

## **UPDATED INFORMATIVE DIGEST**

Gov. Code §11356.9(b)

### **AMENDMENTS TO THE MODEL WATER EFFICIENT LANDSCAPE ORDINANCE (MWELo)**

#### **Background**

During the pre-rulemaking process, the Department held six meetings with the Landscape Statewide Advisory Group (LSAG) to receive feedback on proposed amendments to the Model Water Efficient Landscape Ordinance (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.

#### **Description of the Regulatory Action:**

As described in the Initial Statement of Reasons (ISOR), the purpose of the proposed amendments is to improve the MWELo implementation and enforcement by reducing ambiguities, providing clarity, and improving organization. The amendments implement two new statutes from Government Code Section 65596 and otherwise do not modify or add requirements. The proposed amendments to the MWELo regulation were noticed on November 17, 2023, and included a 60-day public comment period with a public hearing held on January 9, 2024.

The Department of Water Resources (Department), Division of Regional Assistance Water Use Efficiency Branch (WUE) received 12 comment letters/emails and 15 commentors provided 81 comments using Microsoft Forms during this period. There was a total of 189 comments with 27 of those comments received at the public hearing.

#### **First Fifteen-Day Changes:**

After reviewing the comments received, the WUE made substantial and sufficiently related changes to the initially proposed MWELo amendments. The changes were publicly noticed on March 18, 2024, and were made available for a 15-day public comment period. The substantial modifications were twofold. First, regarding implementation of Government Code 65596(n), the initial MWELo amendment proposed a requirement to “use a plant legend with plant photographs.” The requirement to use a plant legend 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” caused unnecessary

confusion as noted in the comments received and were thus removed; the existing 2015 MWELo text regarding large landscape projects was kept.

WUE received 4 comment letters/emails during the first 15-day comment period, with a total of 24 comments. WUE received 1 comment letter/email following the 15-day comment period, which was considered and did not require a substantial change to the MWELo amendments. Non-substantial edits and clarifications were made based on all comments received and an editing of the amendments.

### The California Water Commission's Action (May 2024):

WUE presented the MWELo amendments to the California Water Commission (Commission) at their May 15, 2024, meeting and received the Commission's approval as required by Water Code section 161 (Resolution Number 2024-02), which has been replaced with the new resolution described below.

### Second Fifteen-Day Changes:

WUE submitted the rulemaking record to OAL on June 27, 2024, and OAL provided feedback on August 9. Based on feedback from OAL, WUE made modifications to the MWELo amendments to include incorporating by reference external standards and improving the clarity and references to other related codes for specific requirements. While not changing any existing requirements, these modifications were considered substantive and necessitated a second 15-day public comment period that ended on September 9, 2024. From the second 15-day comment period WUE received 4 comment letters and 14 comments, which were considered and did not require a substantial change to the MWELo amendments. Non-substantial edits and clarifications were made based on all comments received and a final editing of the amendments.

### The California Water Commission's Action (October 2024):

Following the second 15-day public comment period; WUE presented the updated MWELo amendments to the California Water Commission (Commission) at their October 16, 2024, meeting and received the Commission's approval as required by Water Code section 161 (Resolution Number 2024-04), this resolution replaces the Commission's resolution from May 2024.

There have been no other changes in applicable laws or regulations or to the effect of the proposed regulation from those described in the Informative Digest contained in the Notice of Proposed Rulemaking (published in the California Regulatory Notice Register on 18 November 2023, No. Z-2023-1106-03), which is hereby incorporated by reference.