

STATE OF CALIFORNIA
CALIFORNIA NATURAL RESOURCES AGENCY
CALIFORNIA WATER COMMISSION

RESOLUTION NUMBER: 2024-02

RESOLUTION TO APPROVE MODEL WATER EFFICIENT LANDSCAPE ORDINANCE
REGULATIONS

WHEREAS, Chapter 1145 of the Statutes of 1990 required the Department of Water Resources (Department) to develop a Model Water Efficient Landscape Ordinance (MWELo). The MWELo provides a standard for the design, installation, management, and maintenance of landscapes to use water efficiently without water waste. The MWELo was adopted and went into effect January 1, 1993, and required all local agencies to adopt the MWELo or a water efficient landscape ordinance at least as efficient as the MWELo;

WHEREAS, Government Code section 65595 required the Department to update the MWELo based on a report prepared by the California Urban Water Conservation Council and to meet the requirements of Government Code Section 65596. The Department adopted the updated MWELo, which went into effect January 1, 2010;

WHEREAS, the Department further amended the MWELo pursuant to Governor's Executive Order No. B-29-15 in 2015;

WHEREAS, Government Code section 65596.5 directs the Department to consider triennially whether updates to the MWELo are a useful or effective means to improve either the efficiency of landscape water use or the administration of the ordinance;

WHEREAS, two recent, independently developed reports by the University of California, Davis (UC Davis) and the Landscape Statewide Advisory Group (LSAG) demonstrate that there is inconsistent implementation and reporting at the local level. The UC Davis Survey on Barriers to MWELo implementation (2022) and the LSAG Summary Report for Updating MWELo (2019), suggest that MWELo's organization and lack of clarity is a current barrier to consistent and effective implementation of the ordinance;

WHEREAS, Action 2.2 of the January 2022 Governor's Water Resilience Portfolio calls for the MWELo to be simplified;

WHEREAS, in order to address the need to simplify and clarify MWELo's requirements, the Department, acting through the Water Use Efficiency Branch, developed amendments to the MWELo, intended to simply the MWELo by reducing ambiguities, providing clarity, and improving MWELo's organization;

WHEREAS, during the pre-rulemaking process, the Department held six meetings with the LSAG to seek feedback on the proposed amendments to MWELo. The LSAG is open to all interested parties and includes Landscape Architects, Landscape Designers, Landscape Contractors, Irrigation Consultants, irrigation equipment manufacturers, soil scientists, city and county staff, water suppliers, State agencies, educators, horticulturists, nursery growers and arborists;

WHEREAS, on November 17, 2023, the Notice of Public Availability for the proposed MWELo amendments was published in the California Regulatory Notice Register, posted on the Department's website, and emailed to the LSAG and interested parties;

WHEREAS, the Department conducted a 60-day written comment period and held a public hearing on January 9, 2024, on the proposed MWELo amendments. During this process, the Department carefully considered comments received, further reviewed the proposed regulations' text and made modifications to the text of the regulations that are substantial and sufficiently related to the originally proposed text;

WHEREAS, the substantial modifications are twofold. First, regarding implementation of Government Code 65596(n), the proposed requirement to "use a plant legend with plant photographs" was deleted and the language was modified to match statutory language that plants must be identifiable at the time of inspection to provide compliance flexibility. Second, the added definition and separated requirements for "aggregated landscape projects" were causing unnecessary confusion, as noted in the comments received, and were thus removed. The existing MWELo text regarding large landscape projects was kept;

WHEREAS, on March 18, 2024, the Department circulated the Modified Text of the regulations and provided 15 days for public comment by publishing on the Department's website and emailed to the LSAG and other interested parties. The Department made no further substantive revisions to the regulations after the 15-day comment period;

WHEREAS, Water Code section 161 authorizes the California Water Commission to approve rules and regulations of the Department;

WHEREAS, the amended MWELo Regulations are hereby presented to the California Water Commission for consideration and approval;

WHEREAS, the adoption of the amended MWELo Regulations is exempt from the California Environmental Quality Act (CEQA) because it can be seen with certainty that there is no possibility that this project may have significant effect on the environment because the proposed adoption and amendments do not result in any change to the existing requirements and do not result in any physical changes to the environment. (State CEQA Guidelines section 15061(b)(3));

NOW, THEREFORE, BE IT RESOLVED that the California Water Commission:
Approves the MWELo Regulations at its meeting on May 15, 2024.

Signed:

Fern Steiner, Vice Chair
California Water Commission

Date

Attest:

Joseph R. Yun, Executive Officer
California Water Commission

Date

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