §65596(e), amended in 2018

“Non-rotating spray sprinkler bodies are required to meet the standards described in the California Code of Regulations Title 20, Division 4, Chapter 4, Section 1605.3(x).”

GC §65596(n), amended in 2020

(d) The designer of record shall make plants identifiable to an inspector during final inspection. Plants must be identifiable by botanical name, common name or cultivar as specified in Division 18, Chapter 5, Article 7 of the Food and Agricultural Code.



Public Comment Periods

60-day public comment period – Initial Text (Nov. 17, 2023 – Jan 16, 2024)

- Public hearing held Jan. 9, 2024
- 189 comments received
- Two (2) substantial and sufficiently related modifications made in response to comments:
 - To implement Gov. Code section 65596(n), initial language proposed requiring identifying plants at inspection with photos.
 - **Language modified** to match statutory language -- "make plants identifiable during inspection"
 - New definition for "aggregated landscape" was deleted due to confusion expressed in comments
 - **Language reverted** to 2015 MWEL0 language

15-day comment period – Modified Text (Mar. 18 – Apr. 3, 2024)

- 25 comments received – no proposed modifications



Other Comments Received

- Related regulations
 - Making Water Conservation a Way of Life (*DRAFT* regs)
 - Non-functional CII turf, WC 10608.14 (*begins 2027*)
- Clarify remaining ambiguities
 - Some 2015 MWELO requirements remain ambiguous; clarifying deemed a substantial change, outside scope.
- Add new requirements
 - Enforcement by suppliers; existing trees; artificial turf; mixed plant factor hydrozones; etc.
- Many comments will be addressed in Guidebook.



Next Steps

Month	Planned Action
May	Seek California Water Commission Approval of Regulations
June/July (tentative)	Submit Final Rulemaking Package to the Office of Administrative Law
October (tentative)	Regulations become effective

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