

**STATE OF CALIFORNIA
DEPARTMENT OF WATER RESOURCES
INITIAL STATEMENT OF REASONS**

Amend and add to Chapter 2.7 Sections 490-495
Title 23, Division 2, California Code of Regulations
Model Water Efficient Landscape Ordinance

(A) Date of Initial Statement of Reasons

January 29, 2008

(B) Dates and Locations of Public Hearings

The Department will conduct two public hearings on the proposed text of the regulations (Model Water Efficient Landscape Ordinance).

1st Public Hearing

March 25, 2008
9:00 AM
Resources Agency Building Auditorium
1416 9th Street
Sacramento, California 95814

2nd Public Hearing

March 27, 2008
9:00 AM
Inland Empire Utilities Agency
6075 Kimball Avenue
Chino, California 91708

(C) Description of Regulatory Action

Statement of Specific Purpose of Regulation Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary.

The purpose is to update Model Water Efficient Landscape Ordinance necessary to specify requirements for the efficient use of water as authorized by Sections 65595 and 65596 of the "Water Conservation in Landscaping Act" (amended by Assembly Bill 1881 – Chapter 559, Statutes of 2006; approved by Governor Arnold Schwarzenegger on September 28, 2006). This rulemaking process is intended to update the regulation which is already in effect. The new requirements of AB 1881 require changes to the existing regulation.

The text of the proposed regulations reflect improvements for landscape and irrigation design plans, irrigation technologies, and water management for achievable water savings, which will reduce water and waste demand .

The Department of Water Resources (Department) is directed to update the Model Water Efficient Landscape Ordinance and adopt the updated Model Ordinance by January 1, 2009. All local agencies, including charter cities or charter counties, are required to adopt the updated Model Ordinance or adopt its own local landscape ordinance that is at least as effective as the updated Model Ordinance by January 1, 2010.

Changes to the text of regulations

Major and minor editorial changes are necessary to (1) improve the format and organization of the Model Ordinance; (2) clarify provisions and definition of terms in the Model Ordinance; (3) and specify the requirements under the “Water Conservation in Landscaping Act” (Statutes of 2006, AB 1881 Chapter 552 Section 65996 (a)-(m)).

The reasons for the proposed changes are set forth in detail below.

Title 23, Division 2, Chapter 2.7

In the text of the regulations, there are changes in spacing, capitalization, and punctuation. These are non-substantive changes not further discussed, except as described in the narrative below. The following narratives follow the text of regulations by section number (i.e., 490. Purpose, 490.1 Scope, 490.2 Intent, etc.).

Also, the overall numbering scheme and sequencing of the regulation is updated. The former numbering scheme did not conform to the subdivision system of the Office of Administrative Law (OAL).

Section 490. Purpose.

Section 490 is amended and expanded to include three new subsections. Section 490 Purpose is updated to mirror the identical language in Section 65993 of the “Water Conservation in Landscaping Act” (Act) (amended by Assembly Bill 1881 – Chapter 559, Statutes of 2006; approved by Governor Arnold Schwarzenegger on September 28, 2006).

Section 490.1. Scope.

A new subsection 490.1 Scope is added to provide additional clarity to the regulation. More specifically, subsection 490.1 Scope emphasizes the adoption requirements of the model ordinance by local agencies, which now include charter cities and charter counties, per Section 65595 of the Act.

Section 490.2. Intent.

A new subsection 490.2 Intent is added to provide additional clarity to the regulation. Subsection 490.2 Intent directs responsibility to local agencies that are charged with implementing and complying with the regulation. Also, this new subsection guides the local agencies to meet several requirements of the Act Section 65596 (c) which states: promote the benefits of consistent local ordinances in neighboring areas; Section 65596 (h) of the Act which states: seek to educate water users on the efficient use of water and the benefits of doing so; and Section 65996 (k) which states: encourage the use of economic incentives to promote the efficient use of water.

Section 490.3. Applicability.

The former Applicability Section 492 (a) and subsections (1), (2), and (3) are relocated to this section and renumbered as subsection 490.3 (1) and (2). The former section was considered to be buried under new and rehabilitated projects when in fact, there is applicability to existing landscapes and cemeteries, too. These changes are necessary to eliminate confusion and clearly identify, at the beginning of the regulation, the types of landscape projects that are subject and not subject to the ordinance.

Subsection 490.3. (1) and its items (a), (b), (c), (d), and (e), which replace the former Section 492 (a) (1) (A) and (B), is expanded to include date of effectiveness, a square footage condition, and other conditions to clarify landscape projects that are subject to the model ordinance such as new and existing landscapes, cemeteries, and homeowner-provided landscaping. The purpose of these changes is to apply the intent of the Act consistently to achieve water use efficiency. The date of effectiveness is required under Section 65995 of the Act.

The former subsection 492 (a) (2) is deleted. Under the new updates, this provision is no longer necessary.

Subsection 490.3. (2) and its items (a) through (e) are nearly identical to the former Section 492 (a) (3) with the exceptions of item (a) which is given a square footage condition and item (b) cemeteries which is deleted. Also, the update cites the requirement of Section 65596 (j) of the Act which states: exempt landscaping that is part of a registered historical site.

Section 491. Definitions

Section 491 is amended and added to. Changes are necessary to clarify the terms or words in the regulation and to reflect correct irrigation terminology. The only term deleted is automatic controller and replaced with controller. The following terms and meanings are updated: check valve, conversion factor, effective precipitation, emitter, established landscape, plant establishment period, Estimated

Total Water Use, Evapotranspiration (ET) adjustment factor, flow rate, hydrozone, irrigation efficiency, landscape area, Maximum Applied Water Allowance, mulch, overhead sprinkler system, plant factor, recreational areas, rehabilitated landscapes, soil moisture sensing device, turf, valve, and water conservation statement.

New terms and meanings added to the regulation are: Certificate of Completion, certified landscape irrigation auditor, certified irrigation designer, controller, common interest development, drip irrigation, hardscapes, Landscape Documentation Package, landscape architect, landscape contractor, landscape project, low volume irrigation, local agency, microclimate, precipitation rate, project applicant, rain sensor, swing joint, water conserving plant species, and Water Efficient Landscape Worksheet.

Section 492. Provisions for New Construction or Rehabilitated Landscapes.

There are significant changes to the former Section 492 and many new subsections are updated or added to be consistent with the requirements of the Act. Each subsection is detailed below.

Section 492.1. Compliance with Landscape Documentation Package.

In the former Section 492 (b), items 1, 2, and 3 have been deleted because they are no longer consistent with revised procedures. Yet, most of these items are retained in concept and updated as a new Section 492.1, Compliance with Landscape Documentation Package. Section 492.1 clarifies and tabulates provisions for each project applicant and the local agency regarding the Landscape Documentation Package and pre-installation requirements of the landscape project.

Section 492.2. Compliance with Certificate of Completion.

Section 492.2 is new and it also supplements Section 492.11. Certificate of Completion (formerly Section 492 (12)). Section 492.2 clarifies and tabulates provisions for each the project applicant and the local agency regarding the Certificate of Completion and post-installation requirements of the landscape project. These changes are necessary to reflect realistic procedures for observation and inspection of project installation and completion, and execution of the Certificate of Completion including clearly identifying the required elements and responsible parties, as well as, providing a sample form in Appendix C to ensure proper implementation and compliance.

Section 492.3. Waivers and Variances.

New Section 492.3 Waivers and Variances are added to clarify waivers and variances for the model ordinance. These changes are necessary to authorize a local agency to enforce the ordinance, but be able to waive the requirements under certain conditions.

Section 492.4. Penalties.

New Section 492.4 Penalties is added to clarify consequences such as penalties for non-compliance with the model ordinance. These changes are necessary to authorize a local agency to enforce the ordinance.

Section 492.5. Landscape Documentation Package.

Former Section 492 (b), items 1, 2, and are deleted (see Section 492.1 above).

Former Sections 492 (b) (4) regarding the landscape documentation package are deleted entirely but updated and renumbered as Section 492.5. The changes in Section 492.5 are necessary to reflect realistic procedures for review and approval of the Landscape Documentation Package including clearly identifying the required elements and responsible parties, as well as, providing new worksheets or forms to ensure proper implementation and compliance.

Former Sections 492 (b) (5) is deleted and relocated to new Section 494 Effective Precipitation. This change is necessary to consolidate all the provisions regarding effective precipitation into a single location.

Section 492.5. (a) through (f) now include only six required elements for the Landscape Documentation Package, where as the former section required twelve elements (a) through (l). These changes are necessary to separate out pre-installation requirements from post-installation requirements. The former Section 492 (b) items (g), (h), (i), and (j) are more effective as post-installation requirements which is covered under Section 492.2 above.

The former Section 492 (b) items (a), (b), (c), (d), (e), (f), (j), and (k) are updated and renumbered as Section 492.5. (a)(1), (a)(2), (a)(3), (a)(4), (b), (c), (d), (e), and (f) and are more effective as pre-installation requirements.

Former 492 (c) (1) is deleted but reformatted entirely into a new Water Efficient Landscape Worksheet as presented in Section 492.6.

Section 492.6. Water Efficient Landscape Worksheet.

Section 492.6. Water Efficient Landscape Worksheet consolidates four elements into one worksheet to improve user-friendliness and work flow. Appendix B provides a blank worksheet for project applicants to fill out.

Subsection 492.6. (1) is added to record essential information about a landscape project.

Subsection 492.6. (2) water use efficiency statement is updated to record a concise narrative of water use efficiency practices applied to a landscape project. This requirement is formerly the Water Conservation Concept Statement.

Subsection 492.6. (3) is added and details for the water budget calculations including Maximum Applied Water Allowance, Effective Precipitation, Estimated Water Use for Hydrozones and Estimated Total Water Use, and Estimated Applied Water Use. This new subsection in its entirety replaces the former Sections 492 (2), 492 (3), 492 (4). Overall, significant technical updates are made to this subsection: changes to the values in the equations, changes to the example calculations, addition of more user-friendly explanation of each water budget calculation and conversion, and update the reference evapotranspiration table based on the addition of California Irrigation Management Information System (CIMIS) data. Also, Section 65596 (b) of the Act which states: include a landscape water budget component that establishes the maximum amount of water to be applied through the irrigation system, based on climate, landscape size, irrigation efficiency, and plant needs.

Most notably, the “0.8” value for Evapotranspiration Adjustment Factor (ETAF) in the Maximum Applied Water Allowance formula of the former Section 492 (c) (2) is deleted and updated to “0.7.” In subsection 492.6 (a) (3), the change is necessary because of the findings in the Department’s report entitled “Draft Evapotranspiration Adjustment Factor White Paper,” the recommendations of the AB2717 Landscape Task Force Report “Water Smart Landscapes for California,” and the discussions with the ETAF Technical Advisory Committee. The Department conducted a literature search and reviewed the relevant available documents. The studies and data reviewed demonstrate that existing landscape irrigation system design, maintenance, and management are often poor and result in poor distribution uniformity and irrigation efficiency. The wide range of Distribution Uniformities and Irrigation Efficiencies observed by many investigators and cited in the White Paper, indicates that there are ample opportunities for irrigation improvements. Thus, the Department changed the ETAF value to 0.7 with the increase in irrigation efficiency from 62.5 percent to 71 percent.

Subsection 492.6. (3) is also consistent with Section 65596 (b) of the Act which states: include a landscape water budget component that establishes the maximum amount of water to be applied through the irrigation system, based on climate, landscape size, irrigation efficiency, and plant needs; and Section 65596 (e) which states: The model ordinance may include climate information for irrigation scheduling based on the California Irrigation Management Information System.

Subsection 492.6. (4) is added and details new requirements for hydrozones to assist a project applicant. These changes are necessary to reflect the requirements added to Sections 492.8 and 492.9.

Section 492.7 Soil Management Plan.

Former Section 492 (11) (A) is replaced by Section 492.7 Soil Management Plan. Former Section 492 (11) (B) is deleted here but relocated to Section 492.8 (1) (d). This section is updated per Section 65596 (f) of the Act which states: include provisions for onsite soil assessment and soil management plans that include grading and drainage to promote healthy plant growth and to prevent excessive erosion and runoff, and the use of mulches in shrub areas, garden beds, and landscaped areas where appropriate.

Section 492.8. Landscape Design Plan.

Overall, Section 492.8 in its entirety replaces former Sections 492 (5) (A), 492 (5) (B), and 492 (5) (C) because significant technical updates and changes are made.

Subsection 492.8 (1) (a) Plant Material replaces the former Section 492 (5) (A) Plant Selection and Grouping. It is necessary to include additional conditions for proper plant selection. It is also necessary to incorporate requirements of Section 65596 (a) of the Act which states: include provisions for water conservation and the appropriate use and groupings of plants that are well-adapted to particular sites and to particular climatic, soil, or topographic conditions. The model ordinance shall not prohibit or require specific plant species, but it may include conditions for the use of plant species or encourage water conserving plants. However, the model ordinance shall not include conditions that have the effect of prohibiting or requiring specific plant species; and Section 65996 (i) of the Act which states: address regional differences, including fire prevention needs. Also, this subsection includes provisions for invasive species of plants, and architectural guidelines for common interest developments.

Subsection 492.8 (1) (b) is new and details provisions for turf. It also incorporates the requirement of Section 65596 (m) of the Act which states: include provisions to minimize landscape irrigation overspray and runoff.

Subsection 492.8 (1) (c) Water Features is an update and replaces in its entirety former Section 492 (5) (B) Water Features (i) and (ii). It is necessary to include additional conditions for water features that influence the water budget to encourage the use of recycled water as required by the Act.

Subsection 492.8 (1) (d) Mulch is an update and replaces in its entirety former Section 492 (11) (B) to require a reasonable amount of mulch.

Subsection 492.8 (2) Specifications in its entirety replaces former Section 492 (5) (C) because significant technical updates and changes are made. Most of the former specifications are retained but they are now expanded and organized as Section 492.8 (2) (a), (b), (c), (d), (e), and (f). These changes are necessary to

reflect consistency with the specifications of the irrigation design plan and grading design plan.

Section 492.9. Irrigation Design Plan.

Overall, Section 492.9 in its entirety replaces former Sections 492 (6) (A) and 492 (6) (C) because significant technical updates and changes are made. Former Section 492 (6) (B) Recycled Water is deleted but updated and relocated as Section 492.16.

Subsections 492.9 (1) (a) System and (b) Hydrozones replaces Sections 492 (6) (A) (i) and (iii). These changes were necessary for the following reasons: the former section did not conform to the subdivision system of OAL; the former section lacked provisions for a complete irrigation system including important irrigation components; and the former section is outdated considering today's available irrigation technologies and improvements in irrigation equipment

Former Section 492 (6) (A) (ii) is updated and relocated as Section 492.15. Irrigation Efficiency.

Subsection 492.9 (2) Specifications in its entirety replaces former Section 492 (6) (C) because significant technical updates and changes are made. Most of the former specifications are retained but they are now expanded and organized as Section 492.9 (2) (a), (b), (c), (d), and (e). These changes are necessary to reflect consistency with the specifications of the landscape design plan and grading design plan.

Also, subsection 492.9 (1) and (2) incorporate requirements of Section 65596 (e) of the Act which states: include provisions for the use of automatic irrigation systems and irrigation schedules based on climatic conditions, specific terrains and soil types, and other environmental conditions. The model ordinance shall include references to local, state, and federal laws and regulations regarding standards for water-conserving irrigation equipment. The model ordinance may include climate information for irrigation scheduling based on the California Irrigation Management Information System; and Section 65596 (m) which states: include provisions to minimize landscape irrigation overspray and runoff.

Section 492.10. Grading Design Plan.

Overall, Section 492.10 in its entirety replaces former Sections 492 (10) (A) and (B) because significant technical updates and changes are made.

Most of the former specifications are retained but they are now expanded and organized as Section 492.10 (2) (a) and (b). These changes are necessary to reflect with the specifications of the landscape design plan and irrigation design plan.

Section 492.11. Certificate of Completion.

Overall, Section 492.11 in its entirety replaces former Section 492 (12) Certification, because significant technical updates and changes are made. These changes are necessary to provide clear direction and procedures for compliance with the ordinance, and execution of the Certificate of Completion including clearly identifying the required elements and responsible parties, as well as, providing a form in Appendix C to ensure proper implementation and compliance.

Section 492.12. Irrigation Scheduling.

Overall, Section 492.12 in its entirety replaces former Section 492 (7) because significant technical updates and changes are made. These changes are necessary to reflect new irrigation technologies and improvements in irrigation scheduling techniques. This section is also consistent with Section 492.9.1 (a) (2) requiring weather-based irrigation controllers, soil moisture based controllers, or other self-adjusting irrigation controllers.

Section 492.13. Landscape and Irrigation Maintenance Schedule.

The former Section 492 (8) Maintenance Schedule is updated and renumbered as subsection 492.13 Landscape and Irrigation Maintenance Schedule, The update is necessary to reflect the requirements of Section 65596 (l) of the Act which states: include provisions for landscape maintenance practices that foster long-term landscape water conservation. Landscape maintenance practices may include, but are not limited to, performing routine irrigation system repair and adjustments, conducting water audits, and prescribing the amount of water applied per landscaped acre.

Section 492.14. Landscape Irrigation Audits and Audit Schedule.

Overall, Section 492.14 in its entirety replaces former Section 492 (9) because significant technical updates and changes are made. These changes are necessary to incorporate a new reference document from the Irrigation Association entitled "*Certified Landscape Irrigation Auditor Training Manual.*" In addition, the other changes are necessary to provide procedures in conducting the landscape irrigation audits and submitting audit schedules including clearly identifying the required elements and responsible parties.

Section 492.15. Irrigation Efficiency.

In the former Section 492 (6) (A) (ii), the irrigation efficiency value of "0.625" is deleted and updated to a value of "0.71." The new subsection 492.15 reflects this change which is necessary because of improvements in irrigation efficiency has been reported due to new irrigation technologies in emission devices,

use of weather-based irrigation controllers, and overall potential for improved design, management, and maintenance of irrigation systems.

Details of the change are documented in the Department's report entitled "Draft Evapotranspiration Adjustment Factor White Paper."

Section 492.16. Recycled Water

This Section 492.16. updates the former Section 492 (6) (B) Recycled Water. It also incorporates the requirement of Section 65596 (g) of the Act which states: promote the use of recycled water consistent with Article 4 (commencing with Section 13520) of Chapter 7 of Division 7 of the Water Code.

Section 492.17. Stormwater Management.

This section is new and describes provisions for encouraging stormwater management to the overall landscape project. It is added per Section 65596 (d) requirement of the Act which states: encourage the capture and retention of stormwater onsite to improve water use efficiency or water quality.

Section 492.18. Public Education

Section 492.18. in its entirety replaces Section 492 (d) Public Education (1) and (2). These changes are necessary to emphasize the importance of educating all water users and direct local agencies to invest in public outreach efforts for water efficient landscapes.

Minor changes are made to the Model Homes subsection mainly to require all model homes, not just one, to comply with Section 492.18 (2). It also incorporates the requirement of Section 65596 (h) of the Act which states: seek to educate water users on the efficient use of water and the benefits of doing so.

Section 492.19. Environmental Review.

This section is new and addresses the non-applicability of the California Environmental Quality Act to the model ordinance for the reason stated. It also describes CEQA requirements for local agencies who review projects with potential environmental impacts.

Section 493. Provisions for Existing Landscapes.

Former Section 493 (a) is deleted but updated and renumbered as Sections 493.1 Landscape Irrigation Audits. The updates to Sections 493.1 are necessary to establish auditing requirements for existing landscapes that are consistent with auditing requirements of new construction or rehabilitated landscapes. In addition, changes are necessary to provide procedures in

conducting landscape irrigation audits for existing landscapes including clearly identifying the required elements and responsible parties.

Section 493.2 Waste Water Prevention updates and replaces the former Section 493 (b).

Section 494. Effective Precipitation.

Section 494 is updated to include the former subsection 492 (b) (5). This change is necessary to consolidate all the provisions regarding effective precipitation into a single location. The former Sample Effective Precipitation Disclosure Statement is reformatted and relocated to Section 495.3 Appendix D – Sample Effective Precipitation Disclosure Statement.

Section 495. Appendix A – Reference Evapotranspiration (ETo) Table.

Section 495 is updated, expanded, and reorganized as Appendices. Each Appendix A, B, C, D, and E are necessary to assist a local agency and a project applicant with the implementation and compliance of the regulation.

Technical updates are made to the former Section 495 Reference Evapotranspiration Table and renamed Section 495. Appendix A – Reference Evapotranspiration (ETo) Table. The ETo Table in the original model ordinance was developed by the University of California using a combination of pan evaporation data, lysimeter readings, and calculated values of ETo. The technical updates are necessary because new evapotranspiration data has become available since the adoption of the model ordinance in 1993. The source of the new data is the California Irrigation Management Information System (CIMIS), managed by the State of California Department of Water Resources. The new ETo Table incorporates data from both of these sources. The changes to the table add additional information by including more locations of cities and improve the accuracy of the data.

Each appendix below is a part of the regulation necessary for the proper implementation and compliance of the model ordinance:

Section 495.1 Appendix B – Sample Water Efficient Landscape Worksheet.

Subsection 495.1 Appendix B represents a blank Sample Water Efficient Landscape Worksheet with additional examples such as water budget calculations and hydrozone tables. This worksheet replaces former Section 492 (c) (1) Sample Water Conservation Concept Statement.

Section 495.2 Appendix C – Sample Certificate of Completion.

Subsection 495.2 Appendix C represents a blank Sample Certificate of Completion. This certificate replaces the former Section 492 (12) Sample Certificate of Completion.

Section 495.3 Appendix D – Sample Effective Precipitation Disclosure Statement.

Subsection 495.3 Appendix D represents a blank Sample Effective Precipitation Disclosure Statement. This disclosure statement updates the former Section 494 disclosure statement.

Section 495.4 Appendix E – Conversion Factors and Calculations.

Subsection 495.4 Appendix E represents Conversion Factors and Calculations used in the model ordinance.

Legislative Mandated Changes to the Regulation

Updating the Model Ordinance required the following legislatively mandated changes to the regulation under Section 65996 (a)-(m) of the Act, to reduce water use:

- (a) Include provisions for water conservation and the appropriate use and groupings of plants that are well-adapted to particular sites and to particular climatic, soil, or topographic conditions. The model ordinance shall not prohibit or require specific plant species, but it may include conditions for the use of plant species or encourage water conserving plants. However, the model ordinance shall not include conditions that have the effect of prohibiting or requiring specific plant species.
- (b) Include a landscape water budget component that establishes the maximum amount of water to be applied through the irrigation system, based on climate, landscape size, irrigation efficiency, and plant needs.
- (c) Promote the benefits of consistent local ordinances in neighboring areas.
- (d) Encourage the capture and retention of stormwater onsite to improve water use efficiency or water quality.
- (e) Include provisions for the use of automatic irrigation systems and irrigation schedules based on climatic conditions, specific terrains and soil types, and other environmental conditions. The model ordinance shall include references to local, state, and federal laws and regulations regarding standards for water-conserving irrigation equipment. The model ordinance may include climate information for irrigation scheduling based on the California Irrigation Management Information System.

- (f) Include provisions for onsite soil assessment and soil management plans that include grading and drainage to promote healthy plant growth and to prevent excessive erosion and runoff, and the use of mulches in shrub areas, garden beds, and landscaped areas where appropriate.
- (g) Promote the use of recycled water consistent with Article 4 (commencing with Section 13520) of Chapter 7 of Division 7 of the Water Code.
- (h) Seek to educate water users on the efficient use of water and the benefits of doing so.
- (i) Address regional differences, including fire prevention needs.
- (j) Exempt landscaping that is part of a registered historical site.
- (k) Encourage the use of economic incentives to promote the efficient use of water.
- (l) Include provisions for landscape maintenance practices that foster long-term landscape water conservation. Landscape maintenance practices may include, but are not limited to, performing routine irrigation system repair and adjustments, conducting water audits, and prescribing the amount of water applied per landscaped acre.
- (m) Include provisions to minimize landscape irrigation overspray and runoff.

(D) Authority and Reference

Authority cited: Sections 65591, 65595, Gov. Code.

Reference: Sections 65591, 65595, 65596, 65597, Gov. Code.

Specific Technology or Equipment Required by Regulatory Change: None

Identification of Reports or Documents Supporting Regulation Change:

1. *"Draft Evapotranspiration Adjustment Factor White Paper"* State of California Department of Water Resources, December 2007.
2. *"Certified Landscape Irrigation Auditor Training Manual"* Irrigation Association (IA), September 2004.
3. *"Landscape Plant Salt Tolerance Selection Guide for Recycled Water Irrigation"* University of California Agriculture and Natural Resources (UC-ANR), 2005.
4. *"A Guide to Estimating Irrigation Needs of Landscape Plantings in California: The Landscape Coefficient Method and WUCOLS III"* University of California Cooperative Extension, State of California Department of Water Resources, United States Bureau of Reclamation (U.S.B.R.), August 2000.

Public Discussions of Proposed Regulations Prior to Notice of Rulemaking:

To prepare an updated regulation for release to the public in January 2008, the Department initiated a stakeholder and technical advisory process. DWR

invited and assigned stakeholders into groups based on their request and/or expertise in the subject matters of Evapotranspiration Adjustment Factor (ETAF), Plants, Irrigation, and Compliance. The Department held 12 public discussions or stakeholder meetings in 2007 and one informational meeting in 2008:

- Jan. 11, 2007 – ETAF Technical Advisory Committee (Sacramento, CA)
- Jan. 22, 2007 – ETAF Technical Advisory Committee (Sacramento, CA)
- Aug. 7, 2007– ETAF Technical Advisory Committee (Sacramento, CA)
- Oct. 18, 2007 – ETAF Technical Advisory Committee (Sacramento, CA)
- Oct. 30, 2007 – Stakeholder Meeting for Plant Group (Sacramento, CA)
- Nov. 14, 2007 – Stakeholder Meeting for Irrigation Group (Sacramento, CA)
- Nov. 15, 2007 – Stakeholder Meeting for Compliance Group (Sacramento, CA)
- Dec. 11, 2007 – Invitation: Irrigation Association Conference (San Diego, CA)
- Dec. 12, 2007 – Stakeholder Meeting for All Groups (Sacramento, CA)
- Dec. 12, 2007 – Invitation: Turf and Landscape Institute Meeting (Riverside, CA)
- Dec. 13, 2007 – Stakeholder Meeting for All Groups (Sacramento, CA)
- Dec. 18, 2007 – ETAF Technical Advisory Committee (Sacramento, CA)
- Jan. 28, 2008 – Final Stakeholder Meeting for All Groups (Sacramento, CA)

(E) Description of Reasonable Alternatives to Regulatory Action

No alternatives are considered because this regulation is already in effect. This rulemaking process is intended to update the regulation.

(F) Mitigation Measures Required by Regulatory Action

No mitigation measures are considered because this regulation is already in effect. This rulemaking process is intended to update the regulation.

(G) Impact of Regulatory Action

The Department has made the following initial determinations relative to the required statutory categories:

- a. Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States: None
- b. Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California:

Yes. The proposed regulations would result in creation of new businesses, or expansion of businesses in California.
- c. Cost Impacts on a Representative Private Person or Business: None

- d. Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None
- e. Nondiscretionary Costs/Savings to Local Agencies: None
- f. Programs mandated on Local Agencies or School Districts: Yes
- g. Costs Imposed on Any Local Agency or School District that is required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4:

None. No reimbursement is required because local agencies or school districts have the authority to levy service charges, fees, or assessments sufficient to pay for the costs associated with adopting and implementing the Model Ordinance.
- h. Effect on Housing Costs: None

(H) Informative Digest/Policy Statement Overview

The “Water Conservation in Landscaping Act” resulted in the State of California Department of Water Resources’ adoption of the Model Water Efficient Landscape Ordinance (Model Ordinance) in June 1992. While the Model Ordinance has been in effect since the 1990s, California’s human population and water demands continue to increase challenging the State’s water supplies. Having recognized the significant impact of irrigating outdoor landscapes has on water supplies and wanting to further reduce waste of water, the California Legislature has revisited the Model Ordinance.

In September 2004, the Legislature enacted AB 2717, Chapter 682, Statutes of 2004, to direct the California Urban Water Conservation Council (CUWCC) to convene a stakeholder workgroup, entitled “Landscape Task Force,” composed of public and private agencies, and associations to develop, evaluate and recommend proposals for improving the efficiency of water use in new and existing urban irrigated landscapes in California. The Landscape Task Force released their final report of 43 recommendations, entitled “Water Smart Landscapes for California,” on December 1, 2005 that will achieve the goal of greater landscape water use efficiency statewide. This report included recommendations for updating the Model Water Efficient Landscape Ordinance.

Assembly Bill 1881 (Chapter 559, Statutes of 2006) enacted into law on September 28, 2006, improves and strengthens the “Water Conservation in Landscaping Act.” A series of actions to be implemented by the Department, State Energy Resources Conservation Development Commission (CEC), local agencies including charter cities and counties, are targeted at improving the efficiency of water use in new and existing irrigated urban landscapes. The law recognizes that the

efficient use of water in landscape design, installation, maintenance, and management has a role in reducing water use and waste.

Most importantly, the Department is directed to amend and add to the Model Water Efficient Landscape Ordinance. The Department shall adopt the updated Model Ordinance by January 1, 2009. Section 490 of the updated Model Ordinance clarifies the legislative intent and describes the purpose.

The effect of the updated Model Ordinance is to provide guidance to local agencies in developing and adopting their own landscape ordinances. All local agencies, including charter cities or charter counties, are required to adopt the updated Model Ordinance or adopt its own local landscape ordinance that is at least as effective by January 1, 2010. If a local agency does not take any action, the updated Model Ordinance adopted by the Department shall take effect as of January 1, 2010 and have the same force and effect, as if adopted by the local agency. Local agencies who do not adopt the updated Model Ordinance must notify the Department as to whether it is subject to the law by January 31, 2010; if not, the local agency is required to submit a copy of its adopted landscape ordinance to the Department.