

**STATE OF CALIFORNIA  
DEPARTMENT OF WATER RESOURCES  
3310 EL CAMINO AVE  
SACRAMENTO, CA 95814**

**DIVISION 2, CHAPTER 4.5, SECTIONS 570-576, OF THE CALIFORNIA CODE OF  
REGULATIONS**

**REGARDING FINANCIAL ASSISTANCE FOR FLOOD MANAGEMENT PROJECTS  
AND SMALL FLOOD MANAGEMENT PROJECTS**

**INITIAL STATEMENT OF REASONS**

**A. Rulemaking Authority**

Assembly Bill No. 1788 (AB 1788) was approved by the Governor on September 30, 2010. The legislation amends the requirements and contribution level for state participation in flood management projects authorized or approved beginning January 1, 2002. AB 1788 revises Water Code Section 12585.7.

**B. Purpose of Regulatory Action**

The proposed regulations are necessary to update the evaluation process for determining the increase in State cost-share for disadvantaged communities on a consistent basis, to provide supplemental rules for meeting objectives previously defined in regulations, and to identify relevant terms and definitions for clarity.

**C. Rational for Changes to Existing Regulations**

Revised Water Code Section 12585.7 updates existing requirements for flood management projects to qualify for state financial assistance and establishes requirements for economically disadvantaged community flood management projects to qualify for increased state funding. This section also updates the level of available state financial assistance for communities up to a 70 percent maximum based on a project's contribution to any of the five objectives specified in the legislation. The objectives relate to habitat, open space, recreational opportunities, financially disadvantaged communities, and state transportation and water supply facilities. The purpose of the proposed rulemaking is to provide the required updates to the existing regulations in accordance with legislative intent of AB 1788.

Assembly Bill 5, codified in Water Code Section 9625, required DWR to develop cost-sharing formula guidelines. DWR was required during this process to draft a Cost-Sharing Formulas Guidelines document, present this document for public review and comment, hold public hearings, finalize the document with changes, and present the final document to the public. DWR used language from the existing CCR Section 570 through 576 regulations for their Draft Cost-Sharing Formula Guidelines document with the exception of the Impoverished Area cost-sharing formula, which are being addressed here as part of Assembly Bill 1788, codified in Water Code Section 12585.7. The public comments on the cost-sharing formulas identified deficiencies within the regulation language. Public comments requested changes and clarifications to the language taken from the existing regulations. Many of these comments, after careful review by DWR, were seen as warranted changes which would improve State cost-

sharing programs and which were consistent with the legislative intent of Water Code Section 12585.7. The Final Cost-Sharing Formula Guidelines were published in December of 2010. When DWR began to make updates to CCR sections 570-576, according to updated Water Code Section 12585.7, changes and clarifications from the recently published Cost-Sharing Formula Guidelines document were incorporated.

In CCR Section 575 through 576, DWR has added conditions for assessing final project cost-share by utilizing the final project expenditures to calculate actual contribution amounts to any objectives. DWR conditions that a recommendation for cost-share amount based on preliminary project budgets will be provided to legislature for approval. The legislature can decide to give DWR the authority to make adjustments to the cost-share amount based on any changes to the project costs throughout the project. Any adjustments made by DWR will be reported to legislature at the close of each project.

In CCR Section 574, DWR removed the necessity for three separate technical experts to review a Draft Nonfederal Cost-Sharing Report. This change was necessary as DWR and the Board have limited resources. DWR believes that without specifying a number of experts, the statement already establishes the need to have specific experts. The particular expertise of each expert could be in one or more resources.

#### D. Reasonable Alternatives

DWR found that no alternative would be more effective in carrying out cost sharing updates for economically disadvantaged areas, nor would another alternative be as effective as or less burdensome to those affected than the proposed regulation changes.

#### E. Economic Impacts

The proposed regulations deal exclusively with relationships between state government and local government. Therefore, these proposed regulations will not have a significant, statewide adverse impact directly affecting business. The updates will neither create nor eliminate jobs and businesses, nor will they require business reporting. These proposed regulations will not affect small businesses. There is no known existing or comparable federal regulation or statute. The Department has proposed regulations that are consistent with federal statutes and regulations, and avoided unnecessary duplication or conflict.

An approved project can increase housing costs because improved flood protection raises the potential market value of housing, however, in many cases, the improved flood protection reduces the cost of flood insurance. These proposed regulations only provide a method for determining the State's reimbursement for part of the project; they do not approve a project.

#### F. Material Relied Upon for Updated Regulations:

- 1) The Open Space and Recreation Plan Requirements, Commonwealth of Massachusetts, Executive Office of Environmental Affairs, Boston; MA, undated, was used to provide guidance in writing an updated definition and assessment for open space contributions. This document is available on the Internet at <http://www.mass.gov/envir/dc/s/pdf/planningRequirement.pdf>.

- 2) The Guidelines for Establishing Local Agency Cost-Sharing Formulas for Flood Programs and Projects, California Department of Water Resources, dated October 2010, was adopted to comply with Assembly Bill 5, Sec. 26, of the California Water Code Sec. 9625. This document is available on the Internet at [http://www.water.ca.gov/floodsafe/docs/FinalDraft\\_OnlinePosting\\_CostShareFormulaGuidelines.pdf](http://www.water.ca.gov/floodsafe/docs/FinalDraft_OnlinePosting_CostShareFormulaGuidelines.pdf)