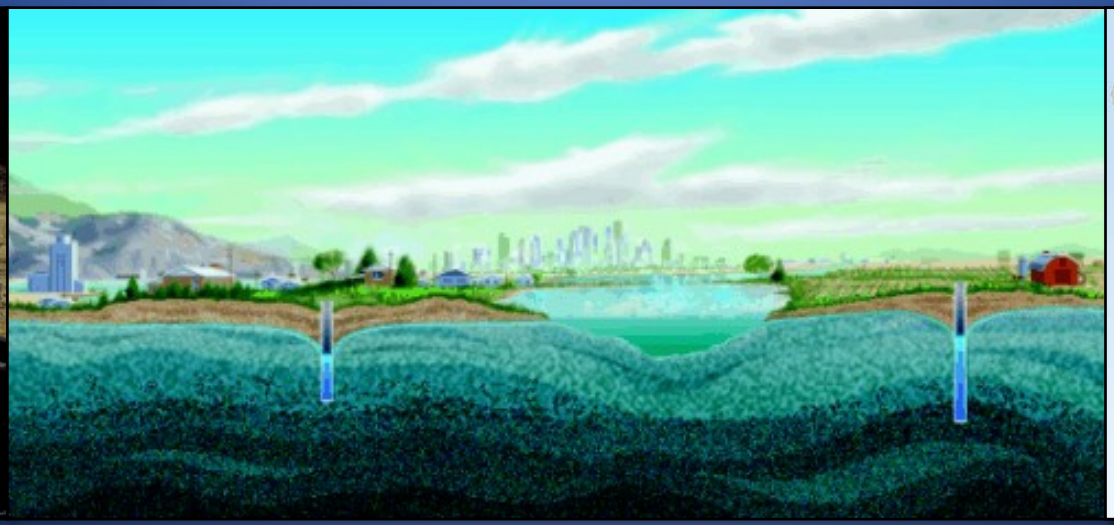
DWR's Sustainable Groundwater Management Implementation

- GSP / Alt. Emergency Regulations - Informational Update



California Water Commission
April 20, 2016
Sacramento, CA

Presentation Overview

- Draft Regulations Process Update
- Summary of Comments
- Regulation Articles
  - Article Overview
  - Nature of Comment(s)
  - Possible Revision(s)
- Next Steps

Draft Regulations Process Update

GSP/Alt. Emergency Regulation Process

- **Phases of Implementation**

Apr – Jun 2015

Scoping

- **Notify OAL**
- **Collect Issues from Stakeholders**
- **Coordinate with SWRCB & CWC**

Jul – Sept 2015

Draft Framework (Topic Based)

- Public Listening Sessions
- 10 Topic Papers
- Received Input from Advisory Groups and Public

Oct 2015 - Apr 2016

Draft Emergency Regulations

- **Required Public Meetings**
- **Present and Receive Input from Advisory Groups and Public**

May 2016

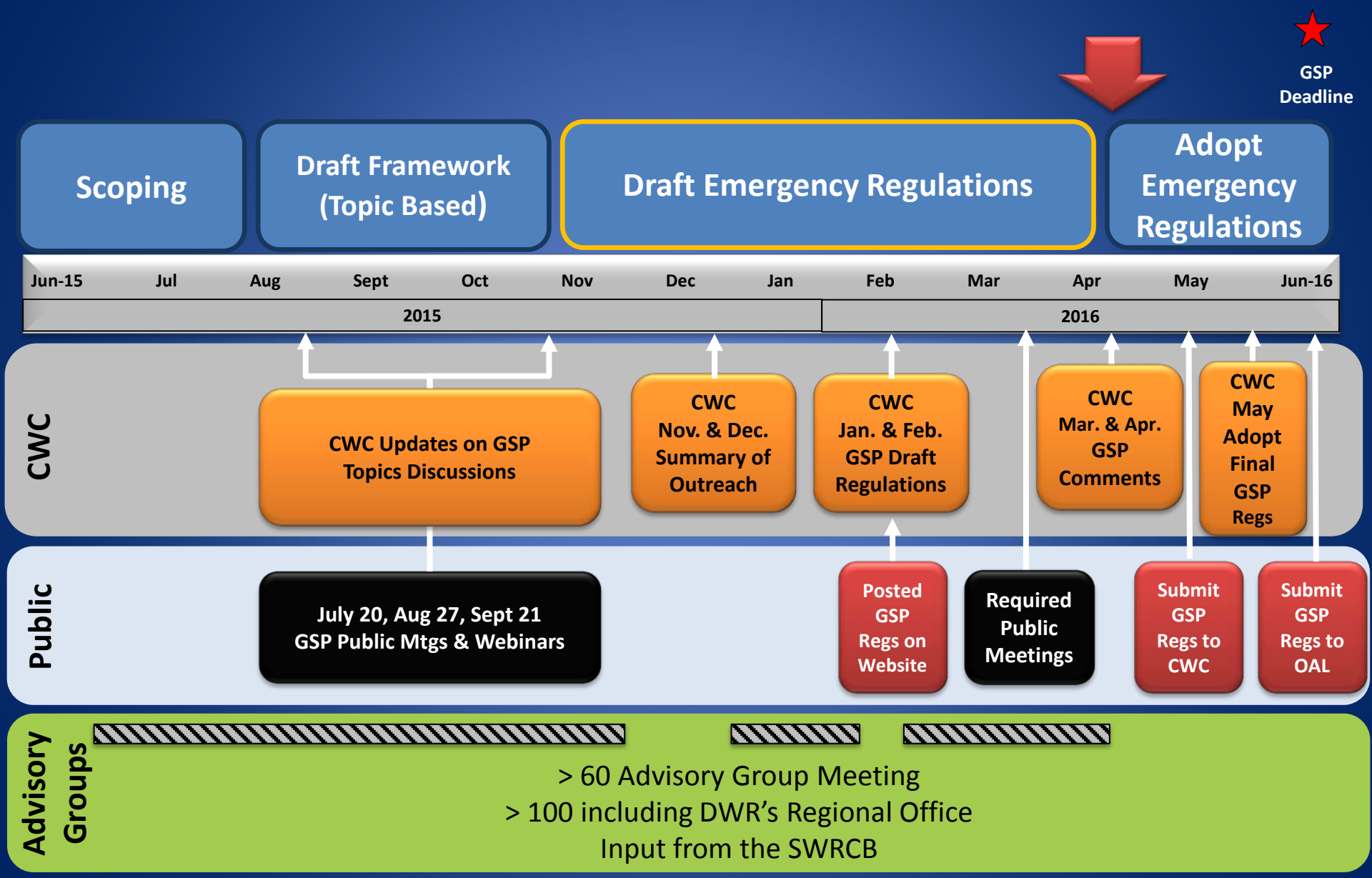
Adopt Emergency Regulations

- **CWC Approval**
- **Noticing and Submittal to OAL**

Input and Feedback from the CWC and SWRCB

CWC – California Water Commission
SWRCB – State Water Resources Control Board
OAL – Office of Administrative Law

GSP/Alt. Emergency Regulations Timeline



= Focused Stakeholder Input

Subject to Change

Summary of Comments

Summary of Comments

- **43-Day Public Comment Period**
- **3 Public Meetings – Sacramento, Visalia, Santa Ana**

Feb. 18th — **43 Day Comment Period** — **April 1st**

Summary of Comments

- 43-Day Public Comment Period
- 3 Public Meetings – Sacramento, Visalia, Santa Ana
- 4,130 Form Letters
- 153 Non-Form Letters (>2,000 text edits)
  - *88 – Local Agencies*
    - *21 – Organizations*
      - *20 – Private Companies*
      - *9 – Individuals*
      - *8 – NGOs*
      - *6 – State or Federal Agencies*
      - *1 – Tribal*

http://www.water.ca.gov/groundwater/sgm/gsp.cfm

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http://www.water.ca.gov/groundwater/sgm/gsp.cfm

Comments By Regulation Article

Overall Regulatory Approach

"A central feature of these bills is the recognition that groundwater management in California is best accomplished locally."

Governor Jerry Brown, September 2014

Public

Engagement

Local Agencies

Plan Development

Plan Implementation

Department of Water Resources

Plan Evaluation

Statewide Minimum Standards

Technical & Financial Assistance

Sustainable Groundwater Management

Regulation Articles

- Article Overview
- Nature of Comment(s)
- Possible Revision(s)

Comments By Regulation Article

Article 1.
Introductory Provisions

ARTICLE 1 OVERVIEW:

- *Provides regulation intent, authority, and methods and criteria used by the Department to evaluate those plans, alternatives, and coordination agreements and information required by the Department to facilitate that evaluation*
  - § 350. Authority and Purpose
  - § 350.2. General Principles

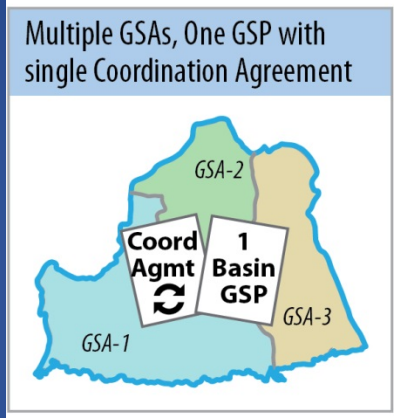
DRAFT GSP Emergency Regulations - Subject to Revision

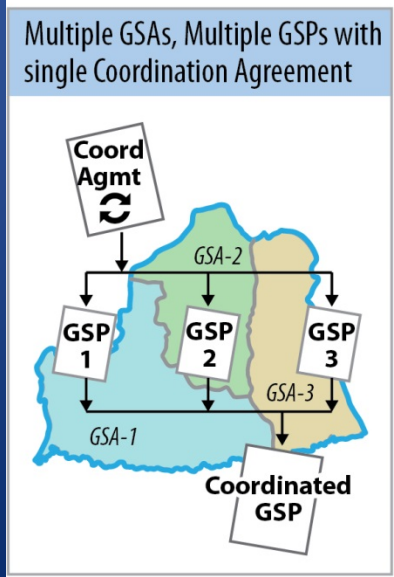
Article 1.
Introductory Provisions

NATURE OF COMMENTS:

- General principles should be expanded to include:
  - Requirement to address uncertainty & data gaps
  - Overview of Substantial Compliance
  - DWR and Local Agency responsibilities
- Clarity
  - "Agency" can mean multiple "Agencies"

  "Plan" can mean multiple "Plans"

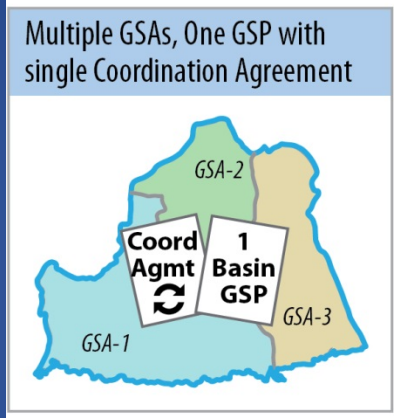


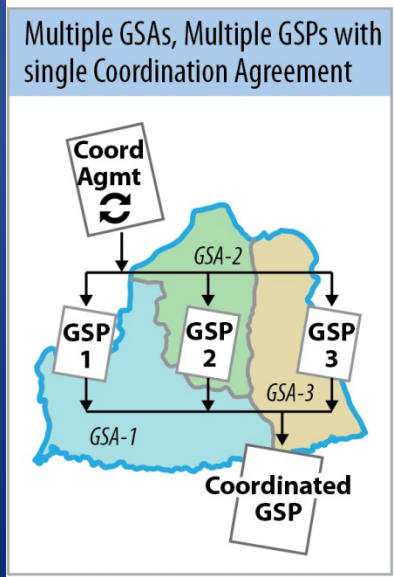


Article 1.
Introductory Provisions

POSSIBLE REVISIONS:

- Expand general principles to include:
  - Adequate Monitoring
  - Uncertainty & data gaps
  - Substantial Compliance
  - Sustainability Goal must be achieved in 20 years
  - DWR and Local Agency Responsibilities
  - State Agency's Human Right to Water Obligation
- Add <u>Applicability Section</u> to ensure clarity and allowance for "Agency" & "Agencies" and "Plan" & "Plans"





Comments By Regulation Article

Article 2. Definitions
§ 351. Definitions

ARTICLE OVERVIEW

- Key terms used in the GSP/Alt Regulations

NATURE OF COMMENTS:

- Add SGMA definitions to regulations
- Add definition for Groundwater Dependent Ecosystem
- Remove definition for Coordinating Agency

POSSIBLE REVISIONS:

- Add definition for:
  - Groundwater Dependent Ecosystems
  - Uncertainty and Data Gap
- Remove: Coordinating Agency
- Revise: Management Area
- Other edits to improve regulation

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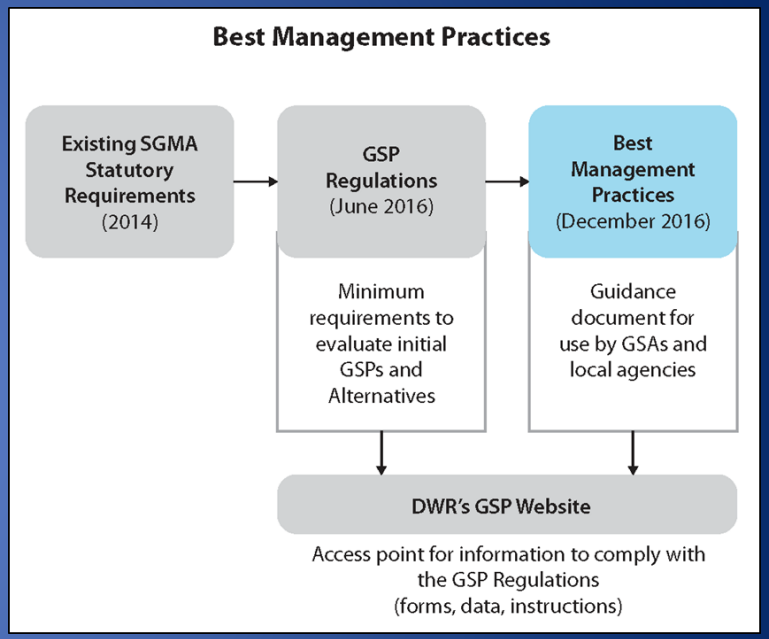
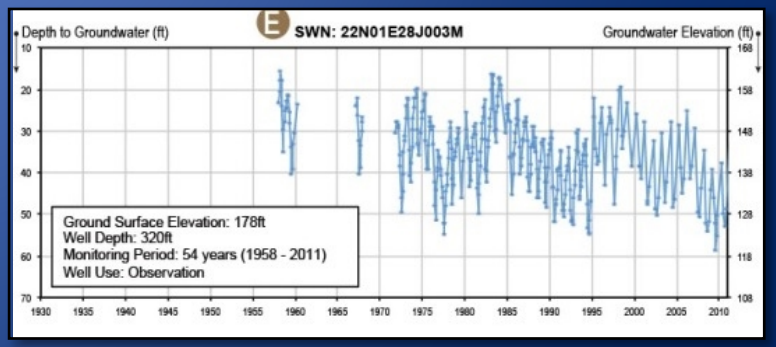
Comments By Regulation Article

Article 3.
Technical and Reporting Standards

ARTICLE 3 OVERVIEW:

- *Describes use of best management practices and minimum standards for monitoring sites and other technical matters appropriate to develop or monitor the implementation of a Plan.*
  - § 352.4. Best Management Practices (BMPs)
  - § 352.6. Data and Reporting Standards
  - § 352.8. Data Management and Recordkeeping





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Article 3.
Technical and Reporting Standards

NATURE OF COMMENTS:

- BMPs appear to be either:
  - Outside of SGMA intent/authority
  - Too onerous
  - Confusing as to who is responsible for developing (DWR or GSA?)
- Certain technical standards too onerous

POSSIBLE REVISIONS:

- Replace BMPs with monitoring protocols
- Refine select standards to allow compliance with comparable standards
- Other edits to improve regulation

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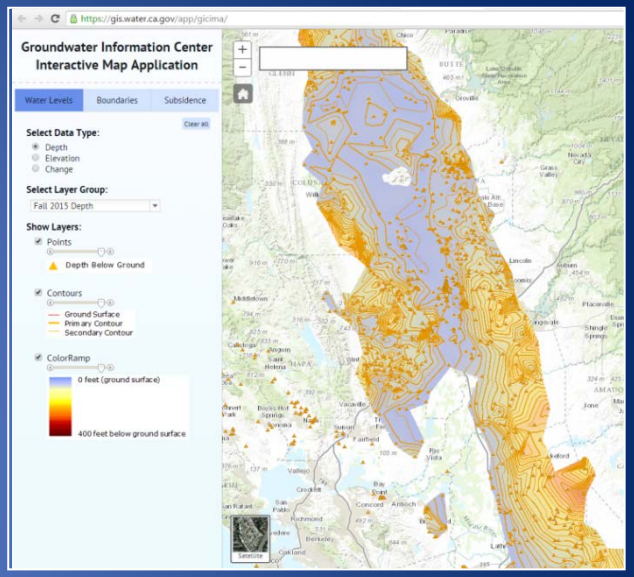
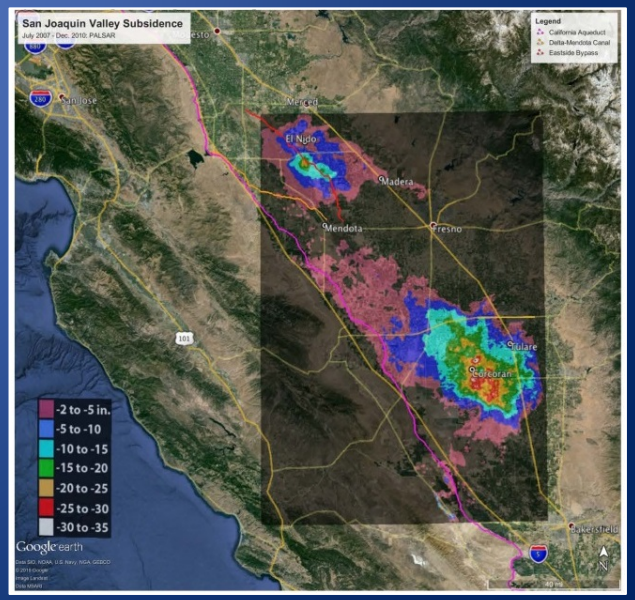
Comments By Regulation Article

Article 4. Procedures

ARTICLE 4 OVERVIEW:

- *Describes procedural and notification requirements related to the submission of Plans and public comment to those Plans.*
  - § 353.2. Information Provided by Department
  - § 353.4. Reporting Provisions
  - § 353.6. Initial Notification
  - § 353.8. Public Comment
  - § 353.10. Withdrawal or Amendment of Plan





Article 4. Procedures

NATURE OF COMMENTS:

- Concerns public comment language appears to require comments "rely on similar scientific information"
- "Certification under penalty of law" is unnecessary and duplicative with Plan submission

POSSIBLE REVISIONS:

- Remove "rely on similar scientific information" public comment recommendation
- Remove "certification under penalty of law"
- Other edits to improve regulation

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Comments By Regulation Article

Article 5. Plan Contents

ARTICLE 5 OVERVIEW:

- *Describes required contents of Plans*
  - Subarticle 1. Administrative Information
  - Subarticle 2. Basin Setting
  - Subarticle 3. Sustainable Management Criteria
  - Subarticle 4. Monitoring Networks
  - Subarticle 5. Projects and Management Actions

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Article 5. Subarticle 1. Administrative Information

SUBARTICLE 1 OVERVIEW:

- § 354.2. Introduction to Administrative Information
- § 354.4. Executive Summary
- § 354.6. Agency Information
- § 354.8. Description of Plan Area
- § 354.10. Notice and Communication

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Article 5. Subarticle 1. Administrative Information

NATURE OF COMMENTS:

- Financial ability to implement plan including revenues and costs too onerous and speculative
- Evaluation of land use plans outside of Plan are too onerous and often not necessary
- Including maps of “all” wells in the basin too onerous, not practical, and not necessary

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Article 5. Subarticle 1. Administrative Information

POSSIBLE REVISIONS:

- Reduce financial information required
- Revise evaluation of land use plans outside Basin as optional
- Remove many uses of the word “all”
- Other edits to improve regulation

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Article 5. Plan Contents

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  - Subarticle 5. Projects and Management Actions

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Article 5. Subarticle 2. Basin Setting

SUBARTICLE 2 OVERVIEW:

- § 354.12. Introduction to Basin Setting
- § 354.14. Hydrogeologic Conceptual Model
- § 354.16. Basin Conditions
- § 354.18. Water Budget
- § 354.20. Management Areas

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Article 5. Subarticle 2. Basin Setting

NATURE OF COMMENTS:

- Clarify responsibility to identify, prioritize, and reduce significant uncertainty and data gaps
- Remove or revise water quality as requirements are either unnecessary or are in conflict with existing Federal, State, or local water quality programs
- Support for water budget requirements
- Remove water budget requirements
- Support for Management Areas concept and broadening language

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Article 5. Subarticle 2. Basin Setting

POSSIBLE REVISIONS:

- Strengthen language requiring the reduction of uncertainty
- Some reduction of water quality requirements
- Retain water budget requirements
  - but edits for clarity
    - Removing many uses of “all”
    - DWR provided information
- Broaden Management Areas language
- Other edits to improve regulation

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Article 5. Plan Contents

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  - Subarticle 4. Monitoring Networks
  - Subarticle 5. Projects and Management Actions

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Article 5. Subarticle 3. Sustainable Management Criteria

SUBARTICLE 3 OVERVIEW:

- § 354.22. Introduction to Sustainable Management Criteria
- § 354.24. Sustainability Goal
- § 354.26. Undesirable Results
- § 354.28. Minimum Thresholds
- § 354.30. Measurable Objectives

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Article 5. Subarticle 3. Sustainable Management Criteria

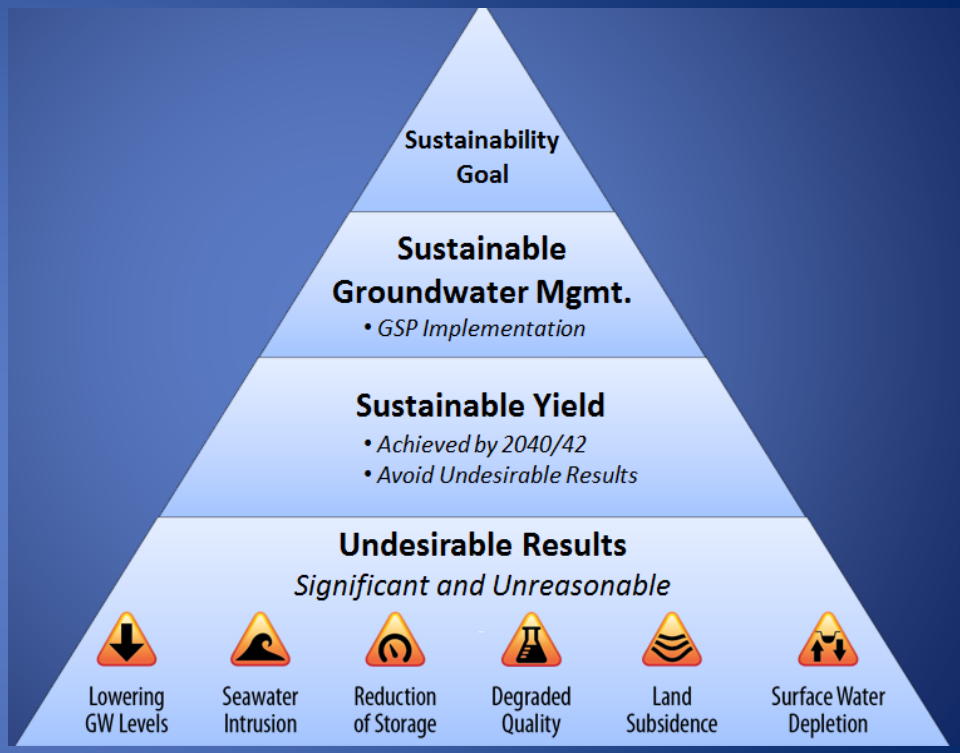
NATURE OF COMMENTS:

- Support for concepts and structure but suggestions for added clarity
  - sustainability goal, sustainable yield, undesirable results, and minimum thresholds
- Reduce or eliminate most of the SGM criteria, especially minimum threshold water quality requirements
- Remove additional 5 year allowance to establish a minimum threshold for depletions of interconnected surface water

Article 5. Subarticle 3. Sustainable Management Criteria

POSSIBLE REVISIONS:

- Maintain all minimum threshold requirements including water quality (WQ) but add flexibility for WQ indicator
- Add requirement that minimum threshold not infringe on other WQ regulations



- Remove additional 5 year allowance for the minimum threshold for depletions of interconnected surface water
  - Recognize/allow for a wide estimate range until uncertainty can be reduced
- Other edits to improve regulation

Article 5. Plan Contents

ARTICLE 5 OVERVIEW:

- *Describes required contents of Plans*
  - Subarticle 1. Administrative Information
  - Subarticle 2. Basin Setting
  - Subarticle 3. Sustainable Management Criteria
  - Subarticle 4. Monitoring Networks
  - Subarticle 5. Projects and Management Actions

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Article 5. Subarticle 4. Monitoring Networks

SUBARTICLE 4 OVERVIEW:

- § 354.32. Introduction to Monitoring Networks
- § 354.34. Monitoring Networks
- § 354.36. Representative Monitoring
- § 354.38. Assessment and Improvement of Monitoring Network
- § 354.40. Reporting Monitoring Data to the Department

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Article 5. Subarticle 4. Monitoring Networks

NATURE OF COMMENTS:

- Remove or revise water quality as requirements are duplicative with monitoring requirements to meet other Federal, State, or local water quality programs

POSSIBLE REVISIONS:

- Revise water quality monitoring to ensure consistency with other water quality changes
- Other edits to improve regulation

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Article 5. Plan Contents

ARTICLE 5 OVERVIEW:

- *Describes required contents of Plans*
  - Subarticle 1. Administrative Information
  - Subarticle 2. Basin Setting
  - Subarticle 3. Sustainable Management Criteria
  - Subarticle 4. Monitoring Networks
  - Subarticle 5. Projects and Management Actions

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Article 5. Subarticle 5. Projects and Management Actions

SUBARTICLE 5 OVERVIEW:

- § 354.42 Introduction to Projects and Management Actions
- § 354.44. Projects and Management Actions

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Article 5. Subarticle 5. Projects and Management Actions

NATURE OF COMMENTS:

- Support for Contingency Projects/Actions
- Opposition for Contingency Projects/Actions

POSSIBLE REVISIONS:

- Revise Contingency Projects/Actions ??
- Other edits to improve regulation

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Comments By Regulation Article

Article 6.
Evaluation and Assessment

ARTICLE 6 OVERVIEW:

- *Describes methodology and criteria for the evaluation and assessment of a Plan.*
  - § 355.2. Department Review of Initial Adopted Plan
  - § 355.4. Criteria for Plan Evaluation
  - § 355.6. Periodic Review of Plan by Department
  - § 355.8. Consultation with Board
  - § 355.10. Resolution of Conflict by Department

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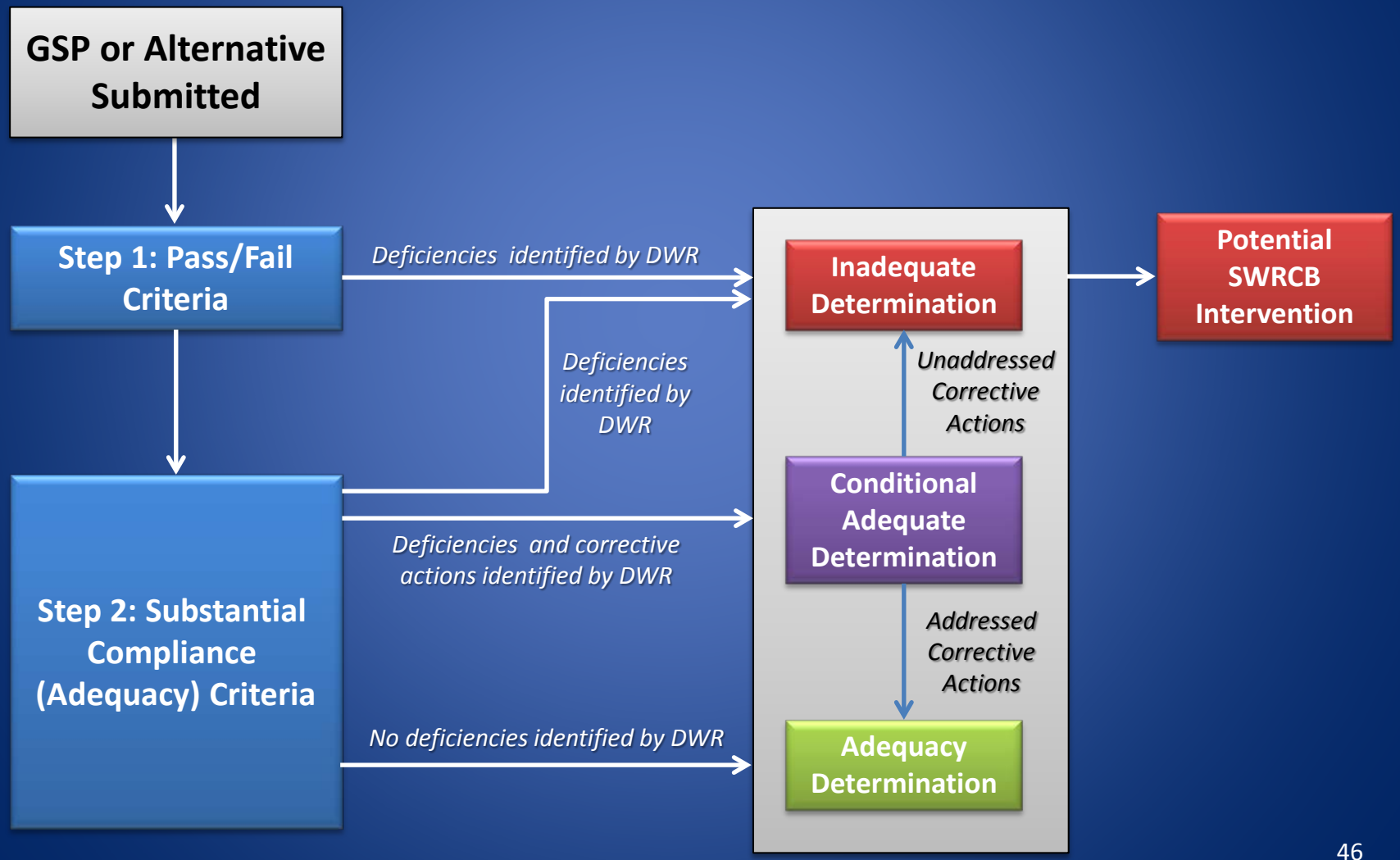
Evaluation and Assessment

§ 355.4. Criteria for Plan Evaluation



Article 6.
Evaluation and Assessment

NATURE OF COMMENTS:

- Substantial Compliance
  - Strong support and suggestions for expanding flexibility
  - Remove or significantly reduce flexibility
- Revise/delete the 11 substantial compliance criteria
- Remove "Resolution of Conflict by Department" as it overlaps with the Agency and potential State Board responsibility
- DWR should only be able to review Plan adequacy at 5 year interim milestones

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Article 6.
Evaluation and Assessment

POSSIBLE REVISIONS:

- Maintain term but refine substantial compliance for clarity
  - correspondingly remove many uses of word “all” and other qualifying words (ex. adequate, reasonable, acceptable, significant, etc)
- Revise 11 substantial compliance criteria
- Remove “Resolution of Conflict by Department”
- Retain DWR’s SGMA authority allowing the evaluation of Plan implementation
- Other edits to improve regulation

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Comments By Regulation Article

Article 7. Reports, Assessments, and Amendments

ARTICLE 7 OVERVIEW:

- *Describes procedural and substantive requirements for:*
  - Subarticle 1. Annual Reports
  - Subarticle 2. Periodic Evaluation of Plan
  - Subarticle 3. Plan Amendments

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Article 7. Reports, Assessments, and Amendments

NATURE OF COMMENTS:

- Definition of Water Year (Calendar or other) should be Agency's discretion

POSSIBLE REVISIONS:

- Retain SGMA defined Water Year (Oct 1 – Sept 30) for statewide consistency and evaluation
- Other edits to improve regulation

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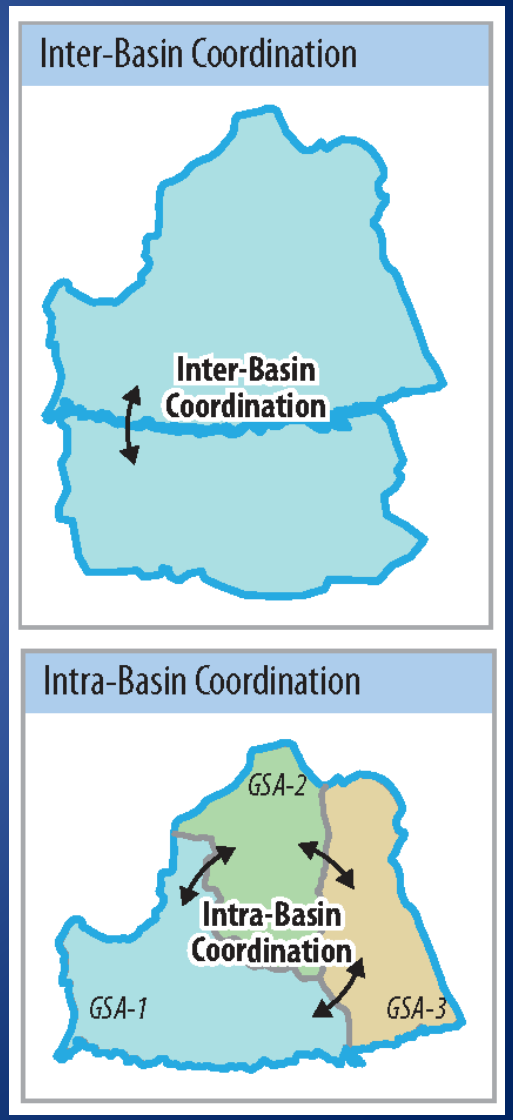
Comments By Regulation Article

Article 8.
Coordination Agreements

ARTICLE 8 OVERVIEW:

- *Describes requirements for coordination agreements between agencies in different basins and between agencies within a basin developed pursuant to Water Code*
  - § 357.2. Inter-basin Coordination (Voluntary)
  - § 357.4. Intra-basin Coordination (Mandatory)



ARTICLE 8 OVERVIEW (cont.): GSP Coordination

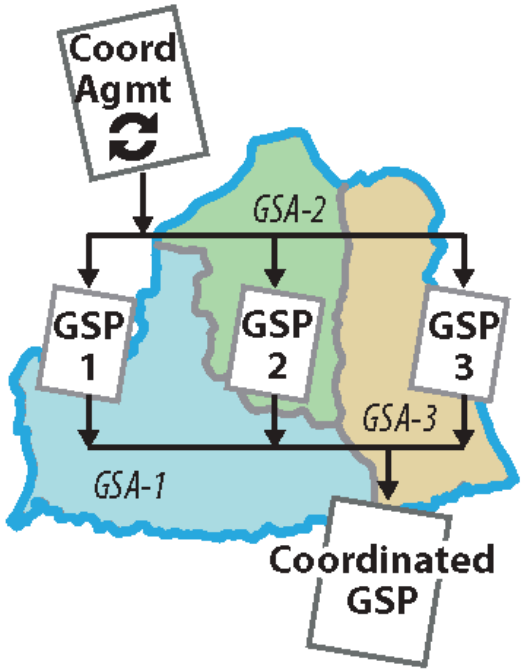
Options for GSA Formation and GSP Development

One GSA, One GSP

Multiple GSAs, One GSP with optional Coordination Agreement

- Coordination agreement is optional, *but* recommended
- Identification of a *Coordinating Agency* is required

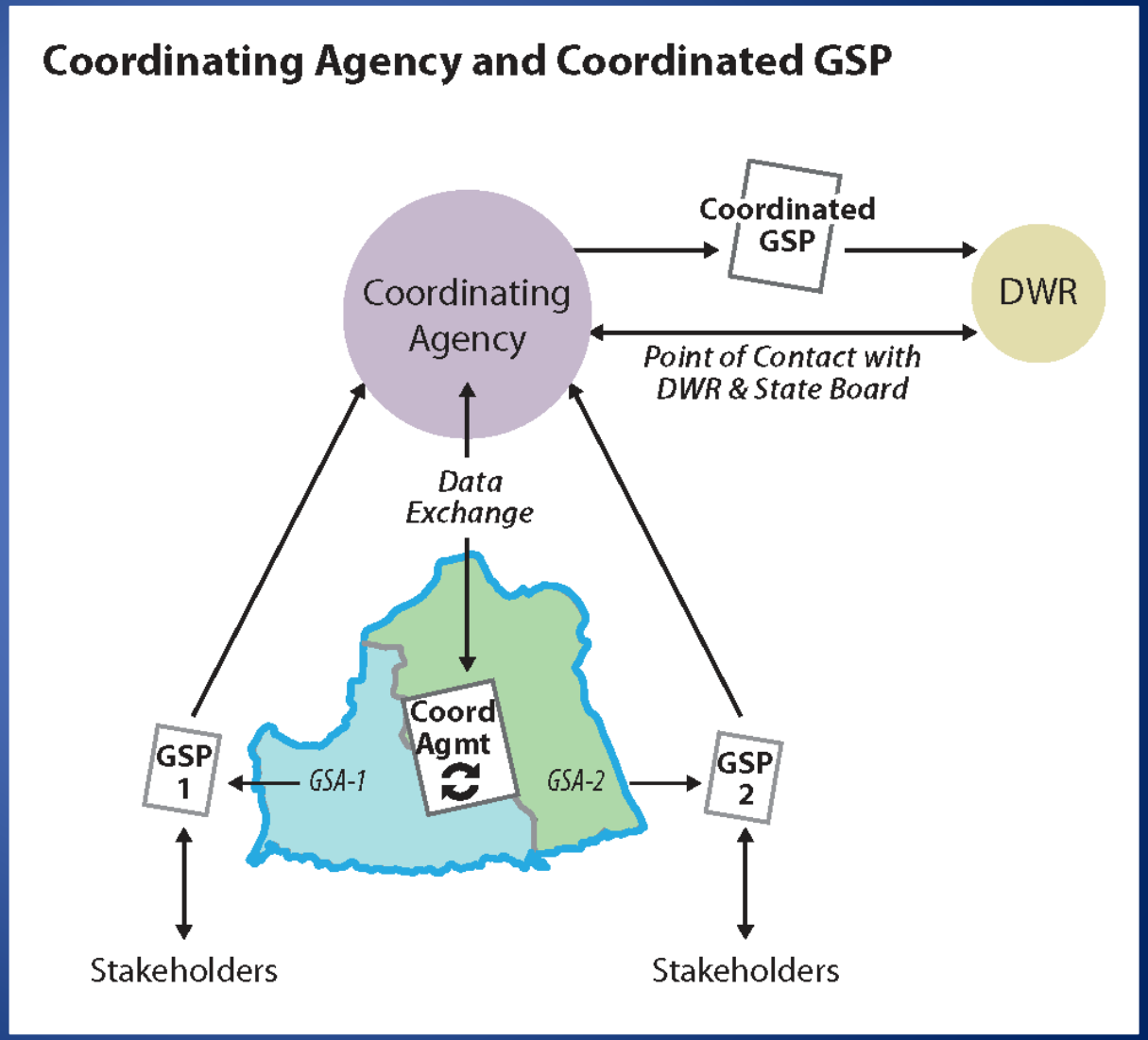
Multiple GSAs, Multiple GSPs with required Coordination Agreement



- A single coordination agreement that covers the entire basin is required
- Identification of a *Coordinating Agency* is required

ARTICLE 8 OVERVIEW (cont.):
Coordinating Agency

- GSA or other authorized entity
- Represents two or more GSAs or GSPs for a basin
- Responsible for synthesizing and summarizing multiple GSPs



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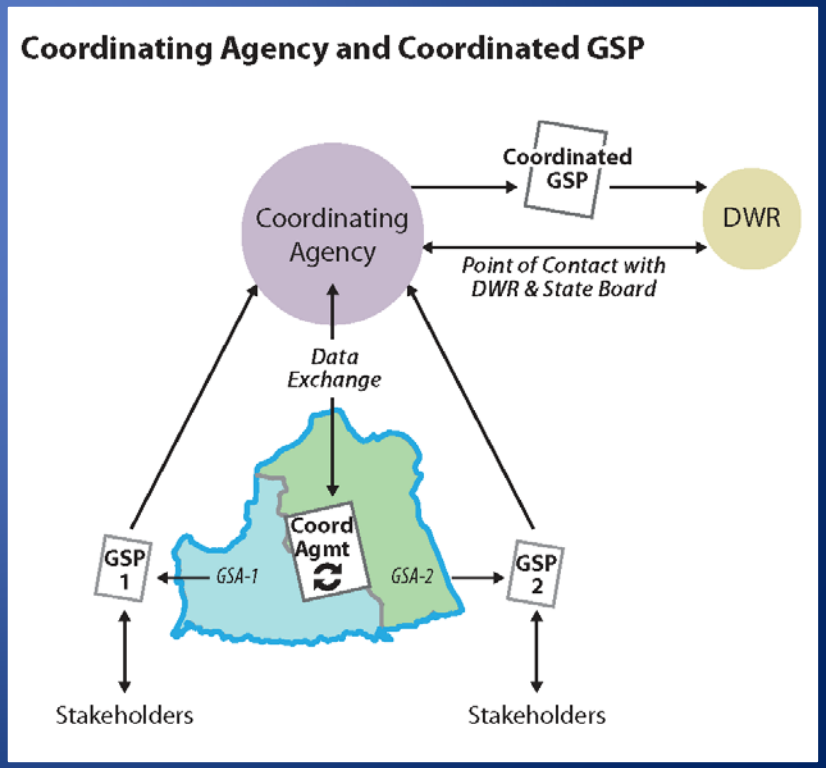
Article 8. Coordination Agreements

NATURE OF COMMENTS:

- Interbasin: All of the individual requirements for Interbasin coordination should be optional

- Intrabasin: Delete Coordinating Agency as it is not supported in SGMA and creates unnecessary hierarchical governance
- Intrabasin: Coordination agreement requirements are:
  - Too prescriptive and exceed SGMA intent
  - Appropriate as intended in SGMA

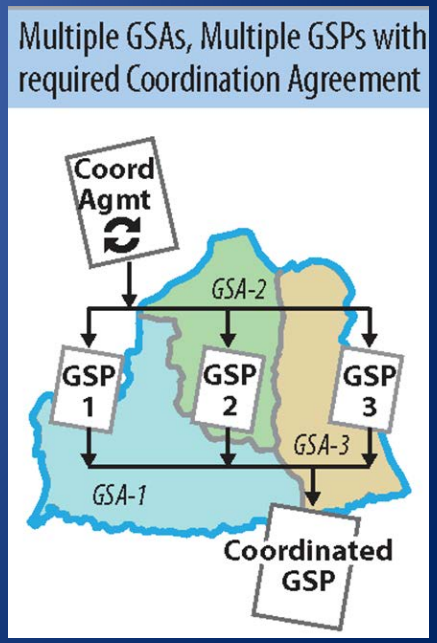


Article 8.
Coordination Agreements

POSSIBLE REVISIONS:

- Interbasin: Clarity that all suggested recommendations for Interbasin coordination be optional.

- Intrabasin: Remove Coordinating Agency term and all responsibilities of this entity
  - Add requirement for a point of contact in the Coordination Agreement
- Intrabasin: Retain Coordination Agreement requirements but clarify and align to SGMA
- Other edits to improve regulation



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Comments By Regulation Article

of Comments

Article 9.
Alternatives and Adjudicated Areas

ARTICLE 9 OVERVIEW:

- *Describes methodology and criteria for the submission and evaluation of alternatives to a Plan and for adjudicated areas.*
  - § 358.2. Adjudicated Areas Subject to Water Code 10720.8
  - § 358.4. Alternatives to Groundwater Sustainability Plans
  - § 358.6. Department Evaluation of Plan Alternatives

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Article 9.
Alternatives and Adjudicated Areas

NATURE OF COMMENTS:

- "Functional equivalency" term is unclear creating concerns that the January 1, 2017 due date cannot be met
- Alternatives should be evaluated on objectives of SGMA only, not GSP regulation criteria
- The 10-year period from 2005-2015 does not reflect average hydrologic conditions, is too restrictive, and should be determined by the Agency

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Article 9.
Alternatives and Adjudicated Areas

POSSIBLE REVISIONS:

- Add clarity to the functional equivalent language to ensure understanding for those preparing an Alternative
- Maintain evaluation criteria on the objectives of SGMA <u>and</u> GSP regulations
- Allow flexibility for determination of the 10 year period in combination with current conditions

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Comments By Regulation Article

General Comments

NATURE OF COMMENTS:

- Appreciation for DWR's numerous stakeholder meetings and transparent process in developing regulations
- Concerns prescriptive requirements in regulations will create challenges for Plan development and implement
- Concerns of the cost to implement

POSSIBLE REVISIONS:

- Recognition that Plans will improve with time
- Future technical, local, and financial assistance will be provided by the DWR
- Other edits to improve regulation

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Next Steps

Next Steps

- Early May – Release Draft Final version of GSP Regulations
- May 18 - Present Draft Final GSP Regulations to CWC for consideration and possible adoption
- June - Submit adopted GSP Regulations to Office of Administrative Law

DRAFT GSP Emergency Regulations - Subject to Revision

Thank You