

FINAL STATEMENT OF REASONS

Pursuant to Administrative Procedures Act Government Code Section 11346.9

Department of Water Resources
 Title 23 Division 2 Chapter 2.7 Sections 490-495
 Model Water Efficient Landscape Ordinance

Table of Contents		
Section	Item	Page
A	Update on Initial Statement of Reasons	2
B	Important Dates of Notices and Rulemaking Activities	2
C	Comments received during the public comment periods	3
D	Description of Regulatory Action	3
E	Statutory provisions mandating the changes to the existing regulation	4
F	Changes to the Text of Regulations by Section	5
F1	Section 490 – Purpose	5
F2	Section 491 – Definitions	7
F3	Section 492 – Provisions for New and Rehabilitated Landscapes	9
F4	Section 493 – Provisions for Existing Landscapes	22
F5	Section 494 – Effective Precipitation	22
F6	Section 495 – Appendices	22
G	Summary and Responses from the noticed 45-day public comment period (February 8, 2008 through March 27, 2008)	23
H	Summary and Responses from the noticed and extended 15-day public comment period (November 26, 2008 through December 30, 2008)	158
I	Summary and Responses from the Late Filed Comments (Extended 15 Day Comments No. 71, No. 72 And No. 73)	216
J	Authority and Reference	223
K	Identification of Reports or Documents Supporting Regulation Change	223
L	Determinations	224
L1	Local Mandate, Gov. Code, 11346.5 (a) (5)	224
L2	Estimate of Cost and Savings, Gov. Code, 11346.5 (a) (6)	224
L3	Economic Impact on Small Business, Gov. Code, 11346.5 (a) (8)	224
L4	Alternatives, Gov. Code, 11346.5 (a) (13)	226
M	Revised Informative Digest	226

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A. UPDATE ON INITIAL STATEMENT OF REASONS

The Final Statement of Reasons, pursuant to Administrative Procedures Act Government Code Section 11346.9, is an update of information contained in the Initial Statement of Reasons. Consistent with Government Code Section 11347.3, the Department of Water Resources (the Department) has made a copy of its file of rulemaking in this matter available for public inspection.

B. IMPORTANT DATES OF NOTICES AND RULEMAKING ACTIVITIES

Date of Notice of Proposed Rulemaking: February 8, 2008

Date of Initial Statement of Reasons: February 8, 2008

Date of Notice of Modifications to the Proposed Regulation and Modified Text of Regulation:
November 26, 2008

Date of Notice of Addition of Documents and Information to Rulemaking File:
November 26, 2008

Statement of 15-Day Notice of Availability of Documents and Information:
November 26, 2008

Date of Notice on Status of Proposed Rulemaking: January 21, 2009

Date of Final Statement of Reasons: February 5, 2009

Dates of all public participation events (comment periods and hearings):

The mandatory 45-day public comment period on the Model Water Efficient Landscape Ordinance (Model Ordinance) was held February 8, 2009 to March 27, 2008. The Department of Water Resources also conducted two public hearings on the proposed regulation on March 25, 2008 in Sacramento, California and March 27, 2008 in Chino, California during the 45-day public comment period.

The first 15-day public comment period was extended to a 34-day comment period and it was held November 26, 2008 to December 30, 2008.

A notice was released on January 21, 2009 stating that no further substantive changes will be made to the Modified Text of the Proposed Regulation and that there were no additional 15-day public comment periods.

C. PUBLIC COMMENTS RECEIVED DURING THE COMMENT PERIODS

During the mandatory 45-day public comment period, the Department received 600 email messages, correspondences and faxes. Please refer to the Department's rulemaking file for copies of these comments. Pursuant to Government Code Section 11346.9 (a) (3) and (a) (5), the Department has summarized and responded to the comments beginning on page 22.

The Department received 70 email messages, correspondences and faxes during the extended 15-day public comment period. Please refer to the Department's rulemaking file for copies of these comments. Pursuant to Government Code Section 11346.9 (a) (3) and (a) (5), the Department has summarized and responded to the comments beginning on page 158.

In addition, the Department received late filed comments (Nos. 71, 72, and 73). Please refer to the Department's rulemaking file for copies of these comments (see extended 15 day comments). Pursuant to Government Code Section 11346.9 (a) (3) and (a) (5), the Department has summarized and responded to the comments beginning on page 215.

D. DESCRIPTION OF REGULATORY ACTION

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

This statement remains unchanged from the Initial Statement of Reasons with one exception.

The following statement was not included in the Initial Statement of Reasons that was published in the California Regulatory Notice Register (CRNR), February 8, 2008 (CRNR 2008, NO. 6-Z, p. 174) and therefore, added to the Final Statement of Reasons: "Governor Arnold Schwarzenegger in a February 29, 2008 press release announced a plan to achieve a 20 percent reduction in per capita water use statewide by 2020. The Department of Water Resources supports the proposed regulation as a mechanism that may help local agencies achieve the goals of the "20 x 2020" water efficiency plan."

Specific Technology or Equipment Required by Regulatory Change:

Equipment listed under irrigation design criteria is essential for monitoring and controlling long-term water use at the site. No specific brand of irrigation equipment is required.

Sensors (rain, freeze, wind, etc.), either integral or auxiliary, that suspend or alter irrigation operation during unfavorable weather conditions such as rain or a freeze shall be required on all irrigation systems, as appropriate for local climatic conditions.

Manual shut-off valves (such as a gate valve, ball valve, or butterfly valve) shall be required, as close as possible to the point of connection of the water supply, to minimize water loss in case of an emergency (such as a main line break) or routine repair

High flow sensors that detect and report high flow conditions created by system damage or malfunction are recommended.

E. STATUTORY PROVISIONS MANDATING CHANGES TO THE REGULATION

The Department of Water Resources was directed to make the following legislatively mandated changes to the regulation per Government Code, Section 65996 (a)-(m):

(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.

F. CHANGES TO THE TEXT OF REGULATIONS

Major and minor changes were necessary to (1) accommodate public comments received; (2) incorporate changes to clarify provisions and definition of terms; (3) specify the requirements under the statute (Government Code, Section 65996 (a)-(m)); and (4) make further changes which were determined to be non-substantive and not subject to the notice requirement in Government Code Section 11346.8 (c). The following terms are used to describe the progression of changes made to the regulation text:

- **Existing text** refers to the existing regulation in the California Code of Regulations Title 23, Section 490-495.
- **Originally noticed text** refers to the proposed text of regulations noticed on February 8, 2008.
- **Modified text** refers to the modified text of regulations noticed on November 26, 2008.
- **Non-substantive changes** refer to changes to proposed text after the extended 15-day comment period ended.
- **Final text** refers to the final text of regulations provided to the Office of Administrative Law for their 30-day review.

Each narrative below describes the progression of changes made to the regulation text and replaces what was previously published in the Initial Statement of Reasons. Numerous non-substantive changes such as numbering, sequencing, spacing, grammar, punctuation and clarification of provisions etc. were made to the modified text. The narratives follow the regulation text by section number (i.e., Section 490 Purpose, Section 491 Definitions, etc.) and they also may include relevant summaries of public comments and responses by the Department.

F1. Section 490.

In the originally noticed text, Section 490 was amended and expanded to include three new subsections – 490.1 Scope, 490.2 Intent and 490.3 Applicability. Since the originally notice text, additional changes were made as reflected in the modified text. Further changes also occurred after the extended 15-day comment period but the Department determined that these changes were non-substantive so the public was not required to be notified under Government Code Section 11346.8 (c).

Section 490 Purpose, in the originally noticed text, was updated to reflect the same language in statute (Government Code, Section 65993) and Section 490 (b) included minor changes to (1), (2) and (3). In the modified text, the Department relocated three provisions from Section 490.2 Intent to Section 490 (b), renumbered them as Section 490 (b) (4), (5) and (6) and made minor corrections to the authority and reference citations. The Department's intent with keeping these three provisions in the regulation was to encourage good faith efforts in the adoption and implementation of the Model Ordinance.

Section 490.1 Scope (Section 490.1 (1) (a), (b); (2) and (3)) was modified or deleted in its entirety because it duplicated the statutory requirements already present in Government Code Section 65595 (c) (1) and (2); Section 65595 (d) and Section 65595 (e), respectively. Section

490.2 Intent was also modified or deleted in its entirety but three of the provisions were relocated to Section 490 (b) as stated above.

Section 490.3 Applicability was retained from the originally noticed text but renumbered as Section 490.1 in the modified text. The applicability provisions were changed after the 15-day comment period but they were considered to be non-substantive. Below is a summary of these changes.

Section 490.1 (a) incorporated the effective date (January 1, 2010) into the provision followed by five (5) subsections, Sections 490.1 (a) (1), (2), (3), (4) and (5) that identify the types of project subject to the regulation. The most noticeable changes, which were carried through from the originally noticed text to modified text, were the inclusion of homeowner-provided landscape projects and cemeteries to Section 490.1 (they were previously exempt in the existing text). The types of landscape projects in Sections 490.1 (a) (1), (2) and (3) were given a landscape area threshold (square feet) and a mechanism – either a building or landscape permit, plan check or design review – to trigger compliance with the regulation.

Also as a result of the comments received during the 45-day comment period, the most substantial change (and noticed in the modified text) was that the homeowner-provided or homeowner-hired landscape area threshold was changed from 2,500 square feet to 5,000 square feet. This change was made in response to public comments that the 2,500 square feet threshold was too burdensome.

The Department further changed Sections 490.1 (a) (1) and (2) by deleting the words “total project.” The provisions now read: (a) After January 1, 2010, this ordinance shall apply to all of the following landscape projects: (1) new construction and rehabilitated landscapes for public agency projects and private development projects with a landscape area equal to or greater than 2,500 square feet requiring a building or landscape permit, plan check or design review; (2) new construction and rehabilitated landscapes which are developer-installed in single-family and multi-family residential projects with a landscape area equal to or greater than 2,500 square feet requiring a building or landscape permit, plan check or design review. This non-substantive change occurred after the extended 15-day period.

The Department further changed Sections 490.1 (a) (3) which reads: (3) new construction landscapes which are homeowner-provided and/or homeowner-hired in single-family and multi-family residential projects with a total project landscape area equal to or greater than 5,000 square feet requiring a building or landscape permit, plan check or design review.

Section 490.1 (b) was written to provide additional exemptions to the regulation. As a result of the comments received during the 45-day comment period, it was necessary to recognize that historical sites can have local, state or federal designations (see Section 490.1 (b) (1)) and botanical gardens and arboretums need an exemption because of their special plant collections (see Section 490.1 (b) (4)).

The Department determined that after the extended 15-day comment period no further changes were necessary for Section 490.1.

F2. Section 491. Definitions

In the originally noticed text, Section 491 Definitions were clarified and terms added. As a result of comments received during the 45-day comment period, all the definitions have been renumbered and many terms were additionally clarified. Further changes were also made to the definitions as a result comments received at the end of the extended 15-day comment period; but the Department determined that these changes were non-substantive so the public was not placed on notice required by Government Code Section 11346.8 (c). Below is a summary of the definition changes between the existing text and final text only. Refer to the originally noticed text and modified text for the progression of changes.

- **Application rate** was deleted from the existing text.
- **Automatic controller** was deleted from the existing text but replaced with “controller.” See controller below.
- **Anti-drain valve** was switched around so that the more commonly used term, “check valve,” was prominent. The definition was also changed.
- **Conversion factor** is an existing text but it was changed.
- **Certificate of Completion** is a new definition to the existing text.
- **Certified landscape irrigation auditor** is a new definition to the existing text. It was changed as a result of both the 45-day and extended 15-day comment periods to recognize other mechanisms that certify irrigation auditors. After the extended the 15-day period, further changes to this definition were considered non-substantive so the public was not placed on notice as required by Government Code Section 11346.8 (c).
- **Certified irrigation designer** is a new definition to the existing text. It was changed as a result of both the 45-day and extended 15-day comment periods to recognize other mechanisms that certify irrigation designers. After the extended the 15-day period, further changes to this definition were considered non-substantial so the public was not placed on notice as required by Government Code Section 11346.8 (c).
- **Common interest developments** are new to the existing text.
- **Controller** is a new definition to the existing text. but it replaced “automatic controller.”
- **Drip irrigation** is a new definition to the existing text.
- **Effective precipitation** remains the same except that the second sentence was deleted.
- **Emitter** is an existing text but it was changed.
- **Established landscape** is an existing text but it was changed.
- **Establishment period** is an existing text but it was changed.
- **Estimated Applied Water Use** was deleted from the existing text.
- **Estimated Total Water Use** is an existing text but it was changed.
- **ET Adjustment Factor** is an existing text but it was changed. The most significant change was the ETAF value from 0.8 to 0.7. After the extended the 15-day period, further changes to this definition were considered non-substantive so the public was not placed on notice as required by Government Code Section 11346.8 (c).
- **Evaporation rate** is an existing text but it was changed.
- **Flow rate** is an existing text but it was changed.
- **Hardscapes** are a new definition to the existing text.
- **Hydrozone** is an existing text but it was changed.
- **Infiltration rate** is an existing text but it was changed.

- **Irrigation audit** is a new definition to the existing text. After the extended the 15-day period, further changes to this definition were considered non-substantive so the public was not placed on notice as required by Government Code Section 11346.8 (c).
- **Irrigation efficiency** is an existing text but it was changed. The most significant change was the irrigation efficiency value from 0.625 to 0.71. After the extended the 15-day period, further changes to this definition was considered non-substantive so the public was not placed on notice as required by Government Code Section 11346.8 (c).
- **Irrigation survey** is a new definition to the existing text.
- **Irrigation water use analysis** is a new definition to the existing text.
- **Landscape documentation package** is a new definition to the existing text.
- **Landscape area** is an existing text but it was changed.
- **Landscape architect** is a new definition to the existing text.
- **Landscape contractor** is a new definition to the existing text. After the extended the 15-day period, further changes to this definition were considered non-substantive so the public was not placed on notice as required by Government Code Section 11346.8 (c).
- **Landscape project** is a new definition to the existing text.
- **Local agency** is a new definition to the existing text.
- **Local water purveyor** is a new definition to the existing text.
- **Low volume irrigation** is a new definition to the existing text.
- **Maximum Applied Water Allowance** is an existing text but it was changed. After the extended the 15-day period, further changes to this definition were considered non-substantive so the public was not placed on notice as required by Government Code Section 11346.8 (c).
- **Microclimate** is a new definition to the existing text.
- **Mulch** is an existing text but it was changed.
- **Operating pressure** is an existing text but it was changed. After the extended the 15-day period, further changes to this definition were considered non-substantive so the public was not placed on notice as required by Government Code Section 11346.8 (c).
- **Overhead sprinkler irrigation systems** are an existing text but it was changed.
- **Overspray** is an existing text but it was changed. After the extended the 15-day period, further changes to this definition were considered non-substantive so the public was not placed on notice as required by Government Code Section 11346.8 (c).
- **Pervious** is a new definition to the existing text. After the extended the 15-day period, further changes to this definition were considered non-substantive so the public was not placed on notice as required by Government Code Section 11346.8 (c).
- **Permit** is a new definition to the existing text.
- **Plant factor** is an existing text but it was changed. After the extended the 15-day period, further changes to this definition were considered non-substantive so the public was not placed on notice as required by Government Code Section 11346.8 (c).
- **Precipitation** rate is a new definition to the existing text.
- **Project applicant** is a new definition to the existing text.
- **Rain sensor** is a new definition to the existing text.
- **Recreational area** is an existing text but it was changed.
- **Recycled water** is an existing text but it was changed.
- **Reference evapotranspiration** is an existing text but it was changed.

- **Rehabilitated landscapes** is an existing text but it was changed. After the extended the 15-day period, further changes to this definition were considered non-substantive so the public was not placed on notice as required by Government Code Section 11346.8 (c).
- **Runoff** is an existing text but it was changed.
- **Soil moisture sensing device** is an existing text but it was changed.
- **Soil texture** is an existing text but it was changed.
- **Special landscape area** is a new definition to the existing text. After the extended the 15-day period, further changes to this definition were considered non-substantive so the public was not placed on notice as required by Government Code Section 11346.8 (c).
- **Swing joint** is a new definition to the existing text. After the extended the 15-day period, further changes to this definition were considered non-substantive so the public was not placed on notice as required by Government Code Section 11346.8 (c).
- **Turf** is an existing text but it was changed.
- **Valve** is an existing text but it was changed.
- **Water conserving plant species** is a new definition to the existing text.
- **Water feature** is a new definition to the existing text. After the extended the 15-day period, further changes to this definition were considered non-substantive so the public was not placed on notice required by Government Code Section 11346.8 (c).
- **WUCOLS** is a new definition to the existing text. After the extended the 15-day period, further changes to this definition were considered non-substantive so the public was not placed on notice as required by Government Code Section 11346.8 (c).

F3. Section 492. Provisions for New Construction or Rehabilitated Landscapes

There were numerous changes to Section 492, which contains 17 subsections, since the originally noticed text and modified text. Refer to the originally noticed text and modified text for the progression of changes. After the extended the 15-day period, further changes to this section were considered non-substantive so the public was not placed on notice as required by Government Code Section 11346.8 (c).

Section 492 now begins with a single provision, Section 492 (a), regarding a local agency's authority to designate another entity, such as a water purveyor, to help implement and enforce the regulation. Despite significant number of negative comments about the conflicting roles of local agencies and water purveyors, the Department determined that this issue is beyond the scope of the Department's authority mandated by the statute and it cannot be addressed in the Notice of Proposed Rulemaking. The Department encourages local agencies to collaborate with water purveyors to determine the appropriate responsibilities for each entity to implement and enforce the regulation.

Section 492.1. Compliance with Landscape Documentation Package

Sections 492 (b) (1), (2), and (3) were deleted from the existing text because they were no longer consistent with revised procedures for the landscape documentation package. Yet, they were retained in concept and updated as part of the new Section 492.1 Compliance with Landscape Documentation Package. Section 492.1 clarified and tabulated the provisions for each the project applicant and the local agency regarding the landscape documentation package.

The Department determined that after the extended 15-day comment period no further changes were necessary for Section 492.1.

Section 492.2. Penalties

Section 492.4 Penalties was noticed as new to the existing regulation in both of the originally noticed text and modified text. Because the Department cannot assess penalties on local agencies, this provision was modified to include “*to the extent permitted by law.*”

The Department determined that after the extended 15-day comment period no further changes were necessary for Section 492.2.

Section 492.3. Elements of the Landscape Documentation Package

Numerous public comments stated that local agencies lacked the resources to comply with the landscape documentation package (LDP) provisions and that the submittal requirements of the LDP were onerous. These comments were general objections to the regulation mainly because the Department conducted a survey that revealed that a majority of local agencies failed to comply with the existing regulation so they were unaware of the landscape documentation package. Section 492.3 went through numerous changes so refer to the originally noticed and modified texts for the progression of changes. After the extended the 15-day period, further changes to this section were considered non-substantive so the public was not placed on notice as required by Government Code Section 11346.8 (c).

The existing regulation required 12 elements for the LDP and the modified text splits the elements nearly in half into “pre-installation” requirements and “post-installation” requirements. The Department took into consideration that not all the elements can be completed up front so the requirements were split between the LDP and the Certificate of Completion (Section 492.9). Only six (6) elements are required at “pre-installation” with the landscape documentation package and the other five (5) elements are due at “post-installation” along with the Certificate of Completion. These changes in Section 492.3 were necessary to reflect updated procedures for the review and approval of the LDP by the local agency. Combined with Section 492.1, Section 492.3 identifies the required elements of the LDP and the responsible parties, as well as, providing sample worksheets.

As noted previously, Sections 492 (b) (1), (2), and (3) were deleted from the existing text but relocated to Section 492.1 Compliance with Landscape Documentation Package.

Section 492 (b) (4) (A) Water Conservation Concept Statement was deleted from the existing text and updated as the Water Efficient Landscape Worksheet in the originally noticed text. However, all together this requirement was deleted from the modified text.

Sections 492 (b) (4) (B) Calculation of Maximum Applied Water Allowance and (D) Calculation of Estimated Total Water Use in the existing regulation were deleted but subsequently updated in

the originally noticed and modified texts. Currently, they are provided as Sections 492.4 (c) and (d), respectively.

Sections 492 (b) (4) (C) Calculation of Estimated Applied Water Use was deleted from the existing regulation.

Sections 492 (b) (E) Landscape Design Plan, (F) Irrigation Design Plan and (J) Grading Design Plan were deleted but currently updated as Section 492.3 (a) (4), (5) and (6), respectively.

Section 492 (b) (4) (g) Irrigation Schedules was deleted in the existing text. Irrigation schedules are no longer required but instead parameters used to set the irrigation controller (for irrigation scheduling) are required with the submittal of the Certificate of Completion (see Section 492.9 (a) (8)) and Section 492.10).

Section 492 (b) (4) (h) Maintenance Schedule was deleted in the existing text but updated as a requirement for post-installation under the Certificate of Completion in Section 494.9 (a) (9).

Section 492 (b) (4) (i) Landscape Irrigation Audit Schedule was deleted in the existing text. Audit schedules are no longer required but irrigation audits and irrigation audit reports are still required with the submittal of the Certificate of Completion (see Section 492.9 (a) (7) and Section 492.9 (a) (10), respectively).

Section 492 (b) (4) (k) Soil Analysis was deleted in the existing text but updated as a requirement with the Certificate of Completion in 494.9 (a) (11) and in Section 492.3 (a) (3). Section 492.3 (a) (3) Soil Management Report (in the modified text it was called the Soil Management Plan) can be submitted with the LDP or the Certificate of Completion depending on the type of grading planned for the project. This change occurred after the extended 15-day public comment period but it was considered non-substantive so the public was not placed on notice as required by Government Code Section 11346.8 (c).

Section 492 (b) (4) (l) Certificate of Substantial Completion was deleted in the existing text but updated in Section 492.9 as the Certificate of Completion.

Section 492 (b) (5) in the existing regulation was deleted and relocated to updated Section 494 Effective Precipitation. This change was necessary to consolidate all the provisions regarding effective precipitation (Eppt) into a single location.

The Department further changed Section 492.3 (a) (1) (F) to read: Water supply type (e.g., potable, recycled, well), and identify the local retail water purveyor if the applicant is not served by a private well.

Section 492.4. Water Efficient Landscape Worksheet

This section essentially replaces the entire Sections 492 (C) (1), (2), (3), (4) and Sample Water Conservation Concept Statement from the regulation text. Because of its technical language, this section experienced numerous changes from the originally noticed text to the modified text.

Refer to the originally noticed and modified texts for the progression of these changes. Further changes occurred after the extended 15-day public comment period but they were considered non-substantive so the public was not placed on notice as required by Government Code Section 11346.8 (c).

In the final text, there are two sections in the Water Efficient Landscape Worksheet: a hydrozone information table and the water budget calculations. Changes were also made to the sample Water Efficient Landscape Worksheet in Section 495.2 Appendix B.

Sections 492 (C) (2) Maximum Applied Water Allowance and Sections 492 (C) (4) Estimated Total Water Use in the existing regulation were deleted but updated as Sections 492.4 (c) and (d), respectively. Sections 492.4 (c) Maximum Applied Water Allowance and (d) Estimated Total Water Use represent the water budget calculations.

All of this technical language in the water budget calculation was adequately noticed except for a few non-substantive changes. The most significant and controversial change to the water budget calculation was the evapotranspiration adjustment factor or ETAF from 0.8 to 0.7. Many public comments, both written and oral, protested against the lowering of the ETAF stating that there was no substantial scientific evidence to justify the change. The Department, after carefully reviewing public comments and considering the weight of the currently available evidence, determined that the ETAF of 0.7 is reasonable and appropriate. The Department has updated the draft ETAF white paper to further explain the reasons behind the change. Also, the Department changed the ETAF value to 0.7 with the increase in irrigation efficiency from 62.5 percent to 71 percent.

The Department determined that Section 492.4. is consistent with Government Code, Section 65596 (b) 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 Government Code, Section 65596 (e) which states: *The model ordinance may include climate information for irrigation scheduling based on the California Irrigation Management Information System.*

Section 492.5 Soil Management Plan

First and foremost, soil management plan was changed to soil management report because public comments received in the extended 15-day comment period indicated that the word “plan” was misleading and the change was necessary to clarify intent. This is the first of numerous changes that occurred after the extended 15-day public comment period but the changes were considered non-substantive so the public was not placed on notice as required by Government Code Section 11346.8 (c). Refer to the originally noticed and modified texts for the progression of changes. Despite the AB 2717 Landscape Task Force recommendations to amend the soils section of the regulation to include onsite soil assessment and soil management plans, the Department received numerous negative comments from the public which were attributed to the fact that most local agencies were unaware of the existing regulation and its requirements.

Section 492 (11) (A) Soils in the existing text was deleted in its entirety but updated as Section 492.5 Soil Management Report. Section 492 (11) (B) Mulch was deleted in the existing text but updated as Section 492.6 (a) (3) because it was more relevant to be included in the landscape design plan.

Section 492.5 (a) and Section 492.5 (b) in the modified text were deleted completely. Section 492.5 was completely rewritten after the extended 15-day public comment period but they were considered non-substantive so the public was not placed on notice as required by Government Code Section 11346.8 (c) and five (5) of those changes are noted below.

The Department further changed Section 492.5 (a) to read: In order to reduce runoff and encourage healthy plant growth, a soil management report shall be completed by the project applicant, or his/her designee, as follows.

The Department further changed Sections 492.5 (a) to read: (1) submit soil samples to a laboratory for analysis and recommendations, (A) soil sampling shall be conducted in accordance with laboratory protocol, including protocols regarding adequate sampling depth for the intended plants; and (B) the soil analysis may include: (i) soil texture; (ii) infiltration rate determined by laboratory test or soil texture infiltration rate table; (iii) pH; (iv) total soluble salts; (v) sodium; (vi) percent organic matter; and (vii) recommendations.

The Department further changed Sections 492.5 (a) (2) to read: The project applicant, or his/her designee, shall comply with one of the following: (A) if significant mass grading is not planned, the soil analysis report shall be submitted to the local agency as part of the Landscape Documentation Package; or (B) if significant mass grading is planned, the soil analysis report shall be submitted to the local agency as part of the Certificate of Completion.

The Department further changed Section 492.5 (a) (3) to read: The soil analysis report shall be made available, in a timely manner, to the professionals preparing the landscape design plans and irrigation design plans to make any necessary adjustments to the design plans.

The Department further changed Section 492.5 (a) (4) to read: The project applicant, or his/her designee, shall submit documentation verifying implementation of soil analysis report recommendations to the local agency with Certificate of Completion.

The Department determined that Section 492.5. is consistent with Government Code, Section 65596 (f) 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 492.6. Landscape Design Plan

This section was changed significantly as the result of comments received during the 45-day comment period as shown in the modified text. Refer to the originally noticed and modified texts for the progression of changes. Further changes were also made after the extended 15-day

comment period but they were considered non-substantive so the public was not placed on notice as required by Government Code Section 11346.8 (c) and they are noted below.

Overall, Section 492.6 Landscape Design Plan replaces Sections 492 (5) (A), 492 (5) (B), and 492 (5) (C) in the existing text because significant technical updates and changes were made.

Section 492 (5) (A) Plant Selection and Grouping in the existing text was deleted and updated as Section 492.6 (a) (1) Plant Material. It was necessary to include additional conditions for proper plant selection. It was also necessary to incorporate requirements of Government Code, Section 65596 (a) 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 Government Code, Section 65996 (i) which states: *address regional differences, including fire prevention needs.* Also, Section 492.6 (a) (1) includes new provisions for invasive species of plants and architectural guidelines for common interest developments.

The Department further changed Section 492.6 (a) (1) (A) to read: Any plant may be selected for the landscape, providing the total landscape area does not exceed the Maximum Applied Water Allowance. This change occurred after the extended 15-day public comment period and it was non-substantive.

Also, the Department further changed Section 492.6 (a) (1) (D) to read: Turf is not allowed on slopes greater than 25% where the toe of the slope is adjacent to an impermeable hardscape and where 25% means 1 foot of vertical elevation change for every 4 feet of horizontal length (rise divided by run x 100 = slope percent). This change occurred after the extended 15-day public comment period and it was non-substantive. The modified text was overly broad and this change achieves underlying goal of no runoff onto streets while allowing more flexibility in landscape design.

Section 492 (5) (B) Water Features (i) and (ii) was retained and changed slightly as Section 492.6 (a) (2). One minor change (deletion of the word “decorative” in Section 492.6 (a) (2) (A)) was made to this provision after the extended 15-day comment period but it was considered non-substantive.

Section 492.6 (a) (3) is new to the existing text. The Department further changed Section 492.6 (a) (3) (A) to read: A minimum two inch (2”) layer of mulch shall be applied on all exposed soil surfaces of planting areas except in turf areas, creeping or rooting groundcovers or direct seeding applications where mulch is contraindicated. This change occurred after the extended 15-day public comment period and it was non-substantive.

Section 492 (5) (C) Specifications in the existing text was deleted but updated as Section 492.6 (b). Section 492.6 (b) represents the specifications of the landscape design plan. Most of the

former specifications were retained but they were expanded in the modified text. Refer to the originally noticed and modified texts for the progression of changes.

The following three changes in Section 492.6 (b) were made after the extended 15-day public comment period and considered to be non-substantive changes.

The Department further changed Section 492.6 (b) (10) to read: location and installation details of any applicable stormwater best management practices that encourage on-site retention and infiltration of stormwater. Stormwater best management practices are encouraged in the landscape design plan; examples include, but are not limited to.

The Department further changed Section 492.6 (b) (12) to read: The landscape design plan shall contain the following statement: I have complied with the criteria of the ordinance and applied them for the efficient use of water in the landscape design plan.

The Department further changed Section 492.6 (b) (13) to read: the signature of a licensed landscape architect, licensed landscape contractor or any other applicable landscape professional, person, licensed or unlicensed, as listed in the Business and Professions Code, California Code of Regulations, or Food and Agriculture Code. This change was necessary to accommodate the wide variety of professionals who can prepare a landscape design plan.

Section 492.7. Irrigation Design Plan

Overall, Section 492 (6) (A) (i) and (iii) and Section 492 (6) (C) were deleted from the existing text and updated as Section 492.9 (a) and Section 492.9 (b), respectively. Section 492 (6) (B) Recycled Water in the existing text was deleted and updated as Section 492.14. Refer to the originally noticed and modified texts for the progression of changes.

Section 492 (6) (A) (ii) was deleted but updated as Section 492.13 Irrigation Efficiency.

The following three (3) changes in Section 492.7 (a) were made after the extended 15-day public comment period and considered to be non-substantive changes.

The Department further changed Section 492.7 (a) (1) (A) to read: Dedicated landscape water meters are highly recommended on landscape areas smaller than 5,000 square feet to facilitate water management. This deletion omitted any redundancy with Water Code, Section 535 which already requires separate water meters to measure water used exclusively for landscape purposes when the connection serves landscaping of more than 5,000 square feet of irrigated landscaping.

The Department further changed Section 492.7 (a) (1) (L) to read: It is highly recommended that the project applicant or local agency inquire with the local water purveyor about peak water operating demands (on the water supply system), water restrictions or other restrictions that may impact the effectiveness of the irrigation system.

The 24” setback is new to the existing regulation and it was the one of the controversial items in the regulation. The Department received numerous comments both in support and against its

inclusion in the regulation and made many changes to the provision in the originally noticed text and modified text. Still, additional changes were made to the regulation after the extended 15-day public comment period but they were considered to be non-substantive by the Department.

The Department further changed Section 492.7 (a) (1) (S) to read: Overhead irrigation shall not be permitted within 24 inches of any non-permeable surface. Allowable irrigation within the setback from non-permeable surfaces may include drip, drip line, or other low flow non-spray technology. The setback area may be planted or unplanted. The surfacing of the setback may be mulch, gravel, or other porous material. These restrictions may be modified if: (i) the landscape area is adjacent to permeable surfacing and no overspray and runoff occurs; or (ii) the adjacent non-permeable surfaces are designed and constructed to drain entirely to landscaping; or (iii) the irrigation designer specifies an alternative design or technology, as part of the Landscape Documentation Package, and clearly demonstrates strict adherence to irrigation system design criteria in Section 492.7 (a)(1)(H). Prevention of overspray and runoff must be confirmed during irrigation audit. This change was necessary to Section 492.7 (a) (1) (A) to clarify the intent of the provision and make it less ambiguous.

The Department further changed Section 492.7 (a) (1) (T) to read: Slopes greater than 25% shall not be irrigated with an irrigation system with a precipitation rate exceeding 0.75 inches per hour. This restriction may be modified if the landscape designer specifies an alternative design or technology, as part of the Landscape Documentation Package, and clearly demonstrates no runoff or erosion will occur. Prevention of runoff and erosion must be confirmed during irrigation audit. This change was necessary to establish a performance standard that accommodates other new irrigation technology while achieving the intent of the regulation.

The Department determined no changes to Section 492.7 (a) (2) Hydrozone were necessary as the result of the extended 15-day comment period.

Additionally, two (2) changes in Section 492.7 (b) Specifications were made after the extended 15-day public comment period and considered to be non-substantive changes.

The Department further changed Section 492.7 (b) (6) to read: the irrigation design plan shall contain the following statement: “I have complied with the criteria of the ordinance and applied them accordingly for the efficient use of water in the irrigation design plan.”

The Department further changed Section 492.7 (b) (7) to read: the signature of a licensed landscape architect, certified irrigation designer, licensed landscape contractor or any other applicable landscape professional, person, licensed or unlicensed, as listed in the Business and Professions Code, California Code of Regulations, or Food and Agriculture Code. This change was necessary to accommodate the wide variety of professionals who can prepare an irrigation design plan.

The Department determined that Section 492.7 Irrigation Design Plan is consistent with Government Code, Section 65596 (e) 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 Government Code, Section 65596 (m) which states: include provisions to minimize landscape irrigation overspray and runoff.

Section 492.8. Grading Design Plan.

Section 492 (10), Section 492 (10) (A) and Section 492 (10) (B) in the existing text were deleted completely but updated as Section 492.8. Refer to the originally noticed and modified texts for the progression of changes. Most of the criteria and specifications for the grading design plan were retained and expanded. However, Section 492.8 in the modified text was further changed as noted below.

Four (4) changes in Section 492.8 (a) occurred after the extended 15-day public comment period and considered to be non-substantive changes.

The Department further changed Section 492.8 (a) to read: For the efficient use of water, grading of a project site shall be designed to minimize soil erosion, runoff and water waste. A grading design plan shall be submitted as part of the Landscape Documentation Package. A comprehensive grading plan prepared by a civil engineer for other local agency permits satisfies this requirement.

The Department further changed Section 492.8 (a) (1) (E) to read: stormwater retention improvements, if applicable. This change was necessary to clarify that the improvements are not required to be installed but rather, if improvements are installed, they must be included in the grading design plan. Public comments misinterpreted the regulation as requiring the installation of improvements for stormwater when in fact they are only encouraged if applicable.

The Department further changed Section 492.8 (a) (3) to read: the grading design plan shall contain the following statement: I have complied with the criteria of the ordinance and applied them accordingly for the efficient use of water in the grading design plan; and the signature of a licensed landscape architect, certified irrigation designer, licensed landscape contractor or any other applicable landscape professional, person, licensed or unlicensed, as listed in the Business and Professions Code, California Code of Regulations, or Food and Agriculture Code. This change was necessary to accommodate the wide variety of professionals who can prepare a grading design plan.

The Department determined that Section 492.8 Grading Design Plan is consistent with Government Code, Section 65596 (f) which states: *include provisions...that include grading and drainage to promote healthy plant growth and to prevent excessive erosion and runoff.*

Section 492.9. Certificate of Completion

Overall, Section 492 (12) Certification in the existing regulation was deleted completely and updated as Section 492.9. Refer to the originally noticed and modified texts for the progression

of changes. These changes are necessary to provide clear procedures for compliance with the regulation and execution of the Certificate of Completion including identifying the required elements and responsible parties, as well as, providing a sample certificate in Section 495.3 Appendix C to ensure proper implementation.

Section 492.9 in the modified text was nearly all rewritten and renumbered. Most of the changes are noted below. The following nine (9) changes in Section 492.9 occurred after the extended 15-day public comment period and considered to be non-substantive changes.

The Department deleted Section 492.9 (b) but consolidated all the requirements into a single list under 492.9 (a) which now reads: The Certificate of Completion shall include the following information and documentation.

The Department further changed Section 492.9 (a) (6) to read: certification by either the signer of the landscape design plan, signer of the irrigation design plan or licensed landscape contractor that the landscape project has been installed per the approved landscape documentation package. This was necessary to identify the professional to certify that the landscape project was installed according to the landscape documentation package.

The Department further changed Section 492.9 (a) (7) to read: irrigation audit, see Section 492.12.

The Department further changed Section 492.9 (a) (8) [this was Section 492.9 (b) (1) in the modified text] to read: parameters used to set the controller, see Section 492.10 (a) (4). This change was necessary and reflects a different way of describing the irrigation schedule without materially altering the provision. Because the regulation specifies controllers that irrigate in response to weather or soil moisture conditions in Section 492.7, the irrigation schedule is set by the controllers based on parameter inputs by the operator. Irrigation schedules are no longer required to be submitted with either the Landscape Documentation Package or the Certificate of Completion.

The Department further changed Section 492.9 (a) (10) [this was (3) in the modified text] to read: irrigation audit report, see Section 492.12. “If applicable” was deleted because in fact, an irrigation audit report is required and it is not optional.

The Department further changed Section 492.9 by deleting the requirement for a preliminary inspection [this was Section 492.9 (a) (6) in the modified text]. The preliminary inspection, in the end, was not necessary because the same end result can be accomplished in the final inspection.

The Department further changed Section 492.9 (b) (1) to read: submit the signed Certificate of Completion to the local agency for review. “Approval” was deleted and replaced with “review.”

The Department further changed Section 492.9 (b) (2) to read: ensure that copies of the approved Certificate of Completion are submitted to the local water purveyor and property owner or his/her designee. This change was necessary because it allows flexibility for either the local agency or project applicant to submit documentation to the local water purveyor. In some cases,

the local agency is the more appropriate entity to carry out the submission rather than the project applicant.

The Department further changed Section 492.9 by deleting the two provisions requiring a Certificate of Occupancy [these were Section 492.9 (c) (2) and Section 492.9 (d) (3) in the modified text]. Public comments received, during both the 45-day and extended 15-day periods, indicated that it was not practical and that it was burdensome.

Section 492.10. Irrigation Scheduling

Half of Section 492 (c) (7) in the existing text was deleted and updated as noticed. More specifically, Sections 492 (c) (7) (B), (C) and (D) were deleted completely. Sections 492 (c) (7) (A), (E) and (F) were retained, expanded and renumbered as Sections 492.10 (a) (4), (1) and (2), respectively. Refer to the originally noticed and modified texts for the progression of changes. Three additional changes occurred after the extended 15-day comment period and they were considered to be non-substantive.

The Department further changed Section 492.10 (a) to read: For the efficient use of water, all irrigation schedules shall be developed, managed and evaluated to utilize the minimum amount of water required to maintain plant health. Irrigation schedules shall meet the following criteria. Irrigation schedules are no longer required to be submitted with either the Landscape Documentation Package or the Certificate of Completion.

The Department further changed Section 492.10 (a) (2) to read: Overhead irrigation shall be scheduled between 8:00 p.m. and 10:00 a.m. unless weather conditions prevent it. If allowable hours of irrigation differ from the local water purveyor, the stricter of the two shall apply. The second sentence was deleted in the modified text but reinstated for the final text to accommodate the fact that local agencies may have existing watering restrictions in place.

The Department further changed Section 492.10 (a) (4) to read: Parameters used to set the controller shall be developed and submitted for each of the following... This change was necessary and reflects a different way of describing the irrigation schedule without materially altering the provision. Because the regulation specifies controllers that irrigate in response to weather or soil moisture conditions in Section 492.7, the irrigation schedule is set by the controllers based on parameter inputs by the operator and an actual schedule is not necessary.

Section 492.11. Landscape and Irrigation Maintenance Schedule

Section 492 (8) Maintenance Schedule in the existing text was deleted and updated as Section 492.11 Landscape and Irrigation Maintenance Schedule. Minor changes were noticed in the originally noticed text and modified text to Section 492.11 (a), (b) and (c). Refer to the originally noticed and modified texts for the progression of changes. No changes were made to this section after the extended 15-day comment period.

Section 492.11 (d) is the only new provision in the existing text and it is consistent with

The Department determined that Section 492.11 and, in particular, Section 492.11 (d) are consistent with Government Code, Section 65596 (l) 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 492.12. Irrigation Audit, Irrigation Survey, and Irrigation Water Use Analysis.

Section 492 (9) in the existing regulation was deleted completely and updated as Section 492.12. Minor changes were noticed in the originally noticed text and modified text to Section 492.12 (a), (b) and (c). Refer to the originally noticed and modified texts for the progression of changes. Only one change was made to this section after the extended 15-day comment period as noted below but it was considered non-substantive.

The Department further changed Section 492.12 (c) (1): the project applicant shall submit an irrigation audit report with the Certificate of Completion to the local agency, that may include, but is not limited to: inspection, system tune-up, system test with distribution uniformity, reporting overspray or run off that causes overland flow, and preparation of an irrigation schedule.

Section 492.13. Irrigation Efficiency

Section 492 (C) (6) (A) (ii) in the existing text had an irrigation efficiency value of “0.625” but it was deleted and updated to a value of “0.71.” This change was noticed in both the originally noticed text and modified text. Refer to the originally noticed and modified texts for the progression of changes. No other changes were made to this section after the extended 15-day comment period.

Section 492.13 (a) reads: For the purpose of determining the maximum applied water allowance, average irrigation efficiency is assumed to 0.71. Irrigation systems shall be designed, maintained and managed to meet or exceed an average landscape irrigation efficiency of 0.71.

The was 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.

Section 492.14. Recycled Water

Section 492 (6) (B) Recycled Water in the existing regulation was updated as Section 492.14. Minor changes were noticed in the originally noticed text and modified text to Section 492.14 (a), (b) and (c). Refer to the originally noticed and modified texts for the progression of changes.

The Department determined that Section 492.14 is consistent with Government Code, Section 65596 (g) 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 492.15. Stormwater Management

Section 492.15 is a new section for encouraging stormwater management to the overall landscape project. Minor changes were noticed in the originally noticed text and modified text to Section 492.15 (a) and (b). Refer to the originally noticed and modified texts for the progression of changes. Two (2) additional changes occurred after the extended 15-day comment period and they were considered non-substantive.

The Department further changed Section 492.15 (a) to read: Stormwater management practices minimize runoff and increase infiltration which recharges groundwater and improves water quality. Implementing stormwater best management practices into the landscape and grading design plans to minimize runoff and to increase on-site retention and infiltration are encouraged. The word “will” was not necessary. “Highly recommended” was changed to “encouraged.”

The Department determined that Section 492.15 is consistent with Government Code, Section 65596 (d) states: *encourage the capture and retention of stormwater onsite to improve water use efficiency or water quality.*

Section 492.16. Public Education

Section 492 (d) Public Education (1) and (2) was updated as Section 492.16. Minor changes were noticed in the originally noticed text and modified text to Section 492.16 (a) and (b). Refer to the originally noticed and modified texts for the progression of changes. These changes were necessary to emphasize the importance of educating all water users and direct local agencies to invest in public outreach efforts for water efficient landscapes. No other changes were made to this section after the extended 15-day comment period.

The Department determined that Section 492.16 is consistent with Government Code, Section 65596 (h) which states: *seek to educate water users on the efficient use of water and the benefits of doing so.*

Section 492.17. Environmental Review

Section 492.17 Environmental Review is new to the existing text. Minor changes were noticed in the originally noticed text and modified text. Refer to the originally noticed and modified texts for the progression of changes. It addresses the non-applicability of the California Environmental Quality Act (CEQA) to the regulation for the reason stated. It also describes identifies that local agencies must comply with CEQA, as appropriate. No other changes were made to this section after the extended 15-day comment period.

F4. Section 493. Provisions for Existing Landscapes

Section 493 is for existing landscapes and begins with a single provision, Section 493 (a), regarding a local agency's authority to designate another entity, such as a water purveyor, to help implement and enforce the regulation. Despite significant number of negative comments about the conflicting roles of local agencies and water purveyors, the Department determined that this issue is beyond the scope of the Department's authority mandated by the statute and it cannot be addressed in the Notice of Proposed Rulemaking. The Department encourages local agencies to collaborate with water purveyors to determine the appropriate responsibilities for each entity to implement and enforce the regulation.

Section 493 (a) Water Management in the existing text was deleted and updated as Section 493.1 Irrigation Audit, Irrigation Survey, and Irrigation Water Use Analysis.

The existing text for water waste prevention was deleted in the originally noticed text and updated as Section 493.2. In the modified text, it was deleted and the existing text returned. No other changes were made to this section after the extended 15-day comment period.

F5. Section 494. Effective Precipitation

Section 494 Effective Precipitation in the existing text was deleted and updated. Minor changes were noticed in the originally noticed text and modified text. Refer to the originally noticed and modified texts for the progression of changes. The changes were necessary to consolidate all the provisions regarding effective precipitation into a single location. The Sample Effective Precipitation Disclosure Statement in the existing text was deleted entirely from the regulation because using effective precipitation is now optional. No other changes were made to this section after the extended 15-day comment period.

F6. Section 495. Appendices

Overall, Section 495 in the existing text was changed and expanded to include two (2) new appendices for a total of three (3) appendices Section 495.1 Appendix A ETo Table, Section 495.2 Appendix B Water Efficient Worksheet and Section 495.3 Appendix B Certificate of Completion.

This section was noticed in the originally noticed text to include five (5) appendices but changed again in the modified text to include only three (3) appendices. Public comments indicated that the sample forms were burdensome and unnecessary. The original intention behind these sample forms was to provide a template for local agencies to use and further customize for their project applicants comply with the Model Ordinance. Refer to the originally noticed and modified texts for the progression of changes.

Numerous non-substantive changes occurred after the extended 15-day comment period. These changes were necessary to reflect the improvements made to the text of the regulation.

G. SUMMARY AND RESPONSES FROM THE NOTICED 45-DAY PUBLIC COMMENT PERIOD (FEBRUARY 8, 2008 THROUGH MARCH 27, 2008)

Summary and Response: Overall Comments

G1 Summary of Comment 25:

A commenter stated the “Model Ordinance document is so cumbersome and prescriptive that it will be virtually unenforceable. The depth of applicability and the overly complicated methods of implementation which includes so many forms, certifications and documents would create an unnecessary burden on applicants and agencies trying to manage and implement these requirements. Doubling or tripling the time and effort required to submit documents is not going to promote water conservation.”

DWR Response: Reject and Accept Parts. Comments that the Model Ordinance provisions are complex or costly are general objections directed at the proposed regulation. The Model Water Efficient Landscape Ordinance is an existing regulation in effect since 1992 (California Code of Regulations, Title 23 Section 490-495), though there were some changes made to make the ordinance less onerous.

G2 Summary of Comment 34:

A commenter stated the “when AB 325 was enacted, it was haphazardly enforced and so in many areas little improvement has been realized. It seems that this current review process is driven strictly by AB 1881, and precious little consideration was given to whether the statute was flawed, or whether the enforcement process was flawed. It is clear to me as one who has been managing public agency landscape infrastructure for 15 years that the goals established in AB 325 were more than adequate to set a fairly reasonable goal for water managers. Meeting the AB 325 targets are a challenge in the real world where irrigation valves stick on occasionally, vandals mess with equipment etc. I find no allowance made to allow the system to be tested via turning on the water for two minutes per station weekly, something that is essential to sustain the high level of efficiency that the statute has as a stated goal.”

DWR Response: Reject. Comments that local agencies cannot implement and enforce the Model Ordinance and comments that the Model Ordinance provisions are complex or costly are general objections directed at the proposed regulation. The Model Water Efficient Landscape Ordinance is an existing regulation in effect since 1992 (California Code of Regulations, Title 23 Section 490-495). The Department initiated a stakeholder process on September 28, 2007 and conducted approximately thirteen (13) stakeholder workshops or meetings prior to the Notice of Proposed Rulemaking which was published in the California Regulatory Notice Register on February 8, 2008. These activities are within the requirements of the Administrative Procedures Act (Government Code 11340 et al) for preliminary activities and DWR has to abide by the provisions of the statute.

G3 Summary of Comment 45:

A commenter stated the “technical nature of the model ordinance makes understanding the requirements extremely difficult. In order to gain greater acceptance of and compliance with the ordinance, the ordinance should be drafted in a more simplistic fashion.”

DWR Response: Accept in part and reject in part Comments that local agencies cannot implement and enforce the Model Ordinance and comments that the Model Ordinance provisions are complex or costly are general objections directed at the proposed regulation. The Model Water Efficient Landscape Ordinance is an existing regulation in effect since 1992 (California Code of Regulations, Title 23 Section 490-495). However, DWR has simplified the Model Ordinance.

G4 Summary of Comment 55:

Commenter stated that our “most significant concern is the post-installation enforcement that this ordinance would require. Tracking the properties, filing the documentation, conducting the five-year audit, etc, would be labor intensive and require additional staffing. This would be an unfunded mandate.”

DWR Response: Accept in part and reject in part. Comments that local agencies cannot implement and enforce the Model Ordinance and comments that the Model Ordinance provisions are complex or costly are general objections directed at the proposed regulation. The Model Water Efficient Landscape Ordinance is an existing regulation in effect since 1992 (California Code of Regulations, Title 23 Section 490-495). DWR, however, has simplified and amended parts.

G5 Summary of Comment 63:

A commenter listed approximately nine elements for cities to effectively implement the Model Ordinance: develop a localized language “at least as effective” for water conservation as the model ordinance, and then go through procedures to adopt the ordinance; adopt new water conservation policy guidelines in the General Plan; modify Zoning Code Design Guidelines; modify Standard Conditions of Approval for all related entitlement, discretionary or administrative permit actions; modify the citywide Jurisdictional Urban Runoff Management Plan and the template for site-based Water Quality Management Plans (WQMPs) that define post-construction water management and maintenance requirements for projects meeting certain land use and threshold size requirements under our NPDES permits; train or hire staff or consultants to acquire the necessary expertise for planning and permitting reviews and construction inspections; develop a Memorandum of Understanding with the local retail water purveyor (which is a completely separate entity from the city government) for plan review procedures and access to water consumption data; and/or for delegation of authorities and responsibilities; develop a system for implementing the audits on existing developments, including a mechanism for identifying and measuring landscaped areas on all sites including single-family homes that may have over 2500 of irrigated landscaping; and then tracking their water consumption even though an unknown but probably large proportion of the water would be consumed indoors; and Consider adoption of an enforcement mechanism for wasted water.

DWR Response: Accept in part. This list of nine elements will be considered after the rulemaking process for inclusion into the Department’s local agency and public outreach efforts. The Department may consider partnering with the Governor’s Office of Planning and Research (OPR) to assist local agencies with the implementation of the proposed regulation.

G6 Summary of Comment 64:

A commenter stated the “while we agree that there is a need to conserve water use in the landscape, I feel that the Model Ordinance as currently written is very complex, very costly, very

time consuming and is doomed to crash under its own weight. Nobody wants to see this happen. In many cases, the current draft of the Model Ordinance conflicts with many of the local agency ordinances that are already in place. These conflicts create a duplication of the designer's work effort. What I believe needs to happen is for the Model Ordinance to be rewritten to provide an end result in terms of maximum applied water application (MAWA) and not how to reach MAWA. Of course, information on estimated water use (EWU) will also need to be provided by the designer. There could be some simple rules like no water run-off, Smart controllers, develop and identify hydrozones, etc. The designer should determine the best approach to reach the end goal to ensure the EWU is less than the MAWA. This can be accomplished without direction from the Model Ordinance on how the results should be achieved. I realize that my previous comments are an over simplification of a large issue, but not much more is needed to achieve the results desired.”

DWR Response: Accept in part and reject in part. Comments that local agencies cannot implement and enforce the Model Ordinance and comments that the Model Ordinance provisions are complex or costly are general objections directed at the proposed regulation. The Model Water Efficient Landscape Ordinance is an existing regulation in effect since 1992 (California Code of Regulations, Title 23 Section 490-495). DWR, however, has simplified and amended parts.

G7 Summary of Comment 65:

A commenter stated the “from the very beginning, the best minds in California water management were never involved in the process of AB 2717 through the early stages of AB 1881. It seemed as if committees of people were created without any real thought or semblance of who should have been on those original committees. As there were many fine individuals involved in AB 2717, there were many exceptional people who were omitted from the process. Only now are we starting to see problems as recognized in AB 1881. It seems as if there was a need to create extensive and complicated rules that only created more rules that ultimately place the responsibility of these many layers onto public agencies that do not have either the money or manpower to police these rules. In the end, none of this will realize the ultimate result...water savings. The great state of California has great imbalances from urban to rural to agricultural counties that include water agencies of all shapes and sizes. Some are poor and some are super-rich. The state must consider these discrepancies with any plan. Whatever the [Department] does, don't follow through with the current Model Ordinance. It over-analyzes without scientific support and lacks the ability to follow-through to ensure manageability.”

DWR Response: Reject. Members of AB2717 represented a wide range of stakeholders including California water managers. Many of these same stakeholders commented about the Model Ordinance during the public comment period and DWR reached out to many of these same stakeholders during the initial drafting.. Comments that local agencies cannot implement and enforce the Model Ordinance and comments that no science supports the Model Ordinance are general objections directed at the proposed regulation. The Model Water Efficient Landscape Ordinance is an existing regulation in effect since 1992 (California Code of Regulations, Title 23 Section 490-495).

G8 Summary of Comment 67:

A commenter stated that “a study to determine compliance with the existing model ordinance is mandated by AB 1881 and the results of that study must be reported to the legislature. This will help prioritize where it is best to dedicate resources.”

DWR Response: Reject. The Department did conduct a study to determine the status of compliance with the existing Model Water Efficient Landscape Ordinance and the findings will be available at the end of the rulemaking process in the Department’s final rulemaking record.

G9 Summary of Comment 73:

A commenter stated “I believe the Model Ordinance may be written better. It also appears cumbersome to administer. It relies on unproven assumptions. It puts the entire burden of water savings on the local agencies, developers, residential homeowners, commercial owners and landscape architects to do their part in the design and construction of a project. The Model Ordinance does not look at the financial burden and additional time required for project implementation.”

DWR Response: Reject. Comments that the [Model] Ordinance cannot be implemented and enforced are general objections directed at the proposed regulation. The Model Water Efficient Landscape Ordinance is an existing regulation in effect since 1992 (California Code of Regulations, Title 23 Section 490-495). DWR, as required by the APA process filed a financial burden for 399 with the Department of Finance.

G10 Summary of Comment 78:

A commenter stated that “parts of the [Model] Ordinance are overly specific, either limiting options to meet the intent or demanding difficult or unworkable parameters to be used” and recommended “setting the goals, not the manner, and require water budget based tiered rate schedules to penalize over users which effectively audits both new and existing users each month.”

DWR Response: Reject. Comments that the [Model] Ordinance cannot be implemented and enforced are general objections directed at the proposed regulation. The Model Water Efficient Landscape Ordinance is an existing regulation in effect since 1992 (California Code of Regulations, Title 23 Section 490-495). DWR must adhere to the provisions of the statute and local agencies can establish their own goals as meet the intent of the statute.

G11 Summary of Comment 82:

A commenter stated the “my goal, as I would assume is yours’ is to make water conservation both efficient, easy to understand and practical. I don't believe that this is being accomplished by the proposed [Model] Ordinance.”

DWR Response: Accept in part and reject in part. Comments that the [Model] Ordinance cannot be implemented and enforced are general objections directed at the proposed regulation. The Model Water Efficient Landscape Ordinance is an existing regulation in effect since 1992 (California Code of Regulations, Title 23 Section 490-495). DWR must adhere to the provisions of the statute; however, DWR has simplified and amended parts.

G12 Summary of Comment 83:

A commenter stated the “much of the proposed [Model] Ordinance is constructive and appropriate. However, we strongly feel that specific aspects of the Ordinance are overly

prescriptive and complicated. For the [Model] Ordinance to be successful it must be simplified, especially in the application process.”

DWR Response: Accept in part and reject in part. Comments that the [Model] Ordinance cannot be implemented and enforced are general objections directed at the proposed regulation. The Model Water Efficient Landscape Ordinance is an existing regulation in effect since 1992 (California Code of Regulations, Title 23 Section 490-495). DWR must adhere to the provisions of the statute; however, DWR has simplified and amended parts.

G13 Summary of Comment 85:

A commenter stated “CLCA does not believe that cities and counties will be able to enforce the proposed Model Ordinance update” because “they do not have enough qualified staff to review the paperwork and inspect projects.” Commenter continued “if property owners see the updated Model Ordinance as being too costly or overly complex, they may choose not to make landscape renovations that would save water or will seek to have work performed by unlicensed and unqualified persons, or simply circumvent the local permitting process. Commenter also stated that the “proposed Model Ordinance requires a great deal of paperwork and hoop jumping. These are often necessary, but CLCA urges [the Department] to ruthlessly remove any and all unnecessary obligations from this draft that may not result in a clear water conservation benefit.”

DWR Response: Reject. Comments that local agencies cannot implement and enforce the Model Ordinance are general objections directed at the proposed regulation. The Model Water Efficient Landscape Ordinance is an existing regulation in effect since 1992 (California Code of Regulations, Title 23 Section 490-495).

G14 Summary of Comment 88, 93:

Several commenters expressed concerns that local agencies cannot implement the Model Ordinance. A commenter stated “the level of detail included in the [Model] Ordinance cannot be efficiently implemented at the local level; that local agencies should be responsible for identifying the implementing mechanisms to meet the water efficiency standards set by the State;” that the proposed model ordinance requirements are overly specific and far reaching; that “local agency cost to implement the ordinance represents an unfunded mandate by the State;” and that the “regulation is not conducive to cost effective implementation at the local level.” Another commenter stated the “staffing level required for the implementation of these revisions will be considerable and [we] do not believe that local agencies have available staff time or the expertise to perform the specified landscape plan reviews, landscape installation inspections and audits, and ongoing water budget analysis and required ongoing landscape audits, especially in service areas where the local agency is not the water provider;” that this increase in staff budget costs may be extreme and the staff intensive nature of the landscape plan review, inspection, and auditing;” that “to successfully implement and enforce this ordinance, local agencies will need to allocate program and staffing budgets and procure qualified staff and potential which will be a disincentive for adoption of the Draft Model Ordinance.”

DWR Response: Accept in part and reject in part. Comments that local agencies cannot implement and enforce the Model Ordinance are general objections directed at the proposed regulation. The Model Water Efficient Landscape Ordinance is an existing regulation in effect since 1992 (California Code of Regulations, Title 23 Section 490-495). DWR must adhere to the provisions of the statute; however, DWR has simplified and amended parts.

G15 Summary of Comment 152:

A commenter stated the [Model Ordinance] “requires extremely detailed planning, design and construction and maintenance guidelines [which] are unbelievably specific and onerous.” Commenters stated that the current version “does not meet the challenge in a cost effective manner” and recommend that [the Department] incorporate the comments from CLCA and ASIS.

DWR Response: Accept in part and reject in part. Comments that the [Model] Ordinance cannot be implemented and enforced are general objections directed at the proposed regulation. The Model Water Efficient Landscape Ordinance is an existing regulation in effect since 1992 (California Code of Regulations, Title 23 Section 490-495). DWR must adhere to the provisions of the statute; however, DWR has simplified and amended parts.

G16 Summary of Comments 17, 26, 27, 28, 30, 31, 38, 40, 41, 52, 59, 64, 65, 72, 74, 75, 78, 80, 83, 109, 118, 121, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 136, 138, 140, 144, 146, 182:

Numerous commenters stated that they want to be on the record for supporting the comments submitted by the following organizations or agencies: American Society of Irrigation Consultants (ASIC), San Diego Conservation Action Committee (SDCAC), San Diego County Water Authority, Municipal Water District of Orange County, Southern California Chapter of the American Society of Landscape Architects, California Council of the American Society of Landscape Architects, California Landscape Contractors Association, Association of Compost Producers, Natural Resources Defense Council and Sierra Club California, California League of Conservation Voters, Planning & Conservation League, Sierra Nevada Alliance, Environment California, Defenders of Wildlife, Friends of the River, California Coastkeeper Alliance, and Pacific Institute.

G17 Summary of Comments 13, 20, 35, 55, 58, 62, 73, 74, 76, 77, 83, 84, 85, 88, 159, 161, 166:

Regarding the Initial Statement of Reasons and the Notice of Proposed Rulemaking documents, numerous commenters disagreed with the Department’s statement of no cost and no impact on local agencies, private persons and business. Many commenters stated that the rulemaking activity was an unfunded mandate; that local agencies do not have the resources to implement the proposed regulation; that the homeowner installed or provided landscapes have cost implications to private persons and property owners; that cost of compliance is high for project applicants, property owners and local agencies. Other commenters asserted that the statement “local agencies will levy service charges, fees or other assessments to pay for the costs of adopting and implementing the model ordinance” contradicts the Department’s statement that there will be no cost impact on private persons or directly affected businesses; that “in order to recover costs for increased staff time and miscellaneous costs, additional fees or in increase in existing fees would become necessary; however, increase in fees by the City or Water District may not be realistic at this time.” Commenters stated that “the proposed model ordinance requires a number of unfunded mandates which the City of San Diego would be forced to appeal to the State Mandates Board. Local agencies under Prop 21 8 are required to have revenue neutral budgeting. Current budgets do not contemplate these new mandated programs which would force agencies to seek a Prop 218 fee increase. Such an increase could be rejected by

ratepayers leaving local governments in the unfortunate position of being out of compliance with the ordinance with no means of getting back into compliance.” Commenters disagreed with the Department statement that the initial cost to developers designing and installing water efficient landscapes would be the same; that “the Model Ordinance will in fact add considerable cost to new landscapes. There are many ways in which this will increase costs. One example is the requirement to use Weather Based Irrigation Controllers which are more expensive than standard controllers. Another example is in the makeup of the plant materials.”

DWR Response: Reject. Comments regarding the high costs of implementing and enforcing the Model Ordinance are general objections directed at the proposed regulation. The Model Water Efficient Landscape Ordinance is an existing regulation in effect since 1992 (California Code of Regulations, Title 23 Section 490-495). Costs were addressed in the Notice of Proposed Rulemaking and the Initial Statement of Reasons. Also, the Final Statement of Reasons will contain additional information on the fiscal impacts of the proposed regulation.

G18 Summary of Comments 63, 84, 87, 88, 93, 98, 114, 153, 168:

Multiple commenters requested extension of the public comment period.

DWR Response: Accept in part and reject in part. Per the Administrative Procedures Act (Government Code Section 11346 et seq.), DWR fulfilled its rulemaking requirement to hold a 45-day public comment period which was held February 8, 2008 to March 27, 2008. DWR also hosted two public hearings during the 45-day public comment period on March 25, 2008 and March 27, 2008. The Department will hold additional opportunities for public comment which are allowed by the Administrative Procedures Act (APA) in the form of notices (Government Code Section 11346.5 (a) (18)).

Summary and Comment: Section 490 – Purpose

G19 Summary of Comment 38:

Commenter stated that “the purpose describes the need to establish a structure for maintaining water efficient landscapes, managing water efficient landscapes and providing provisions for water waste prevention in landscapes. The scope of the purpose goes beyond the authority for the approval of a permit, plan check and plan review process. The scope creeps into the authority and jurisdiction of the local water retail purveyor. The role of the local retail water purveyor should be defined more clearly and the relationship between the local retail water purveyor and the local permitting authority should be defined in regards to maintenance of the approved landscapes and the water landscape audits.”

DWR Response: Reject. Comments that the Model Ordinance conflicts with the role of the local retail water purveyor and/or local agency are general objections to the proposed regulation. The Model Water Efficient Landscape Ordinance is an existing regulation in effect since 1992 (California Code of Regulations, Title 23 Section 490-495). The statute (Statutes of 2006 Chapter 559) defines a local agency accordingly: “*any city, county, or city and county, including a charter city or charter county*” (Section 65591 (b)). The proposed regulation was modified to include separate definitions for a local agency (Section 491 (hh)) and a local water purveyor (Section 491 (ii)).

G20 Summary of Comment 44:

Commenter requested that on page 2 Section 490 (e) after the words landscape design add [the words] and irrigation design.”

DWR Response: Reject. The purpose section is part of the existing regulation in effect since 1992 (California Code of Regulations, Title 23 Section 491). There were a few modifications made to this section, see Section 491 of the modified text of the proposed regulation.

G21 Summary of Comment 58:

Commenter stated that (d) *“Landscapes are essential to the quality of life in California by providing areas for active and passive recreation and an enhancement of the environment... supports the need to treat both active and passive recreation the same in regards to [the] regulations under this document [Model Ordinance]. Later [in] the document, [it] singles out active recreation as a higher priority to passive recreation by providing a different ETAF for those areas.*

DWR Response: Reject. The purpose section is part of the existing regulation in effect since 1992 (California Code of Regulations, Title 23 Section 490). There were a few modifications made to this section, see Section 490 Purpose of the modified text of the proposed regulation. Also, the Model Ordinance acknowledges that “Special Landscape Areas” (SLA) need additional water and the ETAF of SLA shall not exceed 1.0 (see Section 492.4 (b) (3) and (4); see Section 491 (ggg) for the definition a SLA).

G22 Summary of Comment 59, 100:

Several commenters stated that “the current draft is overly prescriptive in its enforcement provisions.” DWR needs to provide a clear delineation of requirements on agencies that will develop a local ordinance. Procedures for compliance by applicants are best delegated to local agencies. Please look for a more performance-oriented approach, so that we may accomplish the goal of saving water. Given that new landscapes are likely to be a very small percentage in this region (estimates range around 5% +/- 2%) and therefore not have significant overall impact on water conservation, I support finding a way to include existing landscapes. Therefore the language needs to clearly distinguish between several categories: a) new / rehab requiring a permit by current development rules; b) new / rehab not requiring a permit by current rules, but requiring a permit by new Model Ordinance rules; c) new / rehab, but not requiring a permit by either, d) existing landscapes; e) exempt landscapes. I also believe it is very important that ALL landscapes, even those not directly under the Ordinance, be explicitly and strongly encouraged to follow the Ordinance as a guideline for proper design, installation and maintenance.”

DWR Response: Reject. Comments that the Model Ordinance provisions are complex and comments that they cannot be implemented or enforced are general objections directed at the proposed regulation. The Model Water Efficient Landscape Ordinance is an existing regulation in effect since 1992 (California Code of Regulations, Title 23 Section 490-495).

G23 Summary of Comment 150, 163:

A commenter stated that in “[Section] 490.1 (d) ‘replacing ecosystems lost to development’ is not the best word choice. I would think that ‘restoring would be a much better concept as it implies that the ‘replacement’ would be with the appropriate native plants and therefore more sustainable.” Another commenter stated that “in Section 490.1, you mention replacing -- or it is mentioned that replacing ecosystems lost to development. I believe that a better phrase instead of replacing would actually be restoring those landscapes. Replacement implies that you can put

just about anything else in its place, whereas I think a better goal would actually be to restore those ecosystems to their -- as much as possible, to their previous state.”

DWR Response: Reject and Accept parts. The purpose section is part of the existing regulation in effect since 1992 (California Code of Regulations, Title 23 Section 490). There were a few modifications made to this section, see Section 490 Purpose of the modified text of the proposed regulation.

Summary and Response: Section 490.1 Scope and Section 490.2 Intent

Both of these Sections were DELETED in the Modified Text of Proposed Regulation!

G24 Summary of Comment 59, 74, 91, 109, 158:

A commenter stated that the “at least as effective” language is vague and needs to be defined. Several commenters stated that “[the Department] should define objective performance criteria for meeting the ‘at least as effective’ standard for local ordinances with consideration of local water utility programs;” that “the Department has not provided an objective framework for determination of compliance with the ‘at least as effective’ standard;” that “locally developed ordinances are a viable alternative approach, which must be addressed in [Department’s] ongoing process;” that although the statute states that ‘Nothing in this ordinance shall be construed to require the local agency’s water efficient landscape ordinance to duplicate or conflict with a water efficiency program or measure implemented by a public water system,’ the draft ordinance compels duplication of water utility conservation programs.; that “the scope of the ordinance clearly applies to all local agencies, including cities and counties and does not apply to water agencies;” that “the ordinance lacks clarity in the role of water agencies and local agencies and includes prescriptive requirements that are unenforceable because they are not under the jurisdiction of the local agency.”

DWR Response: Reject. Comments that Model Ordinance conflicts with local agencies’ ordinances, that the role of the water purveyor is not defined and that the Model Ordinance cannot be implemented and enforced are all general objections directed at the proposed regulation. The Model Water Efficient Landscape Ordinance is an existing regulation in effect since 1992 (California Code of Regulations, Title 23 Section 490-495). Furthermore, the Department determines that the meaning of “at least as effective as” does not need further clarification in the proposed regulation. The statute (Statutes of 2006, Chapter 559) states a local agency may adopt its own landscape ordinance that is “at least as effective as” the Model Water Efficient Landscape Ordinance. The authors (Laird) of the legislation (AB 1881) provided the language “at least as effective as” but unfortunately, they did not define its meaning. “At least as effective as” may be interpreted to mean a local landscape ordinance that is equivalent to the provisions of the Model Water Efficient Landscape Ordinance to 1) reduce water waste that occurs by irrigation runoff and overspray, and 2) increase water use efficiency by establishing and monitoring water budgets, making irrigation system improvements, and applying appropriate plant selection. The scope section was deleted. The proposed regulation was modified to include separate definitions for a local agency (Section 491 (hh)) and a local water purveyor (Section 490 (ii)).

G25 Summary of Comment 62:

Commenter stated “we have participated, over the last year, in the development of a county-wide ordinance that would create a uniform regional approach to landscape efficiency issues. It is anticipated that a version of this regional ordinance, with some modifications, would be considered for adoption by the City. Our concern is that the State Ordinance has become extremely specific and prescriptive, leaving little room for regions to adopt a plan that reflects the local climate, development patterns, and professional input. We would recommend a SMO that retains the specifics for agencies that choose to follow the SMO, but also sets performance levels as an alternative to the specific requirements outlined in the ordinance. Second, the process to determine if a local ordinance is ‘at least as effective’ should be delineated. The larger goals of the ordinance should be as outlined in Recommendation 29.1 of the AB 2717 Landscape Task force Findings, Recommendations and Actions. Who will conduct this review process and will local agencies have the opportunity to discuss and explain the adequacy of their proposed ordinance?”

DWR Response: Reject. Comments that Model Ordinance conflicts with local agencies’ ordinances and that the Model Ordinance cannot be implemented and enforced are general objections directed at the proposed regulation. The Model Water Efficient Landscape Ordinance is an existing regulation in effect since 1992 (California Code of Regulations, Title 23 Section 490-495). Furthermore, the Department determines that the meaning of “at least as effective as” does not need further clarification in the proposed regulation. The statute (Statutes of 2006, Chapter 559) states a local agency may adopt its own landscape ordinance that is “at least as effective as” the Model Water Efficient Landscape Ordinance. The authors (Laird) of the legislation (AB 1881) provided the language “at least as effective as” but unfortunately, they did not define its meaning. “At least as effective as” may be interpreted to mean a local landscape ordinance that is equivalent to the provisions of the Model Water Efficient Landscape Ordinance to 1) reduce water waste that occurs by irrigation runoff and overspray, and 2) increase water use efficiency by establishing and monitoring water budgets, making irrigation system improvements, and applying appropriate plant selection. The scope section was deleted.

G26 Summary of Comment 93:

Commenter stated that the Model Ordinance “lacks specific criteria for determining what is ‘at least as effective’ given that some water agencies already enforce strict landscape regulations and ordinances;” that “specific criteria must be added to the draft Model Ordinance for review and approval of an ‘at least as effective’ local ordinance;” that the Draft Model Ordinance must provide specific criteria that will allow local agencies or water utilities to either submit existing landscape ordinances or requirements as ‘At least as Effective.’ ”

DWR Response: Reject. Comments that Model Ordinance conflicts with local agencies’ ordinances and that the Model Ordinance cannot be implemented and enforced are general objections directed at the proposed regulation. The Model Water Efficient Landscape Ordinance is an existing regulation in effect since 1992 (California Code of Regulations, Title 23 Section 490-495). Furthermore, the Department determines that the meaning of “at least as effective as” does not need further clarification in the proposed regulation. The statute (Statutes of 2006, Chapter 559) states a local agency may adopt its own landscape ordinance that is “at least as effective as” the Model Water Efficient Landscape Ordinance. The authors (Laird) of the legislation (AB 1881) provided the language “at least as effective as” but unfortunately, they did not define its meaning. “At least as effective as” may be interpreted to mean a local landscape ordinance that is equivalent to the provisions of the Model Water Efficient Landscape Ordinance

to 1) reduce water waste that occurs by irrigation runoff and overspray, and 2) increase water use efficiency by establishing and monitoring water budgets, making irrigation system improvements, and applying appropriate plant selection. The scope section was deleted.

G27 Summary of Comment 107:

Commenter stated that they “support the requirement that local alternative ordinances be at least as effective as the state model ordinance;” that “requiring local ordinances to be at least as effective as the state model ordinance closes a large loophole that currently exists because the law does not currently specify that local ordinances meet any specific requirements or standards, many of them are not as effective as the existing Model Ordinance.”

DWR Response: Accept. The Model Water Efficient Landscape Ordinance is an existing regulation in effect since 1992 (California Code of Regulations, Title 23 Section 490-495). Furthermore, the Department determines that the meaning of “at least as effective as” does not need further clarification in the proposed regulation. The statute (Statutes of 2006, Chapter 559) states a local agency may adopt its own landscape ordinance that is “at least as effective as” the Model Water Efficient Landscape Ordinance. The authors (Laird) of the legislation (AB 1881) provided the language “at least as effective as” but unfortunately, they did not define its meaning. “At least as effective as” may be interpreted to mean a local landscape ordinance that is equivalent to the provisions of the Model Water Efficient Landscape Ordinance to 1) reduce water waste that occurs by irrigation runoff and overspray, and 2) increase water use efficiency by establishing and monitoring water budgets, making irrigation system improvements, and applying appropriate plant selection. The scope section was deleted.

G28 Summary of Comment 108:

Commenter stated that “the existing regulation was initially directed at local governments, i.e. cities and counties, because landscape plan review is closely tied to the development review process. However, we believe that, with the primary goal being that of improving the efficiency of water use in new and existing landscapes, this body of regulation would be better directed at retail water agencies, which have the responsibility to manage water use. In our experience serving other jurisdictions that are not water suppliers, those agencies place little if any priority on this matter in reviewing development plans. The proposed regulation places significant additional responsibilities for ensuring compliance on new and existing landscapes for which local planning and community development departments have neither the time, expertise, nor appropriate information to properly carry out. We recommend considering an alternative to the proposed regulation that makes this landscape review function the responsibility of retail water agencies.”

DWR Response: Reject. Comments that Model Ordinance conflicts with local agencies’ ordinances, that the role of the water purveyor is not defined and that the Model Ordinance cannot be implemented and enforced are all general objections directed at the proposed regulation. The Model Water Efficient Landscape Ordinance is an existing regulation in effect since 1992 (California Code of Regulations, Title 23 Section 490-495). Furthermore, the Department determines that the meaning of “at least as effective as” does not need further clarification in the proposed regulation. The scope section was deleted. The proposed regulation was modified to include separate definitions for a local agency (Section 490 (hh)) and a local water purveyor (Section 490 (ii)). The ordinance is directed to cities, country and chartered cities and county. *A local agency may designate another agency, such as a water purveyor, to*

implement some or all of the requirements contained in this ordinance. Local agencies may collaborate with water purveyors to define each entities specific responsibilities relating to this ordinance.

G29 Summary of Comment 113, 140:

Commenter stated that the [Model] Ordinance duplicates water efficiency programs that the District is obligated to develop” via best management practices of the Memorandum of Understanding Regarding Urban Water Conservation in California; that “these BMPs include requirements to offer and conduct customer surveys of indoor and outdoor residential water use, to create water use budgets for dedicated landscape meters, to offer and conduct water use surveys to large landscape customers with mixed-use meters, and to develop water use efficiency public information and education programs;” that “similar program requirements incorporated within the model ordinance, which does not apply to water agencies without land use authority, create an unnecessary duplication in service exactly the opposite of the ordinance's stated scope;” that model ordinance confuses the roles of water suppliers and local agencies in implementing this ordinance.”

DWR Response: Reject. Comments that Model Ordinance duplicates a local agency’s water conservation programs and that the Model Ordinance does not define the role of a water purveyor are general objections to the proposed regulation. The Model Water Efficient Landscape Ordinance is an existing regulation in effect since 1992 (California Code of Regulations, Title 23 Section 490-495). The scope section was deleted. The proposed regulation was modified to include separate definitions for a local agency (Section 490 (hh)) and a local water purveyor (Section 490 (ii)).

G30 Summary of Comment 114:

Commenter stated that “while the updated ordinance lists penalties that can be imposed to maintain implementation of ordinance locally, there are no penalties identified should a local agency choose not to implement the requirements of AB 1881. What are the penalties that could be imposed on a local agency for not implementing a local ordinance?”

DWR Response: Reject. Comments that Model Ordinance duplicates a local agency’s water conservation programs and that the Model Ordinance does not define the role of a water purveyor are general objections to the proposed regulation. The Model Water Efficient Landscape Ordinance is an existing regulation in effect since 1992 (California Code of Regulations, Title 23 Section 490-495). The scope section was deleted. The proposed regulation was modified to include separate definitions for a local agency (Section 490 (hh)) and a local water purveyor (Section 490 (ii)). AB 1881 does not specify penalties that could be imposed and is up to a local agency to implement them in a local ordinance.

G31 Summary of Comment 68, 115:

Commenter stated that “the model ordinance would require the City to regulate landscaping in order to enforce the model ordinance. Does the ordinance require the City to report to an enforcement body? If so, who is the enforcement body?”

DWR Response: Reject. The Model Water Efficient Landscape Ordinance is an existing regulation in effect since 1992 (California Code of Regulations, Title 23 Section 490-495). The scope section was deleted. The proposed regulation was modified to include separate definitions for a local agency (Section 490 (hh)) and a local water purveyor (Section 490 (ii)). The State of

California Department of Water Resources is not an enforcement body. The only obligation the Department has is to report the status of implementation California legislature by local agencies to the California legislature (see Statutes of 2006, Chapter 559 Section 65597).

G32 Summary of Comment 85, 154:

Commenter stated that “the Model Ordinance draft does not adequately address major weaknesses of the current ordinance that Western Policy Research pointed out in 2001- inadequate enforcement of the maximum water allowance after project completion and a lack of integrated enforcement efforts between land use agencies and water suppliers. The maintenance and auditing requirement in Section 492.13, 497.14 and 493.1 of the draft would accomplish very little to ensure that new or renovated landscapes will actually be irrigated under the Maximum Applied Water Allowance. The defects in the current Model Ordinance that were highlighted by the Western Policy Research can only be remedied by applying a water conservation rate structure that rewards customers for living within a water budget. Yet the proposed regulation misses what is arguably the single most important revision to the current model ordinance, one that would assure that the landscape installed actually achieves targeted water savings over the long term.”

DWR Response: Reject. Comments that Model Ordinance cannot be implemented and enforced are general objections directed at the proposed regulation. The Model Water Efficient Landscape Ordinance is an existing regulation in effect since 1992 (California Code of Regulations, Title 23 Section 490-495). The scope section was deleted. The proposed regulation was modified to include separate definitions for a local agency (Section 491 (hh)) and a local water purveyor (Section 490 (ii)). Section 490.2 (Intent) was also deleted in its entirety but some of these provisions were retained and relocated to Section 490 (b). Water conservation rates were encouraged but DWR must comply with provisions of the statute.

G33 Summary of Comment 5:

A commenter stated “Section 490.2 refers to activities not covered by the [Model] Ordinance. Please add agricultural activities”

DWR Response: Reject. The Model Water Efficient Landscape Ordinance is an existing regulation in effect since 1992 (California Code of Regulations, Title 23 Section 490-495). Section 490.2 (Intent) was deleted in its entirety but some of these provisions were retained and relocated to Section 490 (b). Provisions are made for food producing plants.

G34 Summary of Comment 20:

Regarding Section 490.2 (6), commenter stated “based on the definition of a local agency and the above statement, it does not appear that local water purveyors are required to comply with the Model Ordinance, but may do so at the request of a local agency. Only a city or a county has the authority to enact an ordinance...a city or county has no authority over the local water purveyor to ensure compliance with the Model Ordinance and likewise the local water purveyor has no authority over a city or county. Because of privacy issues neither a city or county nor a water purveyor can share information as suggested by the Model Ordinance.” Commenter recommended requiring “water purveyors to track landscape water use against the Maximum Water Allowance as required by the Model Ordinance and assess penalties for exceeding the maximum water allowance.”

DWR Response: Accept in part. Comments regarding who is responsible for implementing and enforcing the Model Ordinance are general objections to the proposed regulation. The Model Water Efficient Landscape Ordinance is an existing regulation in effect since 1992 (California Code of Regulations, Title 23 Section 490-495). The statute (Statutes of 2006 Chapter 559) defines a local agency accordingly: “*any city, county, or city and county, including a charter city or charter county*” (Section 65591 (b)). Section 490.2 (Intent) was deleted in its entirety but some of these provisions were retained and relocated to Section 490 (b). The proposed regulation was modified to include separate definitions for a local agency (Section 490 (hh)) and a local water purveyor (Section 490 (ii)). The Department can only encourage the use of tiered rates (see Section 490 (b) (6)) because tiered rates are regulated by the California Public Utilities Commission (CPUC). Section 490.2 (6) was modified and renumbered accordingly: *encourage local agencies and water purveyors to use economic incentives that promote the efficient use of water, such as implementing a tiered rate structure, Section 490 (b) (6)*. In addition, Section 490.2 (2) was modified and renumbered accordingly: *encourage local agencies to designate the necessary authority that implements and enforces the provisions of the Water Efficient Landscape Ordinance or its local landscape ordinance, Section 490 (b) (6)*.

G35 Summary of Comment 20:

Regarding Section 490.2 (7), commenter stated “landscape architects and landscape contractors are already licensed by the State of California to prepare a landscape and irrigation documentation packages. Most local agencies already require licensed landscape architects or landscape contractors to prepare and sign landscape and irrigation construction packages. Irrigation consultants can provide consulting services under the Landscape Architects Practice Act Rules and Regulations Business and Professions Code Section 5641.6 without being certified. Individuals are not required to be licensed to practice irrigation design within the State of California.”

DWR Response: Reject. Section 490.2 (Intent) was deleted in its entirety but some of these provisions were retained and relocated to Section 490 (b). Also, the modified text of the proposed regulation still includes the definitions of certified landscape irrigation auditors and certified irrigation designers in Section 491 (f) and (g), respectively. The Department supports the certification of landscape and irrigation professionals. The certification programs by professional trade organizations and accredited educational organizations help promote landscape water use efficiency (i.e., Irrigation Association’s certification programs: Certified Irrigation Designer, Certified Landscape Irrigation Auditor and Certified Water Conservation Manager – Landscape; and California Landscape Contractors Association Water Management Certification Program, etc.). The U.S. Environmental Protection Agency also has its own WaterSense Certification Programs for irrigation professionals - Irrigation Auditor, Irrigation Designer and Irrigation Installation and Maintenance Professional).

G36 Summary of Comment 25:

Commenter stated that “this ordinance does not appear to apply to local water purveyors and as such, they are not required to comply with its provisions. While it would appear that the intent is that the Cities, Counties and other government agencies work together to use water efficiently, the fact is that due to privacy issues, they are not permitted to share information with the water purveyors. And the water purveyors in turn are not permitted to share information with the

government agencies. The end result would be a lot of unnecessary red tape, additional bureaucracy, and added delays to the construction process.” Commenters recommended requiring “the water purveyors to track water use utilizing a Maximum Water Allowance and assess penalties for exceeding this allowance similar to what is currently being done at Irvine Ranch Water District. They assess penalties for water use over and above the Maximum Water Allowance and this has had a positive effect in actual and real water savings.”

DWR Response: Accept in part. Comments regarding who is responsible for implementing and enforcing the Model Ordinance are general objections to the proposed regulation. The Model Water Efficient Landscape Ordinance is an existing regulation in effect since 1992 (California Code of Regulations, Title 23 Section 490-495). The statute (Statutes of 2006 Chapter 559) defines a local agency accordingly: “*any city, county, or city and county, including a charter city or charter county*” (Section 65591 (b)). Section 490.2 (Intent) was deleted in its entirety but some of these provisions were retained and relocated to Section 490 (b). The proposed regulation was modified to include separate definitions for a local agency (Section 490 (hh)) and a local water purveyor (Section 490 (ii)). The Department can only encourage the use of tiered rates (see Section 490 (b) (6)) because tiered rates are regulated by the California Public Utilities Commission (CPUC). Section 490.2 (6) was modified and renumbered accordingly: *encourage local agencies and water purveyors to use economic incentives that promote the efficient use of water, such as implementing a tiered rate structure, Section 490 (b) (6)*. In addition, Section 490.2 (2) was modified and renumbered accordingly: *encourage local agencies to designate the necessary authority that implements and enforces the provisions of the Water Efficient Landscape Ordinance or its local landscape ordinance, Section 490 (b) (6)*.

G37 Summary of Comment 38:

Commenter stated that “the intent [section] describes the use of the MAWA, water use education, and rates all of which are usually implemented primarily by the local water retailer or wholesaler. The roles of the local water retail purveyor and the local (permitting) agency should be better defined.”

DWR Response: Accept in part. Comments regarding who is responsible for implementing and enforcing the Model Ordinance are general objections to the proposed regulation. The Model Water Efficient Landscape Ordinance is an existing regulation in effect since 1992 (California Code of Regulations, Title 23 Section 490-495). The statute (Statutes of 2006 Chapter 559) defines a local agency accordingly: “*any city, county, or city and county, including a charter city or charter county*” (Section 65591 (b)). Section 490.2 (Intent) was deleted in its entirety but some of these provisions were retained and relocated to Section 490 (b). The proposed regulation was modified to include separate definitions for a local agency (Section 490 (hh)) and a local water purveyor (Section 490 (ii)). The Department can only encourage the use of tiered rates (see Section 490 (b) (6)) because tiered rates are regulated by the California Public Utilities Commission (CPUC). Section 490.2 (6) was modified and renumbered accordingly: *encourage local agencies and water purveyors to use economic incentives that promote the efficient use of water, such as implementing a tiered rate structure, Section 490 (b) (6)*. In addition, Section 490.2 (2) was modified and renumbered accordingly: *encourage local agencies to designate the necessary authority that implements and enforces the provisions of the Water Efficient Landscape Ordinance or its local landscape ordinance, Section 490 (b) (6)*.

G38 Summary of Comment 45:

Commenter stated that “the model ordinance requirement is placed on local agencies but the City of Ontario is the primary water purveyor for the city; there are pockets of land that fall under the jurisdiction of a local water purveyor. As we understand it, the local water purveyor would not be subject to the Model Ordinance nor can they share information with the City. This leaves the City in the position of requiring compliance without the benefit of water usage information. Local water purveyors should be subject to the model ordinance or be required to share information with local jurisdiction responsible for implementing the Model Ordinance.”

DWR Response: Accept in part. Comments regarding who is responsible for implementing and enforcing the Model Ordinance are general objections to the proposed regulation. The Model Water Efficient Landscape Ordinance is an existing regulation in effect since 1992 (California Code of Regulations, Title 23 Section 490-495). The statute (Statutes of 2006 Chapter 559) defines a local agency accordingly: “*any city, county, or city and county, including a charter city or charter county*” (Section 65591 (b)). Section 490.2 (Intent) was deleted in its entirety but some of these provisions were retained and relocated to Section 490 (b). The proposed regulation was modified to include separate definitions for a local agency (Section 490 (hh)) and a local water purveyor (Section 490 (ii)). The Department can only encourage the use of tiered rates (see Section 490 (b) (6)) because tiered rates are regulated by the California Public Utilities Commission (CPUC). Section 490.2 (6) was modified and renumbered accordingly: *encourage local agencies and water purveyors to use economic incentives that promote the efficient use of water, such as implementing a tiered rate structure, Section 490 (b) (6)*. In addition, Section 490.2 (2) was modified and renumbered accordingly: *encourage local agencies to designate the necessary authority that implements and enforces the provisions of the Water Efficient Landscape Ordinance or its local landscape ordinance, Section 490 (b) (6)*.

G39 Summary of Comment 59:

Commenter stated that “the intent [section] should recognize that water agencies provide direct economic incentives to customers for irrigation system and landscape improvements. The current stated intent of the ordinance [Section 490.2 (6)] only includes the coordination with the local retail agency to implement a tiered rate structure as an economic incentive for water use efficiency.”

DWR Response: Reject. Section 490.2 (Intent) was deleted in its entirety but some of these provisions were retained and relocated to Section 490 (b). More specifically, Section 490.2 (6) was modified and renumbered accordingly: *encourage local agencies and water purveyors to use economic incentives that promote the efficient use of water, such as implementing a tiered rate structure, Section 490 (b) (6)*. The Department can only encourage the use of tiered rates (see Section 490 (b) (6)) because tiered rates are regulated by the California Public Utilities Commission (CPUC).

G40 Summary of Comments 63, 72, 76, 91, 109, 110, 114, 133, 158:

Several commenters asked that the roles and requirements of water purveyors and local agencies be clearly defined because the Model Ordinance places requirements on cities and counties that only water purveyors can perform; that cities and counties that are not the local water purveyor are generally not equipped to provide water conservation education programs and water audit programs. Commenters asked why comply with this Model Ordinance when water purveyors already have programs. Commenter stated that “while it is reasonable that cities with their land use permitting powers should be the lead agency for new and substantially-rehabilitated

landscape projects requiring permits, it is not reasonable to assume that cities have the capacity to oversee water consumption over time; most city governments do not operate and have no direct control over water supply infrastructure and do not have any right to water consumption data for individual sites. Water purveyors (unlike cities which are very constrained in their revenue-generating options) have this control and data access as well as the ability to raise or tier water rates to meet their expenses or to encourage conservation. A mechanism is necessary to require that the retail water purveyors should be the responsible lead agency for tracking and enforcing water consumption against the water budgets for existing developments. Cities and water purveyors should be required to coordinate to determine the most effective ways to achieve water conservation goals for both new and existing developments.” Other commenters similarly stated that “some water purveyors treat water use information for their customers as confidential information and do not this information without approval of the customer. For new or rehabilitated sites, the [landscape] documentation package should include a Release of Information, signed by the property owner, of water use data from the water purveyor to the city [or local agency] to facilitate compliance. Cities should be obligated to provide the water purveyors with area measurement information to coordinate this aspect of the [Model] Ordinance.”

DWR Response: Accept in part. Comments regarding who is responsible for implementing and enforcing the Model Ordinance are general objections to the proposed regulation. The Model Water Efficient Landscape Ordinance is an existing regulation in effect since 1992 (California Code of Regulations, Title 23 Section 490-495). The statute (Statutes of 2006 Chapter 559) defines a local agency accordingly: “*any city, county, or city and county, including a charter city or charter county*” (Section 65591 (b)). Section 490.2 (Intent) was deleted in its entirety but some of these provisions were retained and relocated to Section 490 (b). The proposed regulation was modified to include separate definitions for a local agency (Section 490 (hh)) and a local water purveyor (Section 490 (ii)). The Department can only encourage the use of tiered rates (see Section 490 (b) (6)) because tiered rates are regulated by the California Public Utilities Commission (CPUC). Section 490.2 (6) was modified and renumbered accordingly: *encourage local agencies and water purveyors to use economic incentives that promote the efficient use of water, such as implementing a tiered rate structure, Section 490 (b) (6)*. In addition, Section 490.2 (2) was modified and renumbered accordingly: *encourage local agencies to designate the necessary authority that implements and enforces the provisions of the Water Efficient Landscape Ordinance or its local landscape ordinance, Section 490 (b) (6)*.

G41 Summary of Comment 65:

Commenter stated that “if the [the Department] did nothing more than require tiered structured water rates, they will see tremendous reductions in water without the need for all of this rule book writing. Efficiency means low water rates and waste means you pay triple. That simplicity will entice cities, schools, HOA's, cemeteries, etc. to spend money on consultants and other landscape professionals to fix the problem quickly and efficiently the way private enterprise works best. Water is business and rate structuring will force business to react in a manner that will get results. When I began managing water in the 80's, I never imagined that it would be 2010 before I would realize that water management would be a real business. Until water becomes gas-like expensive will consumers realize that they need to improve their efficiency and actually manage their water. Unlike gas, tiered structure water rates give the consumer the opportunity to be rewarded for efficiency...and efficiency pays.”

DWR Response: Reject. The Model Water Efficient Landscape Ordinance is an existing regulation in effect since 1992 (California Code of Regulations, Title 23 Section 490-495). Section 490.2 (Intent) was deleted in its entirety but some of these provisions were retained and relocated to Section 490 (b). The Department can only encourage the use of tiered rates (see Section 490 (b) (6)) because tiered rates are regulated by the California Public Utilities Commission (CPUC). Section 490.2 (6) was modified and renumbered accordingly: *encourage local agencies and water purveyors to use economic incentives that promote the efficient use of water, such as implementing a tiered rate structure, Section 490 (b) (6)*. In addition, Section 490.2 (2) was modified and renumbered accordingly: *encourage local agencies to designate the necessary authority that implements and enforces the provisions of the Water Efficient Landscape Ordinance or its local landscape ordinance, Section 490 (b) (6)*.

G42 Summary of Comment 75:

Commenter stated that “this [Model Ordinance] is a before and after document – guiding good planning and design before a project is built, and monitoring water use after it is built. San Juan Capistrano now has water and city functions under one roof. It was not always so, and when separate, there can be barriers to sharing the water use information in the after phase. Any means that can be created within the [Model Ordinance] to strengthen the City/Water Agency partnership and require the participation of water agencies will help ensure success.

DWR Response: Accept in part. Comments regarding who is responsible for implementing and enforcing the Model Ordinance are general objections to the proposed regulation. The Model Water Efficient Landscape Ordinance is an existing regulation in effect since 1992 (California Code of Regulations, Title 23 Section 490-495). The statute (Statutes of 2006 Chapter 559) defines a local agency accordingly: “*any city, county, or city and county, including a charter city or charter county*” (Section 65591 (b)). Section 490.2 (Intent) was deleted in its entirety but some of these provisions were retained and relocated to Section 490 (b). The proposed regulation was modified to include separate definitions for a local agency (Section 490 (hh)) and a local water purveyor (Section 490 (ii)). In addition, Section 490.2 (2) was modified and renumbered accordingly: *encourage local agencies to designate the necessary authority that implements and enforces the provisions of the Water Efficient Landscape Ordinance or its local landscape ordinance, Section 490 (b) (6)*.

G43 Summary of Comment 78:

Commenter stated that “The City of Dana Point and many other local agencies (cities or counties) as defined on page 6 are not water purveyors or water providers as discussed in the Act itself. For example, water is provided to most cities by various water districts in our county. Cities here neither provide water, no meters, not water rates, nor do we know water customers or water usage, nor can we shut water off or penalize our customers. Water purveyors/supplies, i.e., water districts, have jurisdiction over these actions, not cities.” Commenter recommended requiring “AB 1881 compliance from water purveyors, require this at least for applicable sections of the ordinance, such as the operations/maintenance (post construction) related requirements of section 492.12, 492.13, 49.14, 492.15, 492.16, 492.18 and all of 493 for existing landscapes. Local agencies and water purveyors need to work together to meet the goal. Also, coordination with our Regional Water Quality Control Board is highly recommended.”

DWR Response: Accept in part. Comments regarding who is responsible for implementing and enforcing the Model Ordinance are general objections to the proposed regulation. The Model

Water Efficient Landscape Ordinance is an existing regulation in effect since 1992 (California Code of Regulations, Title 23 Section 490-495). The statute (Statutes of 2006 Chapter 559) defines a local agency accordingly: “any city, county, or city and county, including a charter city or charter county” (Section 65591 (b)). Section 490.2 (Intent) was deleted in its entirety but some of these provisions were retained and relocated to Section 490 (b). The proposed regulation was modified to include separate definitions for a local agency (Section 490 (hh)) and a local water purveyor (Section 490 (ii)). In addition, Section 490.2 (2) was modified and renumbered accordingly: *encourage local agencies to designate the necessary authority that implements and enforces the provisions of the Water Efficient Landscape Ordinance or its local landscape ordinance, Section 490 (b) (6).*

G44 Summary of Comment 81:

Regarding Section 490.2 (1), (4) and (6), commenter stated “help (or even mandate that) water purveyors establish rebate programs to encourage conversion of existing controllers to high tech controllers. Then expect purveyors to monitor actual usage versus MAWA, apply very substantial price increase for usage that substantially exceeds MAWA (our District didn’t get much result from economic based signals until the upper rates blocks reached about 10X the base rate – about \$20+ per unit). The goal should be one of establishing a MAWA based water usage monitoring structure that can be created and monitored largely through computer tools using existing data bases.”

DWR Response: Accept in part. Comments regarding who is responsible for implementing and enforcing the Model Ordinance are general objections to the proposed regulation. The Model Water Efficient Landscape Ordinance is an existing regulation in effect since 1992 (California Code of Regulations, Title 23 Section 490-495). Section 490.2 (Intent) was deleted in its entirety but some of these provisions were retained and relocated to Section 490 (b). The Department can only encourage the use of tiered rates (see Section 490 (b) (6)) because tiered rates are regulated by the California Public Utilities Commission (CPUC). Section 490.2 (6) was modified and renumbered accordingly: *encourage local agencies and water purveyors to use economic incentives that promote the efficient use of water, such as implementing a tiered rate structure, Section 490 (b) (6).*

G45 Summary of Comment 83:

Regarding Section 490.2 (6), Commenter stated that “the creation of design standards to implement water conservation is appropriate and is clearly within the statutory authority of the municipalities to which this document applies. However, in our opinion, standards that impose requirements on water purveyors are beyond the statutory authority of the legislation and simply impractical. Enforcement, beyond what is allowed through code compliance, should be a separate regulatory action targeting the water purveyance entities.”

DWR Response: Accept in part. Comments regarding who is responsible for implementing and enforcing the Model Ordinance are general objections to the proposed regulation. The Model Water Efficient Landscape Ordinance is an existing regulation in effect since 1992 (California Code of Regulations, Title 23 Section 490-495). The statute (Statutes of 2006 Chapter 559) defines a local agency accordingly: “any city, county, or city and county, including a charter city or charter county” (Section 65591 (b)). Section 490.2 (Intent) was deleted in its entirety but some of these provisions were retained and relocated to Section 490 (b). The proposed regulation was modified to include separate definitions for a local agency (Section 490 (hh)) and a local

water purveyor (Section 490 (ii)). In addition, Section 490.2 (2) was modified and renumbered accordingly: *encourage local agencies to designate the necessary authority that implements and enforces the provisions of the Water Efficient Landscape Ordinance or its local landscape ordinance, Section 490 (b) (6).*

G46 Summary of Comments 87, 95, 99:

Regarding Section 490.2 (6), commenter stated that “one solution to encourage more efficient use of irrigation water is to allow market forces to affect water use. A tiered rate structure that penalizes extreme high water users is a more appropriate and palatable means of encouraging water conservation. Additionally, a portion of revenue generated from the highest tier rate payer could be used for programs directed at rehabilitating existing non-water efficient landscaping.” Another commenter similarly stated that “tiered rate structures are a powerful, market based approach which have proven water savings at districts such as Irvine [Ranch WD] who have implemented them.” Also, a commenter expressed that the Department “do not lower the .8 to .7 in MAWA, but make it mandatory all water rate structures will be tier rate; and let the free market lower consumption due to penalties due to over watering.”

DWR Response: Accept in part. Section 490.2 (Intent) was deleted in its entirety but some of these provisions were retained and relocated to Section 490 (b). The proposed regulation was modified to include separate definitions for a local agency (Section 490 (hh)) and a local water purveyor (Section 490 (ii)). The Department can only encourage the use of tiered rates (see Section 490 (b) (6)) because tiered rates are regulated by the California Public Utilities Commission (CPUC). Section 490.2 (6) was modified and renumbered accordingly: *encourage local agencies and water purveyors to use economic incentives that promote the efficient use of water, such as implementing a tiered rate structure, Section 490 (b) (6).* In addition, Section 490.2 (2) was modified and renumbered accordingly: *encourage local agencies to designate the necessary authority that implements and enforces the provisions of the Water Efficient Landscape Ordinance or its local landscape ordinance, Section 490 (b) (6).*

G47 Summary of Comment 93, 105:

Commenter expressed concerns “about the ability and willingness on non-water supplying local agencies to adopt and enforce this Draft Model Ordinance given the long and technical nature of the revised specifications and the associated budget and staffing burdens on local agencies, which may not have staffing levels to accommodate the additional workload or expertise to review landscapes to the Draft Model Ordinance specifications.” Another commenter stated that “the process is overly complicated, and would be burdensome to administer. The guidelines diminish the role of water purveyors that are separate from municipalities in the protection of their water resources. They also create an extra burden for these districts, some of which would have to deal with multiple city and county governments.”

DWR Response: Accept in part. Comments regarding who is responsible for implementing and enforcing the Model Ordinance are general objections to the proposed regulation. The Model Water Efficient Landscape Ordinance is an existing regulation in effect since 1992 (California Code of Regulations, Title 23 Section 490-495). The statute (Statutes of 2006 Chapter 559) defines a local agency accordingly: “*any city, county, or city and county, including a charter city or charter county*” (Section 65591 (b)). Section 490.2 (Intent) was deleted in its entirety but some of these provisions were retained and relocated to Section 490 (b). The proposed regulation was modified to include separate definitions for a local agency (Section 490 (hh)) and a local

water purveyor (Section 490 (ii)). In addition, Section 490.2 (2) was modified and renumbered accordingly: *encourage local agencies to designate the necessary authority that implements and enforces the provisions of the Water Efficient Landscape Ordinance or its local landscape ordinance, Section 490 (b) (6).*

G48 Summary of Comment 160:

Commenter stated that “the San Diego County Water Authority has something like 27 different water agencies. Those water purveyors, many times, are separate from the municipalities and the cities. Those cities don't talk to them, sometimes they don't even get along with them. So asking -- and they have no jurisdictional authority over them, so the document reaches between those two entities in a way that's very difficult. We think that you should address the compliance with code compliance and -- enforcement with code compliance, and then work on separate legislation that deals with the water purveyors.”

DWR Response: Accept in part. Comments regarding who is responsible for implementing and enforcing the Model Ordinance are general objections to the proposed regulation. The Model Water Efficient Landscape Ordinance is an existing regulation in effect since 1992 (California Code of Regulations, Title 23 Section 490-495). The statute (Statutes of 2006 Chapter 559) defines a local agency accordingly: “*any city, county, or city and county, including a charter city or charter county*” (Section 65591 (b)). Section 490.2 (Intent) was deleted in its entirety but some of these provisions were retained and relocated to Section 490 (b). The proposed regulation was modified to include separate definitions for a local agency (Section 490 (hh)) and a local water purveyor (Section 490 (ii)). The Department can only encourage the use of tiered rates (see Section 490 (b) (6)) because tiered rates are regulated by the California Public Utilities Commission (CPUC). Section 490.2 (6) was modified and renumbered accordingly: *encourage local agencies and water purveyors to use economic incentives that promote the efficient use of water, such as implementing a tiered rate structure, Section 490 (b) (6).* In addition, Section 490.2 (2) was modified and renumbered accordingly: *encourage local agencies to designate the necessary authority that implements and enforces the provisions of the Water Efficient Landscape Ordinance or its local landscape ordinance, Section 490 (b) (6).*

Summary and Comment: Section 491 Applicability

G49 Summary of Comment 2:

Commenter asked “Does this have any affect on the Town of Tiburon as far as compliance or requirements? I assume that much of the landscape and irrigation requirements are administered through the water district?”

DWR Response: Reject. Comments regarding who is responsible for implementing and enforcing the Model Ordinance are general objections to the proposed regulation. The Model Water Efficient Landscape Ordinance is an existing regulation in effect since 1992 (California Code of Regulations, Title 23 Section 490-495). The statute (Statutes of 2006 Chapter 559) defines a local agency accordingly: “*any city, county, or city and county, including a charter city or charter county*” (Section 65591 (b)). There are 478 incorporated cities and towns in California, of which 456 are cities and 22 are towns. Under California law (e.g., Government Code Sections 34500-34504) the terms “city” and “town” are explicitly interchangeable; the name of an incorporated municipality in the state can either be “City of (Name)” or “Town of

(Name).” If you are you considered a local agency, as defined above, you are required to adopt the Model Ordinance or one that is at least as effective as by January 2010. The proposed regulation was modified to include separate definitions for a local agency (Section 490 (hh)) and a local water purveyor (Section 490 (ii)). Section 490.2 (Intent) was deleted in its entirety but some of these provisions were retained and relocated to Section 490 (b). More specifically, Section 490.2 (2) was modified and renumbered accordingly: *encourage local agencies to designate the necessary authority that implements and enforces the provisions of the Water Efficient Landscape Ordinance or its local landscape ordinance, Section 490 (b) (6).*

G50 Summary of Comment 5:

Commenter stated that “Section 490.3 (1) (a)-(c) refers to landscapes requiring a permit, plan check or design review. A plan check and design review are fairly self-explanatory, however, the word permit is not. Does this include grading permits and construction permits? Also, if the project itself requires a conditional use permit and landscaping is a condition of approval, but there are no permits required for the landscaping itself, is the conditional use permit the permit for which the regulation is referencing?” Commenter requesting the addition of permit to Section 491 Definitions with a complete explanation of the type of permits being referred to.

DWR Response: Accept in part. The Model Water Efficient Landscape Ordinance is an existing regulation in effect since 1992 (California Code of Regulations, Title 23 Section 490-495). The term permit was added to the modified text of the proposed regulation as Section 490 (tt): *permit means any permit issued by local agencies for new building or rehabilitated landscapes.*

G51 Summary of Comment 10, 14, 16:

Commenters requested clarification of the applicability section (490.3) stating it is broad and confusing. One commenter stated that “as written [it] would apply equivalently to large commercial developments, residential subdivisions and homeowner construction on a single family residence where the costs involved may likely discourage homeowners from making needed improvements to their homes (or avoiding required permits).” A commenter asked “Does new construction refer to any permitted construction on the property or is it referring to landscape construction? And, if so, how much new landscaping would trigger applicability for an existing home with over 2,500 sq ft of landscaping?”

DWR Response: Accept in part. The Model Water Efficient Landscape Ordinance is an existing regulation in effect since 1992 (California Code of Regulations, Title 23 Section 490-495). The term permit was added to the modified text of the proposed regulation as Section 490 (tt): *permit means any permit issued by local agencies for new building or rehabilitated landscapes.* The 2,500 square foot of landscape area threshold is an existing regulation (California Code of Regulations, Title 23 Section 492). This threshold refers to the total landscape area of a project. If a project has a total landscape area of equal to or greater than 2,500 square foot, it is subject to the proposed regulation.

G52 Summary of Comment 14:

Commenter stated that “the [Model] Ordinance does not address the following significant landscape water uses: Filling pools, spa; Ponds and fountains; Games: Slip-and-slides, etc.; Wading pools; Power washing; Hosing paving; Washing of vehicles, boats, wave runners; Movable Sprinklers; Soaker hoses; Hand watering/hose use; Construction water use.”

Commenter continued stating that “the [Model] Ordinance will do much to create jobs for

irrigation professionals and water agency employees. It will increase bureaucracy, slow projects, and provide a great deal of public antagonism against the government, especially the Water Agencies and enforcers. This is a cumbersome and costly way to address the issue of water waste. A better solution would be to have accurate water metering, combined with a single water allowance per dwelling unit per month, to provide the minimum needs of the household. This would be the same for every dwelling unit in the water District. Everything over this basic amount would be billed at double the rate. For water emergencies: Stage 2: Double the rate over the allowance; Stage 3: Triple the rate over the allowance; Stage 4: Quadruple the rate and impose fines for exterior water use. This eliminates the cumbersome, burdensome and hard to enforce Model Ordinance, and provides an easily understandable rate based system. The individual can determine the modifications to their property as needed.”

DWR Response: Reject. Comments that the Model Ordinance provisions are complex or costly are general objections directed at the proposed regulation. Other types of water waste are generally addressed in a local agency’s municipal codes or drought contingency plan. The Model Water Efficient Landscape Ordinance is an existing regulation in effect since 1992 (California Code of Regulations, Title 23 Section 490-495). The Notice of Proposed Rulemaking, which was published in the California Regulatory Notice Register on February 8, 2008, succinctly describes the purpose of the current rulemaking action on the Model Water Efficient Landscape Ordinance.

G53 Summary of Comment 20:

Commenter stated that “the Notice of Proposed Rulemaking indicates there will be no additional costs imposed by the [Model] Ordinance;” that “since local agencies and school districts have the authority to levy service charges, plan check fees or assessments against any developers, builders, owners, etc. that are required to get approvals under the model ordinance, these service charges, plan check fees or assessments will be passed on to developers, builders, owners, etc;” [If this is the case] “local agencies and school districts will then be required to find and hire qualified staff to take on the workload of broader plan checking responsibilities brought on by this [Model Ordinance]. Local agencies and school districts will need to set up a department or sub-department within their local agency or contract with an outside consulting firms to review designs or plan check a completed Landscape Documentation Package as required by the Model Ordinance to permit any landscape and irrigation system over 2,500 square feet in size. The financial impact to the local agency is unknown, but will be paid for by developers or owners in the way of plan check fees.” The commenter, California Landscape Contractors Association, provided a cost analysis for implementing the [Model Ordinance] on a 5,000 square foot landscape. Commenter also stated that “the Model Ordinance puts the entire burden on local agencies, owners and developers to do their part in the design and construction of a project, however it does not look at the financial burden and time constraints required to implement the Model Ordinance. The only way to assure that water saving will be achieved is to target those individuals or companies that have control over the irrigation system operation. Landscape water managers and contractors are not addressed in the model ordinance. There is no vehicle which requires that landscape water managers and contractors to do their part to ensure optimum water use in the landscape.” Commenter recommended that the provisions for Model Ordinance to include requirements for landscape water managers, landscape maintenance contractors and water purveyors.

DWR Response: Accept in part and reject in part. Comments that the Model Ordinance provisions are complex or costly and comments regarding who is responsible for implementing

and enforcing the Model Ordinance are general objections directed at the proposed regulation. The Model Water Efficient Landscape Ordinance is an existing regulation in effect since 1992 (California Code of Regulations, Title 23 Section 490-495). The statute (Statutes of 2006 Chapter 559) defines a local agency accordingly: “any city, county, or city and county, including a charter city or charter county” (Section 65591 (b)). The proposed regulation was modified to include separate definitions for a local agency (Section 491 (hh)) and a local water purveyor (Section 490 (ii)). Section 490.2 (Intent) was deleted in its entirety but some of these provisions were retained and relocated to Section 490 (b). More specifically, Section 490.2 (2) was modified and renumbered accordingly: *encourage local agencies to designate the necessary authority that implements and enforces the provisions of the Water Efficient Landscape Ordinance or its local landscape ordinance, Section 490 (b) (6)*. Furthermore, the Department supports the certification of landscape and irrigation professionals. The certification programs by professional trade organizations and accredited educational organizations help promote landscape water use efficiency (i.e., Irrigation Association’s certification programs: Certified Irrigation Designer, Certified Landscape Irrigation Auditor and Certified Water Conservation Manager – Landscape; and California Landscape Contractors Association Water Management Certification Program, etc.). The U.S. Environmental Protection Agency also has its own WaterSense Certification Programs for irrigation professionals - Irrigation Auditor, Irrigation Designer and Irrigation Installation and Maintenance Professional).

G54 Summary of Comment 25:

Commenter stated that “if this [Model Ordinance] is enacted as currently proposed, there will [be a] considerable increase in the amount of work that will be needed to be done in order to comply with all the provisions. This will include an increase in the amount of fees paid to landscape architects and irrigation consultants, new fees to be paid to the hundreds if not thousands of water auditors that will now be needed in order to certify each and every landscape project across the state that exceeds 2,500 square foot in size. And there will be an increase in the amount of personnel that each [local] agency will need in order to review all of these new documents that [are] now being required to be submitted.” Commenter also stated “we cannot offer a recommendation for this issue as we cannot see how this ordinance will not have a financial effect on the people of California. They will have to bear the financial burden of increased fees as eventually these will be passed on down the line to the end user, which in most cases will be the property owner.”

DWR Response: Accept in part and reject in part. Comments that the Model Ordinance provisions are complex or costly and comments regarding who is responsible for implementing and enforcing the Model Ordinance are general objections directed at the proposed regulation. The Model Water Efficient Landscape Ordinance is an existing regulation in effect since 1992 (California Code of Regulations, Title 23 Section 490-495). The statute (Statutes of 2006 Chapter 559) defines a local agency accordingly: “any city, county, or city and county, including a charter city or charter county” (Section 65591 (b)). The proposed regulation was modified to include separate definitions for a local agency (Section 491 (hh)) and a local water purveyor (Section 490 (ii)). Section 490.2 (Intent) was deleted in its entirety but some of these provisions were retained and relocated to Section 490 (b). More specifically, Section 490.2 (2) was modified and renumbered accordingly: *encourage local agencies to designate the necessary authority that implements and enforces the provisions of the Water Efficient Landscape Ordinance or its local landscape ordinance, Section 490 (b) (6)*.

G55 Summary of Comment 33:

Commenter stated that “the proposed [Model] Ordinance will require the homeowner of a single-family residence to meet complex criteria and specifications of the Landscape Documentation Package. Unlike [project] applicants for large scale residential or commercial projects, a typical homeowner does not have the ability or resources to prepare the required landscape documentation such as water budget calculation, hydrozone information, soil management plan and irrigation plan... The Town of Los Altos Hills is a small rural residential community with less than 3,000 developed parcels which consists primarily of single-family homes on one plus acre lots. The proposed change to include single-family residential projects in the [Model] Ordinance will affect more than 90% of the properties within the Town and will create an additional review process that increases the time and cost for homeowner-installed landscaping projects... it is estimated that the average cost to prepare the required documentation package for a landscape project on a one acre property would cost approximately \$3,000 to \$4,000.” Commenter requested that “homeowner installed landscaping in single-family residential projects remain exempt from Model Ordinance.”

DWR Response: Accept in part and reject in part. Comments in disagreement with the applicability of the Model Ordinance to homeowner installed or provided residential landscape projects and the 2,500 square foot thresholds are general objections directed at the proposed regulation. The 2,500 square foot threshold is part of the existing regulation (California Code of Regulations, Title 23 Section 490-495). The applicability to homeowner installed or provided landscapes remains the same in the modified text of the proposed regulation but renumbered as Section 490.1 (c). However, the threshold was increased from 2,500 square foot to 5,000 square foot for homeowner installed or provided landscape projects only. Urban landscapes account for significant amounts (30-50 percent) of outdoor water use in California and the Department supports provisions targeting this sector. Provisions for new construction landscape projects and rehabilitated landscape projects by public agencies and private developers etc. remain the same but were slightly modified and renumbered as Section 490.1.

G56 Summary of Comment 34:

Regarding Section 490.3, a commenter stated that “the statute should apply to all landscapes, eliminate the 2,500 foot exemption. All new homes should have sub-metered outdoor consumption and existing systems should have to add one or have a control system with a flow sensor included so monthly outdoor consumption can be monitored.”

DWR Response: Accept in part and reject in part. Comments in disagreement with the applicability of the Model Ordinance to homeowner installed or provided residential landscape projects and the 2,500 square foot thresholds are general objections directed at the proposed regulation. The 2,500 square foot threshold is part of the existing regulation (California Code of Regulations, Title 23 Section 490-495). The applicability to homeowner installed or provided landscapes remains the same in the modified text of the proposed regulation but renumbered as Section 490.1 (c). However, the threshold was increased from 2,500 square foot to 5,000 square foot for homeowner installed or provided landscape projects only. Urban landscapes account for significant amounts (30-50 percent) of outdoor water use in California and the Department supports provisions targeting this sector. Provisions for new construction landscape projects and rehabilitated landscape projects by public agencies and private developers etc. remain the same but were slightly modified and renumbered as Section 490.1.

DWR Response: Reject. The 2,500 square foot threshold is part of the existing regulation (California Code of Regulations, Title 23 Section 490-495). Metering is already addressed in previous statutes (laws). The modified Model Ordinance includes provisions for tracking and monitoring water use by local agencies and water purveyors.

G57 Summary of Comment 42, 48, 56: Several commenters recommended deleting the [provision] for homeowner installed or provided landscapes for single family homes of any and all size not just for those with 2,500 square foot or greater of landscape area. This [provision] is unrealistic and not enforceable. It will serve to compromise the many positive water conservation benefits of the [Model] Ordinance. Another commenter stated that “both politically and administratively it would be hard for Yuba County to enforce homeowner-provided or homeowner-hired landscaping for single family and multi-family residential projects equal to and greater than 2,500 feet.”

DWR Response: Accept in part and reject in part. Comments in disagreement with the applicability of the Model Ordinance to homeowner installed or provided residential landscape projects and the 2,500 square foot thresholds are general objections directed at the proposed regulation. The 2,500 square foot threshold is part of the existing regulation (California Code of Regulations, Title 23 Section 490-495). The applicability to homeowner installed or provided landscapes remains the same in the modified text of the proposed regulation but renumbered as Section 490.1 (c). However, the threshold was increased from 2,500 square foot to 5,000 square foot for homeowner installed or provided landscape projects only. Urban landscapes account for significant amounts (30-50 percent) of outdoor water use in California and the Department supports provisions targeting this sector. Provisions for new construction landscape projects and rehabilitated landscape projects by public agencies and private developers etc. remain the same but were slightly modified and renumbered as Section 490.1.

G58 Summary of Comment 44:

Regarding Section 490.3, commenter stated that “there is a responsibility with owners and occupants of ALL properties regardless of property size, to conserve water and use it wisely. What will be allowed by an ordinance not applicable to projects with a landscape area of 2,500 square feet or less, is an open environment to potential misuse or waste of water, the very thing this ordinance seeks to curtail. Granted, not all property occupants may be property owners, and not all properties have significant landscape areas. However, this should not cause one water customer over another to not follow water conservation practices and methods while the other is subject to this ordinance.” Commenter recommended that “the applicability section be revised with applicability to all water use customers.”

DWR Response: Accept in part and reject in part. Comments in disagreement with the applicability of the Model Ordinance to homeowner installed or provided residential landscape projects and the 2,500 square foot thresholds are general objections directed at the proposed regulation. The 2,500 square foot threshold is part of the existing regulation (California Code of Regulations, Title 23 Section 490-495). The applicability to homeowner installed or provided landscapes remains the same in the modified text of the proposed regulation but renumbered as Section 490.1 (c). However, the threshold was increased from 2,500 square foot to 5,000 square foot for homeowner installed or provided landscape projects only. Urban landscapes account for significant amounts (30-50 percent) of outdoor water use in California and the Department

supports provisions targeting this sector. Provisions for new construction landscape projects and rehabilitated landscape projects by public agencies and private developers etc. remain the same but were slightly modified and renumbered as Section 490.1.

G59 Summary of Comment 45:

Commenter stated that the rehabilitation of sites [greater than] 2,500 square foot of landscape area is subject to the requirements of the [Model Ordinance] but the enforcement of this type of regulation is problematic at best. Commenter also stated that “there is currently no permit required to re-landscape a yard nor is there a certificate of occupancy issued by the City for existing development. Establishing a permit process will not insure compliance and in fact result in individuals bypassing the process to avoid the additional requirements imposed by the [Model Ordinance].”

DWR Response: Reject. Comments in disagreement with the applicability of the Model Ordinance to rehabilitated landscape projects that are equal to or greater than 2,500 square foot are general objections directed at the proposed regulation. The 2,500 square foot threshold is part of the existing regulation (California Code of Regulations, Title 23 Section 490-495). The applicability to rehabilitated landscapes remains the same in the modified text of the proposed regulation but renumbered as Section 490.1 (c). Urban landscapes account for significant amounts (30-50 percent) of outdoor water use in California and the Department supports provisions targeting this sector. Also, the term permit was added to the modified text of the proposed regulation as Section 490 (tt): *permit means any permit issued by local agencies for new building or rehabilitated landscapes.*

G60 Summary of Comment 50:

Commenter stated that “the City staff is unaware how the 2,500 square feet threshold was established. In addition, City Staff believes it is unreasonable for the ordinance to apply to individual homeowners with minor re-landscaping projects greater than 2,500 square feet.”

DWR Response: Reject. The 2,500 square foot threshold is part of the existing regulation (California Code of Regulations, Title 23 Section 490-495). The applicability to homeowner installed or provided landscapes remains the same in the modified text of the proposed regulation but renumbered as Section 490.1 (c). However, the threshold was increased from 2,500 square foot to 5,000 square foot for homeowner installed or provided landscape projects only.

G61 Summary of Comment 54:

Commenter stated that “I am a resident of Los Alto Hills (LAH), an affluent residential community of about 3,000 properties (most \geq one acre) in Santa Clara County. I strongly support applying the ordinance to both new and existing landscapes \geq 2,500 square feet (including homeowner provided ones) at single-family residences in residential communities with large parcels. LAH staff at request of City Council has written the DWR asking that homeowner provided landscaping in single-family residential projects in LAH remain exempt from the Model Ordinance. I strongly and respectfully disagree. The Town’s long history of failing to review landscape projects or to impose restrictions on excessive landscape water use (despite excessive and escalating water consumption) indicate that LAH is exactly the type of jurisdiction for which this [Model] Ordinance is intended. Further, because virtually all landscape projects in LAH are “homeowner provided”, exempting this class of landscaping will in effect make all landscapes in the Town exempt. It may be appropriate for LAH to develop its

own water-efficient landscape ordinance as an alternative to the Model Ordinance. Under no circumstances, however, should the Town be exempted from any type of landscape water use ordinance. An ordinance will provide incentive for LAH to finally begin imposing limits on the large, water-intensive landscapes that it has for decades freely allowed in the Town.”

DWR Response: Accept. Comments in disagreement with the applicability of the Model Ordinance to homeowner installed or provided residential landscape projects and the 2,500 square foot thresholds are general objections directed at the proposed regulation. The 2,500 square foot threshold is part of the existing regulation (California Code of Regulations, Title 23 Section 490-495). The applicability to homeowner installed or provided landscapes remains the same in the modified text of the proposed regulation but renumbered as Section 490.1 (c). However, the threshold was increased from 2,500 square foot to 5,000 square foot for homeowner installed or provided landscape projects only. Urban landscapes account for significant amounts (30-50 percent) of outdoor water use in California and the Department supports provisions targeting this sector. Provisions for new construction landscape projects and rehabilitated landscape projects by public agencies and private developers etc. remain the same but were slightly modified and renumbered as Section 490.1.

G62 Summary of Comment 55, 58, 59, 62, 66, 74, 83, 100, 113, 114, 140, 153, 154, 157, 158, 160, 171:

Multiple commenters stated that “the range of sites [landscape projects] subject to the design criteria in the ordinance is too broad to be effectively” and requested that “[the Department] raise the coverage area threshold from 2,500 to 5,000 square foot because the [proposed] draft of the [Model Ordinance] would require local agencies to exercise the same level of control over individual homeowner projects that it does over master planned communities, which is unreasonable for local agencies and overly burdensome to the typical homeowner.”

Commenter stated that “the applicability and enforcement provisions proposed in the Model Ordinance are burdensome...the proposed [regulation] exceeds the scope of [the legislation] AB 1881 and recommendations of the AB 2717 [Landscape] Task Force because [it] significantly expands the types of projects this Model Ordinance would apply to. The proposed model ordinance would apply to all new, rehabilitated and existing landscapes with a minimum of 2,500 square feet of landscaped area. Therefore, a significant portion of existing single-family residences...would be subject to these provisions. At a minimum, the threshold should be no less than 5,000 square feet of landscaped area, and all single-family properties should be exempt. Including homeowner self-installed projects is unrealistic.” Another commenter stated that “requiring a single family homeowner with 2,500 square feet of landscape to produce the complicated plans, soil analysis, and water use calculations required to comply with this document is simply not realistic...so...small lot single family homeowners should not have to comply. Only single family projects with a landscape area of over 5,000 square feet should have to comply. This will include the most wasteful large single family homeowner landscapes that typically are installed and designed by professionals.” Another commenter recommended “that any site with less than 5,000 square feet of landscape area be excluded from the design review process, unless required by other jurisdictional permit requirements, as long as evidence of an educational and/or incentive program is in place at either the local agency or water purveyor level.” Some commenters stated they wanted the threshold raised to 10,000 square foot.

DWR Response: Accept in part and reject in part. Comments in disagreement with the applicability of the Model Ordinance to homeowner installed or provided residential landscape

projects and the 2,500 square foot thresholds are general objections directed at the proposed regulation. The 2,500 square foot threshold is part of the existing regulation (California Code of Regulations, Title 23 Section 490-495). The applicability to homeowner installed or provided landscapes remains the same in the modified text of the proposed regulation but renumbered as Section 490.1 (c). However, the threshold was increased from 2,500 square foot to 5,000 square foot for homeowner installed or provided landscape projects only. Urban landscapes account for significant amounts (30-50 percent) of outdoor water use in California and the Department supports provisions targeting this sector. Provisions for new construction landscape projects and rehabilitated landscape projects by public agencies and private developers etc. remain the same but were slightly modified and renumbered as Section 490.1. Also, public education provisions are part of the existing regulation and remains in the modified Model Ordinance (see Section 492.16).

G63 Summary of Comment 58, 83:

Commenter stated that “cemeteries are not required to comply except to provide a worksheet on water use, maintain their project, conduct water audits, and provide education. This does not seem fair and [it] is confusing. For example, the education section 492.1 8 doesn't apply to cemeteries at all. Another example is that cemeteries are required to provide a worksheet for water use but are not required to comply with the .7 ETAF. How do they fill out the worksheet? [The worksheet] has the .7 ETAF factor in it. Cemeteries should be required to comply with the entire document. If they are considered as important as public parks then they should also be given the 1.0 ETAF requirement.” Another commenter stated that “cemeteries should not receive special exemption, but rather, should be allowed a 1.0 ETAF, the same proposed for parks.”

DWR Response: Accept in part and reject in part. Comments regarding the applicability to cemeteries are general objections directed at the proposed regulation. The Model Water Efficient Landscape Ordinance, including permits, is an existing regulation in effect since 1992 (California Code of Regulations, Title 23 Section 490-495). Provisions regarding cemeteries remains in the modified text of the proposed regulations. The statute (Statutes of 2006 Chapter 559 Section 65598) specifically indicated “any model ordinance adopted pursuant to this article shall exempt cemeteries from all provisions of the ordinance *except those set forth in subdivisions (h), (k), and (l) of Section 65596. In adopting language specific to cemeteries, the Department shall recognize the special landscape considerations of cemeteries.*” More specifically, subdivisions (h) [education], (k) [economic incentives], and (l) [maintenance] of Section 65596 correspond to Section 492.4, Section 492.11, Section 492.12, and Section 493.1 in the modified Model Ordinance.

G64 Summary of Comment 59:

Commenter stated that “it is not clear if the legislative intent was to apply to all existing landscapes or just place ongoing requirements where a landscape permit has been issued. Given that new landscapes are likely to be a very small percentage in this region (estimates range around 5% +/- 2%) and therefore not have significant overall impact on water conservation, I support finding a way to include existing landscapes. Therefore the language needs to clearly distinguish between several categories: a) new / rehab requiring a permit by current development rules; b) new / rehab not requiring a permit by current rules, but requiring a permit by new Model Ordinance rules; c) new / rehab, but not requiring a permit by either, d) existing landscapes; e) exempt landscapes. I also believe it is very important that ALL landscapes, even

those not directly under the Ordinance, be explicitly and strongly encouraged to follow the Ordinance as a guideline for proper design, installation and maintenance.”

DWR Response: Accept in part and reject in part. The Model Water Efficient Landscape Ordinance, including permits, is an existing regulation in effect since 1992 (California Code of Regulations, Title 23 Section 490-495). Slight modifications were made to the applicability section and renumbered as Section 490.1. Five types of landscape projects are subject to the Model Ordinance, see Section 490.1 (a) (1-5) in the modified text of the proposed regulation.

G65 Summary of Comment 59:

Commenter stated that the [Model] Ordinance “applies to new construction and rehabilitated landscapes projects with a landscape area greater than 2,500 square feet requiring a permit, plan check or design review. It should be clarified that this provision will not trigger a new permit requirement where one does not already exist. The [Model] Ordinance is also unclear in how it relates to the design review procedures for landscapes that are subject to review by the Design Review Board (DRB) or a homeowner association.” Commenter stated that the current draft’s requirements are administratively infeasible for local agencies to implement based on the sheer volume of projected applicants. Moreover, the prescriptive nature of the draft ordinance would preclude the possibility of effectively employing educational resources and streamlined procedures as a means for achieving substantial compliance. For effective implementation, such matters must be delegated to local agencies.”

DWR Response: Accept in part and reject in part. The Model Water Efficient Landscape Ordinance, including permits, is an existing regulation in effect since 1992 (California Code of Regulations, Title 23 Section 490-495). The term permit was added to the modified text of the proposed regulation as Section 490 (tt): *permit means any permit issued by local agencies for new building or rehabilitated landscapes*. The review and/or compliance process for all the documents in a Landscape Documentation Package is up to the local agency to determine. Local agencies typically coordinate the review and approval process with its community development department, planning and/or building departments and water utility departments. The Department also encourages local agencies to designate the necessary authority that implements and enforces the provisions of the Model Ordinance or its own ordinance (see Section 490 (b) (7) and Section 490 (b) (6)). In addition, the statute (Statutes of 2006 Chapter 559) defines a local agency accordingly: “*any city, county, or city and county, including a charter city or charter county*” (Section 65591 (b)). As such, the proposed regulation was modified to include separate definitions for a local agency (Section 490 (hh)) and a local water purveyor (Section 490 (ii)).

G66 Summary of Comment 68:

Commenter stated that the “model ordinance states that new construction and rehabilitated projects with a landscaped area of 2,500 square feet or greater would be subject to the requirements of the ordinance. The City does not currently require or regulate landscaping for single family residential projects (only tract developments). The model ordinance will affect a considerable portion of development projects. The minimum lot size for R-S, Low Density Residential zone is 7,200 square feet with maximum building lot coverage of 40%, which leaves 4,320 square feet available for landscaping. Given this calculation, a majority, if not all of the homes within the R-S zone would be required to comply with the model ordinance, including room additions. This would create a financial burden on homeowners to bring existing landscaping into compliance. This ordinance would force the City to require and regulate

landscaping for all projects requiring permits that have landscape areas in excess of 2,500 square feet.”

DWR Response: Accept in part and reject in part. The Model Water Efficient Landscape Ordinance, including permits, is an existing regulation in effect since 1992 (California Code of Regulations, Title 23 Section 490-495). The term permit was added to the modified text of the proposed regulation as Section 490 (tt): *permit means any permit issued by local agencies for new building or rehabilitated landscapes*. The review and/or compliance process for all the documents in a Landscape Documentation Package is up to the local agency to determine. Local agencies typically coordinate the review and approval process with its community development department, planning and/or building departments and water utility departments. The Department also encourages local agencies to designate the necessary authority that implements and enforces the provisions of the Model Ordinance or its own ordinance (see Section 490 (b) (7) and Section 490 (b) (6)). In addition, the statute (Statutes of 2006 Chapter 559) defines a local agency accordingly: “*any city, county, or city and county, including a charter city or charter county*” (Section 65591 (b)). As such, the proposed regulation was modified to include separate definitions for a local agency (Section 490 (hh)) and a local water purveyor (Section 490 (ii)).

G67 Summary of Comment 73:

Commenter stated that the “[Model] Ordinance applies to new construction and rehabilitated landscapes requiring a permit on landscape areas greater than 2,500 square feet. California landscape contractors estimate that an additional \$500 to \$800 will be added to the cost of a 5,000 square foot residential landscape from this ordinance. Recommend that this requirement be deleted for residential landscapes or that residential landscape areas are increased to 10,000 square feet.”

DWR Response: Accept in part and reject in part. Comments in disagreement with the applicability of the Model Ordinance to homeowner installed or provided residential landscape projects and the 2,500 square foot thresholds are general objections directed at the proposed regulation. The 2,500 square foot threshold is part of the existing regulation (California Code of Regulations, Title 23 Section 490-495). The applicability to homeowner installed or provided landscapes remains the same in the modified text of the proposed regulation but renumbered as Section 490.1 (c). However, the threshold was increased from 2,500 square foot to 5,000 square foot for homeowner installed or provided landscape projects only. Urban landscapes account for significant amounts (30-50 percent) of outdoor water use in California and the Department supports provisions targeting this sector. Provisions for new construction landscape projects and rehabilitated landscape projects by public agencies and private developers etc. remain the same but were slightly modified and renumbered as Section 490.1.

G68 Summary of Comment 74, 90:

Commenter is not clear “how to apply [Section 490.1] to private yards because private yards are not required to have plan checks. Since [the City] does not require permits or plan approval for individual homeowner's yards, we have interpreted this section to mean that those landscapes are exempt. If this interpretation is correct, the inclusion of a specific exemption is appropriate.” Another commenter stated that “the new landscape requirements increase the coverage of the ordinance which will require additional City sponsored and funded processes to ensure compliance. This will result in increased staff and development costs. DWR should consider the fiscal impacts to local communities before making the proposed changes to the Model

Ordinance. For the City this is specifically related to: Developer installed single family landscapes over 2,500 sq-ft will now require design and permitting. The requirements of permits for rehabilitated landscaped areas by homeowners is not currently a city permit action and could require an entirely new process. This will have a significant effect on City resources.”

DWR Response: Accept in part and reject in part. The Model Water Efficient Landscape Ordinance, including permits, is an existing regulation in effect since 1992 (California Code of Regulations, Title 23 Section 490-495). The applicability to homeowner installed or provided landscapes remains the same in the modified text of the proposed regulation but renumbered as Section 490.1 (c). However, the threshold was increased from 2,500 square foot to 5,000 square foot for homeowner installed or provided landscape projects only. Urban landscapes account for significant amounts (30-50 percent) of outdoor water use in California and the Department supports provisions targeting this sector. The term permit was added to the modified text of the proposed regulation as Section 490 (tt): *permit means any permit issued by local agencies for new building or rehabilitated landscapes*. The review and/or compliance process for all the documents in a Landscape Documentation Package is up to the local agency to determine. Local agencies typically coordinate the review and approval process with its community development department, planning and/or building departments and water utility departments. The Department also encourages local agencies to designate the necessary authority that implements and enforces the provisions of the Model Ordinance or its own ordinance (see Section 490 (b) (7) and Section 490 (b) (6)). In addition, the statute (Statutes of 2006 Chapter 559) defines a local agency accordingly: “*any city, county, or city and county, including a charter city or charter county*” (Section 65591 (b)). As such, the proposed regulation was modified to include separate definitions for a local agency (Section 490 (hh)) and a local water purveyor (Section 490 (ii)). Costs are addressed in the Initial Statement of Reasons, and later in the Final Statement of Reasons.

G69 Summary of Comment 81:

Commenter stated that “the scope of the documentation and technical understanding of the requirements makes it all but impossible for an individual homeowner to adhere to the requirements if they should wish to undertake to create or even maintain their own landscape on a DIY basis – something that many people actually enjoy doing. Even if professional inputs are sought on some or all of the work, the requirements go far beyond what the vast majority of small landscape companies (often one or two person companies with a few laborers) would be able to provide. The requirements for the submission of plans with detailed analyses, drawings, calculations, and BOM, the reviewing of these plans and then inspections is excessive and will prove to be very costly both for the homeowners and the agencies tasked with the responsibilities for enforcement.”

DWR Response: Accept in part and reject in part. Comments in disagreement with the applicability of the Model Ordinance to homeowner installed or provided residential landscape projects and the 2,500 square foot thresholds are general objections directed at the proposed regulation. The 2,500 square foot threshold is part of the existing regulation (California Code of Regulations, Title 23 Section 490-495). The applicability to homeowner installed or provided landscapes remains the same in the modified text of the proposed regulation but renumbered as Section 490.1 (c). However, the threshold was increased from 2,500 square foot to 5,000 square foot for homeowner installed or provided landscape projects only. Urban landscapes account for significant amounts (30-50 percent) of outdoor water use in California and the Department

supports provisions targeting this sector. Provisions for new construction landscape projects and rehabilitated landscape projects by public agencies and private developers etc. remain the same but were slightly modified and renumbered as Section 490.1.

G70 Summary of Comment 84:

Commenter stated that “the MWELO contains ambiguity as it relates to applicability. Section 490.3 specifies the landscape projects to which the MWELO applies. However, it is unclear whether the MWELO applies to (1) Landscaping of 2,500 square feet or more (associated with a development project) that requires a permit, plan check or design review; or (2) A development project that requires a permit, plan check or design review, which includes more than 2,500 square feet of landscaping. If the landscape itself does not require a permit, plan check or design review, would the landscaping be subject to the MWELO?”

DWR Response: Accept in part and reject in part. Comments regarding the applicability of the 2,500 square foot threshold are general objections directed at the proposed regulation. The 2,500 square foot threshold is part of the existing regulation (California Code of Regulations, Title 23 Section 490-495). The applicability section was modified slightly and renumbered as Section 490.1. The 2,500 square foot threshold refers to the total landscape area of a project. If a project has a total landscape area of equal to or greater than 2,500 square foot, it is subject to the proposed regulation. The applicability to homeowner installed or provided landscapes remains the same in the modified text of the proposed regulation but renumbered as Section 490.1 (c). However, the threshold was increased from 2,500 square foot to 5,000 square foot for homeowner installed or provided landscape projects only. Urban landscapes account for significant amounts (30-50 percent) of outdoor water use in California and the Department supports provisions targeting this sector. Also, the term permit was added to the modified text of the proposed regulation as Section 490 (tt): *permit means any permit issued by local agencies for new building or rehabilitated landscapes*. If a local agency does not have a specific permit for landscape projects, an alternative type of permit (i.e., conditional use permit) may be feasible. The review and/or compliance process for all the documents in a Landscape Documentation Package is up to the local agency to determine. Local agencies typically coordinate the review and approval process with its community development department, planning and/or building departments and water utility departments. The Department also encourages local agencies to designate the necessary authority that implements and enforces the provisions of the Model Ordinance or its own ordinance (see Section 490 (b) (7) and Section 490 (b) (6)).

G71 Summary of Comment 85:

Commenter stated that “CLCA believes that subsections (a) and (b) should apply to landscape areas that are equal to or greater than 5,000 square feet, rather than the 2,500 square feet in the current draft. Making this change would simplify the ordinance by making this section consistent with Section 492.9, which requires a dedicated (separate) landscape water meter for all projects greater than 5,000 square feet, except for single-family residences. CLCA therefore recommends that the 2,500 square foot trigger in subsection (c) be replaced by a 20,000 square foot trigger. If this change were made, the ordinance would still apply to the owners of residential "estates". These owners would be more likely to afford the increased costs of model ordinance compliance, and those increased costs would be "in scale" with the cost of a 20,000 square foot landscape. This approach would allow the state to "test" the ordinance as it applies to the residential market. If it works, California could lower the square footage trigger at some future date. If property

owners see the updated Model Ordinance as being too costly or overly complex, they may choose not to make landscape renovations that would save water or will seek to have work performed by unlicensed and unqualified persons, or simply circumvent the local permitting process. For these reasons we are particularly concerned about applying the updated Model Ordinance to small residential properties with as little as 2,500 square feet of landscaped area. If the updated model ordinance does apply to residential property, it should be gradually phased in so that landscape contractors can gain real life experience with the process before burdening homeowners with expensive and time consuming requirements that may not be cost-effective. As currently conceived, the proposed ordinance would add between \$6,700 and \$7,700 in costs for a 2,500 square foot, six valve residential project if the owner installed the landscape him or her self. See Table IV in Appendix A for an itemization of these costs. This would be for a landscape that otherwise would cost \$6,500 on average. CLCA strongly believes that subsection (c) is totally inappropriate. Requiring homeowners to submit a Landscape Documentation Package and Certificate of Completion will not work and will be evaded or resisted. Homeowners simply do not have the expertise to complete the Landscape Documentation Package or the Certificate of Completion. Consequently, they would be left with three choices: (1) hire a landscape architect and a landscape contractor (2) hire a design-build landscape contractor, or (3) hire a landscape architect and install the landscape using the architect's plans and other documentation. Few homeowners would have the ability to follow through with this third option. Homeowners would view this proposed Model Ordinance as arbitrary and capricious because only those landscapes that require a permit would have to comply with it. If a homeowner wants or needs a retaining wall in excess of three feet, an arbor, an outdoor kitchen or a swimming pool, for example, he or she is required to take out a permit. If the landscape consists only of plants and irrigation, a permit generally is not required. In the eyes of virtually every homeowner, it would make no sense to tie the obligation to complete a Landscape Documentation Package and Certificate of Completion to a decision to build a retaining wall. Most homeowners would divide a single landscape project into two or more projects in order to evade the requirements of the model ordinance: a 1,000- foot project with an arbor and a 3,000-foot project with everything else, for example. DWR's staff has indicated to CLCA verbally that the intent is only to require compliance if a permit is required for the landscape irrigation or planting. If the proposed model ordinance update were changed to make that clear, it still would be viewed as arbitrary and capricious by homeowners. Most cities and counties do not require a permit for this work, but some do. There is no reason why Model Ordinance compliance should be linked to whether or not a local agency happens to require a permit for landscape irrigation or planting. Moreover, there does not seem to be much point to subsection (c) at all if the vast majority of local agencies do not require a permit for planting and irrigation, and therefore would not have to comply with it."

DWR Response: Accept in part and reject in part. Comments regarding the applicability of the 2,500 square foot threshold are general objections directed at the proposed regulation. The 2,500 square foot threshold is part of the existing regulation (California Code of Regulations, Title 23 Section 490-495). The applicability section was modified slightly and renumbered as Section 490.1. The 2,500 square foot threshold is part of the existing regulation (California Code of Regulations, Title 23 Section 490-495). The 2,500 square foot threshold refers to the total landscape area of a project. If a project has a total landscape area of equal to or greater than 2,500 square foot, it is subject to the proposed regulation. The applicability to homeowner installed or provided landscapes remains the same in the modified text of the proposed regulation

but renumbered as Section 490.1 (c). However, the threshold was increased from 2,500 square foot to 5,000 square foot for homeowner installed or provided landscape projects only. Urban landscapes account for significant amounts (30-50 percent) of outdoor water use in California and the Department supports provisions targeting this sector. Also, the term permit was added to the modified text of the proposed regulation as Section 490 (tt): *permit means any permit issued by local agencies for new building or rehabilitated landscapes*. If a local agency does not have a specific permit for landscape projects, an alternative type of permit (i.e., conditional use permit) may be feasible. The review and/or compliance process for all the documents in a Landscape Documentation Package is up to the local agency to determine. Local agencies typically coordinate the review and approval process with its community development department, planning and/or building departments and water utility departments. The Department also encourages local agencies to designate the necessary authority that implements and enforces the provisions of the Model Ordinance or its own ordinance (see Section 490 (b) (7) and Section 490 (b) (6)). Costs are addressed in the Initial Statement of Reasons, and later in the Final Statement of Reasons.

G72 Summary of Comment 86:

Commenter suggested a minimum landscape area of 10,000 sq ft. because “(1) The minimum lot size in Los Altos Hills (LAH) is 1 acre. Therefore, most of the new irrigated landscapes are likely to be 7,000 to 10,000 square feet. Any relatively small landscapes of 2,500 sq. ft. would be extremely arduous for our town to monitor such that the ultimate water savings would be unjustified (2) A minimum of 10,000 sq. ft. allows us to more easily identify the current landscapes for which we don’t have submitted landscape plans, and those would be subject to audits. (3) New home construction and remodels, the greatest uses of water in LAH, might be influenced to be designed with irrigated landscapes under 10,000s.f. to avoid the costly and time consuming landscape plan submittal process and audits. The intent is that more sq. ft. of newly constructed lots will be designed for drought tolerant landscapes.”

DWR Response: Accept in part and reject in part. Comments regarding the applicability of the 2,500 square foot threshold are general objections directed at the proposed regulation. The 2,500 square foot threshold is part of the existing regulation (California Code of Regulations, Title 23 Section 490-495). The applicability section was modified slightly and renumbered as Section 490.1. The 2,500 square foot threshold refers to the total landscape area of a project. If a project has a total landscape area of equal to or greater than 2,500 square foot, it is subject to the proposed regulation. The applicability to homeowner installed or provided landscapes remains the same in the modified text of the proposed regulation but renumbered as Section 490.1 (c). However, the threshold was increased from 2,500 square foot to 5,000 square foot for homeowner installed or provided landscape projects only. Urban landscapes account for significant amounts (30-50 percent) of outdoor water use in California and the Department supports provisions targeting this sector.

G73 Summary of Comment 53, 56, 87, 90, 98:

A commenter stated “It's not clear if there is an exemption or different ETo adjustment factor for recreational areas (as defined in the Ordinance). The old ordinance had this in Section 492.6 and the new ordinance proposes to delete this language but it's not clear what the new requirement is for "recreational areas.” One commenter requested that parks and recreation projects be exempt “because they are essential recreational landscapes and the Model Ordinance will certainly

restrict their use of turf.” Commenter stated “that if these areas are not exempt, [landscape] designs will need to include extensive groundcover or bare areas which have proven to be unsafe, un-maintainable, and unusable for sports and other activities; furthermore, experience shows that public officials, working with landscape architects and other design professionals, have successfully applied efficient irrigation layouts and technology in the design of new parks throughout the State.”

Another commenter stated that “special consideration should be given to public parks that provide for active recreational needs of the community. Public parks with active recreational areas should be exempt from the seventy percent reference evapotranspiration (ET_o) requirement. The request for this is due to the area of turf provided at public parks for recreational purposes. It will be nearly impossible to achieve seventy percent ET_o in parks with turf for recreational purposes. Such a requirement could result in a loss of recreation use areas and the degradation of a quality of life aspect within the City and cities throughout California. It should be noted that the City of Temecula recently constructed an artificial turf sports park facility for public use. During the first season of operation, the sport fields experienced excessive heat as a result of the artificial turf fields. As a result, it has not yet been determined whether artificial turf sports fields are a viable alternative for natural turf sports fields, within the warmer inland area climates. The Model Water Efficient Landscape Ordinance should not be crafted in such a way as to result in a negative impact to public spaces. Special attention is given to create attractive, pleasant and comfortable public spaces in order to improve the quality of life of a community. The City intends to make every effort to minimize excessive water use within these spaces; however, special design considerations may be necessary to create a comfortable and attractive public space, which may be inconsistent with the proposed Model Ordinance.” One commenter, a city parks department, stated “active turf areas cannot comply with the Model Water Efficient Landscape Ordinance.” Commenter requested “an exemption to be included in the Model Ordinance for these types of active use athletic fields such as organized game and practice sports fields, and multi-use fields; that the city has an ordinance currently requiring recycled water to be used in these areas where available.” Yet, another commenter stated that “with 73 city-owned parks states that the parks, with 90 to 100 percent of turf, could never meet a water ordinance MAWA and Applied Water Use calculated estimate as required.” Commenter requested “separate criteria for parks that will allow higher than normal water use based upon the amount of turf they provide. Since turf is the objective in parks, they should be required to have water use calculations met, but the formula must be set up differently.”

DWR Response: Accept in part and reject in part. The Model Water Efficient Landscape Ordinance is an existing regulation in effect since 1992 (California Code of Regulations, Title 23 Section 490-495). Provisions for landscapes used for recreational purposes are subject to the Model Ordinance. More specifically, the modified text of the proposed regulation includes definitions and special provisions for Special Landscape Areas to address concerns about landscapes for recreational use (see Section 490 (zz), Section 490 (ggg) and Section 492.4 (b) (3) and (4)).

G74 Summary of Comment 88:

Commenter stated that “the ordinance proposes to expand the applicability of the State Model Ordinance from new private commercial, industrial and multi-family residential projects to include all new rehabilitated and existing landscapes with a minimum of 2,500 square feet of landscaped area. This would represent a significant expansion of locally regulated landscapes

that does not appear to be justified. The significant regulatory expansion of landscaped area was not specified in Section 65596 of the Government Code, which outlined the requirements of the new model ordinance to be developed. The County has concerns with the significant expansion of the regulatory authority and requests that the State re-evaluate the applicability of the ordinance to cover only those landscapes necessary to achieve water conservation goals. Furthermore, the ordinance should only regulate those landscapes that the local agency could feasibly regulate. Regulation of rehabilitated and existing landscapes would be difficult and costly to implement and enforce.”

DWR Response: Accept in part and reject in part. Comments in disagreement with the applicability the 2,500 square foot thresholds for new construction, rehabilitated and existing landscapes are general objections directed at the proposed regulation. The Model Water Efficient Landscape Ordinance, including permits, is an existing regulation in effect since 1992 (California Code of Regulations, Title 23 Section 490-495). The 2,500 square foot threshold is part of the existing regulation (California Code of Regulations, Title 23 Section 490-495). The applicability to homeowner installed or provided landscapes remains the same in the modified text of the proposed regulation but renumbered as Section 490.1 (c). However, the threshold was increased from 2,500 square foot to 5,000 square foot for homeowner installed or provided landscape projects only. Urban landscapes account for significant amounts (30-50 percent) of outdoor water use in California and the Department supports provisions targeting this sector. Provisions for new construction landscape projects and rehabilitated landscape projects by public agencies and private developers etc. remain the same but were slightly modified and renumbered as Section 490.1.

G75 Summary of Comment 98: COSTS

Commenter stated “it is simply not possible to implement many of the new requirements without additional costs to someone. The ordinance does not provide any type of funding source for the City’s or Agencies. Where would the funding come from? There will be significant additional man hours required to plan check, review and monitor, verify, and enforce the new ordinance. Local agencies will have to modify their existing Water Ordinances and require more technical information be included in the submittals of plans and calculations to meet the requirements of plan checks for the Ordinance. Major issues arise with regards to what will be required to monitor, verify, and enforce the new Ordinance. In Huntington Beach, there are instances where what may be applicable and approved to meet the intent of the revised Water Ordinance will not meet the intent of the existing City Zoning and Subdivision Ordinance. We cannot rely on native plant materials to provide the intent of the aesthetic requirements of the Zoning Ordinance. First there is an issue with native plant availability in the container sizes that meet the requirements of the Zoning Ordinance and second, there is a concern with the kind of maintenance that these new materials will require and what the industry can provide. There needs to be consideration for a time factor to allow the industry to be able to provide plant materials suitable in acceptable container sizes and that are appropriate for ornamental use and maintenance therein. If the plant material is not available to meet the Water Ordinance and the Zoning Ordinance there is no way that the intent of this Ordinance can be met.”

DWR Response: Accept in part and reject in part. The Model Water Efficient Landscape Ordinance, including permits, is an existing regulation in effect since 1992 (California Code of Regulations, Title 23 Section 490-495). The 2,500 square foot threshold is part of the existing

regulation (California Code of Regulations, Title 23 Section 490-495). Costs are addressed in the Initial Statement of Reasons, and later in the Final Statement of Reasons.

G76 Summary of Comment 99:

Commenter stated that “all non private residence's property should be permitted, and all private residence's estate over 5,000 sq. ft. should be required to obtain permits, but not held to the MAWA & EWU calculations.”

DWR Response: Accept in part and reject in part. The Model Water Efficient Landscape Ordinance, including permits, is an existing regulation in effect since 1992 (California Code of Regulations, Title 23 Section 490-495). The 2,500 square foot threshold is part of the existing regulation (California Code of Regulations, Title 23 Section 490-495). The applicability to homeowner installed or provided landscapes remains the same in the modified text of the proposed regulation but renumbered as Section 490.1(C) and the documentation had been simplified. (c). However, the threshold was increased from 2,500 square foot to 5,000 square foot for homeowner installed or provided landscape projects only. Urban landscapes account for significant amounts (30-50 percent) of outdoor water use in California and the Department supports provisions targeting this sector. Provisions for new construction landscape projects and rehabilitated landscape projects by public agencies and private developers etc. remain the same but were slightly modified and renumbered as Section 490.1.

G77 Summary of Comment 107:

Commenter stated that “MWDSC supports the application of this [Model] Ordinance to residences with landscapes in excess of 2,500 square feet. The application of this [Model] Ordinance to residences over 2,500 square feet brings accountability to the growth over the last two decades of the properties' landscape size and targets these large lots which use a higher percentage of water outdoors that in prior years.”

DWR Response: Accept in part. The Model Water Efficient Landscape Ordinance, including permits, is an existing regulation in effect since 1992 (California Code of Regulations, Title 23 Section 490-495). The 2,500 square foot threshold is part of the existing regulation (California Code of Regulations, Title 23 Section 490-495). The applicability to homeowner installed or provided landscapes remains the same in the modified text of the proposed regulation but renumbered as Section 490.1 (c) and the documentation had been simplified. However, the threshold was increased from 2,500 square foot to 5,000 square foot for homeowner installed or provided landscape projects only. Urban landscapes account for significant amounts (30-50 percent) of outdoor water use in California and the Department supports provisions targeting this sector. Provisions for new construction landscape projects and rehabilitated landscape projects by public agencies and private developers etc. remain the same but were slightly modified and renumbered as Section 490.1.

G78 Summary of Comment 108:

Commenter stated that “the level of information required should be scaled to the size of the development proposal. Under the proposed regulation, a single family residence with a standard urban size lot and landscape area of just over 2,500 square feet would have to submit the same level of detail as a major commercial development project. Given the level of detail required, it does not seem reasonable to mandate a single family home provide this much detail, especially since landscapes in homes are changeable over time, and not permanent improvements.”

DWR Response: Accept in part and reject in part. The Model Water Efficient Landscape Ordinance, including permits, is an existing regulation in effect since 1992 (California Code of Regulations, Title 23 Section 490-495). The 2,500 square foot threshold is part of the existing regulation (California Code of Regulations, Title 23 Section 490-495). The applicability to homeowner installed or provided landscapes remains the same in the modified text of the proposed regulation but renumbered as Section 490.1 (c) and the documentation had been simplified. However, the threshold was increased from 2,500 square foot to 5,000 square foot for homeowner installed or provided landscape projects only. Urban landscapes account for significant amounts (30-50 percent) of outdoor water use in California and the Department supports provisions targeting this sector. Provisions for new construction landscape projects and rehabilitated landscape projects by public agencies and private developers etc. remain the same but were slightly modified and renumbered as Section 490.1.

G79 Summary of Comment 111:

Commenter stated that “Section 430.3 of the draft ordinance sets the threshold of applicability at projects that include 2,500 square feet of landscaping or greater. Therefore, the State's Model Water Efficient Water Ordinance will significantly affect the cost to process and track most of our commercial, industrial, and residential development projects. Often, local agencies will review and approve developer-installed front-yard typical landscaping for multiple single-family tract homes under one permit. While individual landscaped front-yard lots would not meet the 2,500 square foot standard mentioned in Section 430.3 (b), in the aggregate, the subject permit a approval may exceed the State's standard. It is unclear as to how the State's standard would apply in such circumstances. The County recommends that the standard apply to individual lots rather than the aggregate landscaped area under the permit in question.”

DWR Response: Accept in part and reject in part. The Model Water Efficient Landscape Ordinance, including permits, is an existing regulation in effect since 1992 (California Code of Regulations, Title 23 Section 490-495). The 2,500 square foot threshold is part of the existing regulation (California Code of Regulations, Title 23 Section 490-495). The applicability to homeowner installed or provided landscapes remains the same in the modified text of the proposed regulation but renumbered as Section 490.1 (c). However, the threshold was increased from 2,500 square foot to 5,000 square foot of total landscape area for homeowner installed or provided landscape projects only. Provisions for new construction landscape projects and rehabilitated landscape projects by public agencies and private developers etc. remain the same but were slightly modified and renumbered as Section 490.1. In addition, Section 490.1 (a) (2) pertains to tract development project or master planned community projects for single family and multi-family residential units. The 2,500 threshold refers to the total landscape area of a project. If a project (i.e., tract development) has a total landscape area of equal to or greater than 2,500 square foot, it is subject to the proposed regulation.

G80 Summary of Comment 112:

Commenter stated “we oppose or suggest modification of: 490.3: Applicability: In order to enforce compliance to the large number of sites, local agencies would be forced to create additional codes, hire additional enforcement personnel, and buy additional equipment.”

DWR Response: Accept in part and reject in part. Comments regarding the changes in the applicability section are general objections to the proposed regulation. The Model Water Efficient Landscape Ordinance, including permits, is an existing regulation in effect since 1992

(California Code of Regulations, Title 23 Section 490-495). The 2,500 square foot threshold is part of the existing regulation (California Code of Regulations, Title 23 Section 490-495). Costs are addressed in the Initial Statement of Reasons, and later in the Final Statement of Reasons. Slight modifications were made to the applicability section and renumbered as Section 490.1.

G81 Summary of Comment 115:

Commenter stated that “Section 490.3.1 (d) requires existing landscapes with a landscaped area equal to or greater than 2,500 square feet are limited to 493.7. This section applies to existing landscapes installed before January 1, 2010 and appears to go beyond what is specified in AB 1881. In order for local agencies to fulfill this requirement they would need to know the irrigated area by water meter for existing landscapes. This is a tall order even for water purveyors working in good faith to implement BMP No. 5 - Large Landscape Conservation Programs.”

DWR Response: Reject. The Model Water Efficient Landscape Ordinance, including provisions on existing landscapes, is an existing regulation in effect since 1992 (California Code of Regulations, Title 23 Section 490-495). The 2,500 square foot threshold is part of the existing regulation (California Code of Regulations, Title 23 Section 490-495). Slight modifications were made to the applicability section and renumbered as Section 490.1. The fact of the matter is that a majority of water purveyors have not fully implemented the CUWCC best management practices related to outdoor landscape water use across all sectors (residential, commercial, industrial and institutional). Urban landscapes account for significant amounts (30-50 percent) of outdoor water use in California and the Department supports the Model Ordinance to reduce landscape water use and waste.

G82 Summary of Comment 122:

Commenter stated that “the scope of the ordinance is extensive, applying to single-family homes of 2,500 square feet of landscaped area. The ordinance ties this size of landscape area for both new and existing developments to annual audits conducted by a city. This is too broad and creates a burdensome process. See comments under audits.”

DWR Response: Accept in part and reject in part. Comments regarding the 2,500 square foot threshold are general objections to the proposed regulation. The Model Water Efficient Landscape Ordinance, including permits, is an existing regulation in effect since 1992 (California Code of Regulations, Title 23 Section 490-495). The 2,500 square foot threshold is part of the existing regulation (California Code of Regulations, Title 23 Section 490-495). Slight modifications were made to the applicability section and renumbered as Section 490.1-

G83 Summary of Comment 133:

Commenter stated that “the Model Ordinance does not differentiate between Single-Family houses and larger commercial, industrial, and multi-family development projects. We do not review landscaping plans for single-family homes, but we do for larger properties.”

DWR Response: Reject. The Model Water Efficient Landscape Ordinance, including permits, is an existing regulation in effect since 1992 (California Code of Regulations, Title 23 Section 490-495). Slight modifications were made to the applicability section and renumbered as Section 490.1. Five types of landscape projects are subject to the Model Ordinance, see Section 490.1 (a) (1-5) in the modified text of the proposed regulation. Section 490.1 (a) (2) pertains to tract development project or master planned community projects for single family and multi-family

residential units. Section 490.1 (a) (30) pertains to homeowner installed or provided landscape projects at single family and multifamily residences.

The following comments are specific to cemeteries and botanical gardens.

G84 Summary of Comments 58, 83:

Commenters stated that “cemeteries should not receive special exemptions from the Model Ordinance; give cemeteries a 1.0 ETAF similar to public parks or give no exemptions at all; the sections that cemeteries are required to follow are confusing (Section 492.6, Section 492.13, Section 492.14, Section 492.18, and Section 493.1).

DWR Response: Reject. The statute (Statutes of 2006 Chapter 559) specifically stated “*any model ordinance adopted pursuant to this article shall exempt cemeteries from all provisions of the ordinance except those set forth in subdivisions (h), (k), and (l).*” In the modified text of the proposed regulation, these are Sections 492.4, 492.11, and 492.12 for new cemeteries and Section 490.3 (a) (5) for existing cemeteries, respectively.

G85 Summary of Comment 150:

A commenter stated “that there be an exception made for botanic gardens. These institutions hold some of the most rare of plants species in the world, and the ordinance could put these invaluable collections at risk.”

DWR Response: Accept. Though the statute (Statutes of 2006 Chapter 559) did not specify botanical gardens, the Department modified the proposed regulation accordingly: *This ordinance does not apply to botanical gardens and arboretums open to the public (Section 490.3 (b) (4)).*

G86 Summary of Comment 69:

A commenter stated that: “while many of the plant collections at Lotusland are xeric in nature (cycads, cacti and other succulents), there are also other collections that require consistent irrigation (ferns, begonias, bromeliads and more). Very little of the irrigation water used on the property comes from the local water purveyor, instead it is supplied from a well on-site and yet it seems that, under this bill, any new projects undertaken might still be required to be submitted for review. There are many other botanical institutions in the state of California that are also preserving fragile and irreplaceable plant collections. Their missions are to recover, rehabilitate and even reintroduce endangered plants. Some of these collections could be put at risk by the restrictions in this bill. The bill makes exemptions for recreational areas and cemeteries, so we submit that it could and should also include exemptions for botanical institutions. Many of these institutions are operating as non-profits and the financial burden that water audits and reviews would also entail would create an additional hardship.”

DWR Response: Accept. Though the statute (Statutes of 2006 Chapter 559) did not specify botanical gardens, the Department modified the proposed regulation accordingly: *This ordinance does not apply to botanical gardens and arboretums open to the public (Section 490.3 (b) (4)).*

G87 Summary of Comment 92:

A commenter stated that: “public botanical gardens have an increasingly important role in promoting sustainable practices. Clearly water conservation is likely the most important area in this regard. Quail Botanical Gardens has many activities that encourage our visitors to have an increased sensitivity to how we should value and more wisely use our water resource. The best

example of this effort by a botanical garden is the Water Conservation Garden on the campus of Cuyamaca College. Botanical Gardens also protect and manage important plant collections. These are valuable for both research and conservation reasons. Some of the water conservation measures in the Draft Ordinance could have a negative impact on sustaining these collections which may contain higher water use species. Also, there may be practices as outlined in the draft ordinance such as a mulching requirement that would be counter productive to displays that are important examples of water conservative landscapes. We are requesting that consideration be given to exempting botanical gardens from certain provisions of the Draft Model Ordinance.”

DWR Response: Accept. Though the statute (Statutes of 2006 Chapter 559) did not specify botanical gardens, the Department modified the proposed regulation accordingly: *This ordinance does not apply to botanical gardens and arboretums open to the public (Section 490.3 (b) (4)).*

G88 Summary of Comments 109, 158, 163:

Multiple commenters stated that “about how the [proposed] model ordinance would affect botanical gardens, which have unique roles in preserving the natural environment. It is recommended that an exemption be granted to botanic gardens as well as cemeteries and historic sites.” Commenter asked “for an exemption for botanical gardens... which are an essential part of our natural history.” Another commenter states “I would ask that there be an exemption for botanic gardens. Botanic gardens and arboreta are actually holding quite a number of rare, threatened and endangered species, and enforcement of these codes could actually put those valuable resources at risk.”

DWR Response: Accept. Though the statute (Statutes of 2006 Chapter 559) did not specify botanical gardens, the Department modified the proposed regulation accordingly: *This ordinance does not apply to botanical gardens and arboretums open to the public (Section 490.3 (b) (4)).*

Summary and Comment: Section 491 Definitions

G89 Summary of Comment 44:

Applied Water. Commenter stated that “after [the words] irrigation system add method.”

DWR Response: Reject. This definition is part of the existing regulation (California Code of Regulations, Title 23 Section 491 (c)). There is no change to the definition which is renumbered as Section 490 (a).

G90 Summary of Comment 59:

Check valve. Commenter stated that “check valves can be located at various locations and are not necessarily on the sprinkler. Therefore the definition should be changed: ‘check valve’ or ‘antidrain valve’ means a valve used to hold water in the system to prevent drainage from the sprinkler heads when the system is off.”

DWR Response: Accept. The definition has been changed and renumbered as Section 491 (c).

G91 Summary of Comment 67:

Certified Irrigation Auditor. Commenter requested to “reference certification programs without offering specific criteria for such programs.” Commenter suggested the following revision: “Consider the adoption of criteria similar or identical to that of the U.S. EPA WaterSense certification program for irrigation professionals. Specification can be found at <http://www.epa.gov/watersense/specs/cert/htm>”

DWR Response: Reject. However, a minor change was made to the definition which is renumbered as Section 491 (f).

G92 Summary of Comment 50, 67:

Certified Irrigation Designer. Commenter asked “What does certified mean? And, what amount of time and expense could this represent to the property owner?” Another commenter stated that the [definition] “needs additional clarification as to certification requirements.”

DWR Response: Reject. However, a minor change was made to the definition which is renumbered as Section 491 (g).

G93 Summary of Comment 57:

Controller. Commenter stated that “we propose controller means an automatic timing device or assemblage of components used to remotely control valves or sprinklers to set an irrigation schedule. Such a controller or assemblage of components could use evapotranspiration, weather or soil moisture sensor data to automatically adjust the irrigation schedule (490 #10 proposed). The proposed definition eliminates confusion that is created by using only the word controller, which infers a single device.”

DWR Response: Reject. This definition is part of the existing regulation (California Code of Regulations, Title 23 Section 490 (d)). There is no change to the definition which is renumbered as Section 491 (i).

G94 Summary of Comment 44:

Controller. Commenter stated that “after [the word] heads add irrigation method. There are more methods today for applying irrigation water than only heads. Therefore, the terminology used throughout this ordinance should reflect it based on this. Also after [the words] weather data add to effect watering and after [the words] i.e., soil moisture sensor add wind sensor, weather sensor, etc.”

DWR Response: Reject. This definition is part of the existing regulation (California Code of Regulations, Title 23 Section 490 (d)). There is no change to the definition which is renumbered as Section 491 (i).

G95 Summary of Comments 74, 114:

Controller. Commenter stated that “the Irrigation Association definition of a SmartTimer [should] be incorporated into the model ordinance language. The IA, through a stakeholder-based process including water purveyors, has developed and adopted Smart Water Application Technology (SWAT) testing protocols to verify that SmartTimers operate as claimed by the manufacturer. Many controllers have already completed this testing. This testing is conducted at the Center for Irrigation Technology at Fresno State University. The SWAT testing protocol for soil moisture based technologies is near completion. Water purveyors throughout the state, including MWDOC, currently rely on SWAT testing as the basis of our approved list of products eligible for rebates. In addition, EPA also intends to rely on existing testing protocols to develop their WaterSense list of SmartTimers. The model ordinance should reference the WaterSense list of SmartTimers so that as the SWAT testing protocols advance, the language in the Model Ordinance will not need to change over time.”

DWR Response: Reject. This definition is part of the existing regulation (California Code of Regulations, Title 23 Section 490 (d)). There is no change to the definition which is renumbered as Section 491 (i).

G96 Summary of Comment 20:

Controller. Commenter stated that “AB-2717 recommended the use of Smart Controllers as a way of reducing water in the landscape. AB-2717 says that: Automatic irrigations systems generally over-water due primarily to insufficient reprogramming of the irrigation schedule by the operator as weather changes. Many studies have shown that Smart Controllers can dramatically reduce this over-irrigation, thereby saving significant quantities of water and reducing urban runoff. The Irrigation Association defines a Smart Controller as climate-based or sensor-based controllers that automatically adjust for local weather and site conditions. Once the initial set-up and monitoring is complete, there is no need to reset the controller, or even turn it off for the winter. Smart Controllers make those adjustments automatically. Weather based controllers are not necessarily Smart Controllers. Recommendation: Require Smart Controller technology using the current Center for Irrigation Technology (CIT) testing protocol and as designated on the Irrigation Association website. In addition, central irrigation control systems such as those used in golf courses and other large landscapes which are not currently being tested under the smart controllers testing protocol, should also be included as an approved irrigation control system.”

DWR Response: Reject. This definition is part of the existing regulation (California Code of Regulations, Title 23 Section 490 (d)). There is no change to the definition which is renumbered as Section 491 (i).

G97 Summary of Comment 67:

Controller. Commenter stated that [it] “means an automatic timing device used to remotely control valves or heads to set an irrigation schedule infers a single device. Some irrigation control technologies incorporate the use of multiple components.” Commenter suggested the following revision “controller means an automatic timing device of assemblage of components used to remotely control valves or sprinklers to set an irrigation schedule.”

DWR Response: Reject. This definition is part of the existing regulation (California Code of Regulations, Title 23 Section 490 (d)). There is no change to the definition which is renumbered as Section 491 (i).

G98 Summary of Comment 44:

Drip Irrigation. Commenter stated that this definition has a “limit of 2 gallons per hour flow rate for emission devices. Drip irrigation as a category under an irrigation method should not be limited to the output in gallons per hour, if it is to also be a low volume irrigation system utilizing emission devices. There is an availability of emitter flow rates greater than 2 gallons per hour that can apply water effectively to a range of soil textures, including but not limited to, sandy types. Drip irrigation can be applied via above ground means as well as below ground water.” Commenter recommended “replacing ‘equal to or less than two (2) gallons per hour’ with ‘with a flow rate measured in gallons per hour’; that this complements the definition of emitter item 14), as well as low volume irrigation (item 33), which includes drip irrigation.”

DWR Response: Reject. There is no change to the definition which is renumbered as Section 491 (j).

G99 Summary of Comment 44:

Effective Precipitation. Commenter asked “Is not effective precipitation or usable rainfall the portion of total precipitation retained by soil that can be available for plants?”

DWR Response: Reject. This definition is part of the existing regulation (California Code of Regulations, Title 23 Section 490 (h)). There is no change to the definition which is renumbered as Section 491 (l).

G100 Summary of Comment 44:

Emitter. Commenter stated that “after the word soil add ‘as’ and after ‘measured’ replace ‘as with in.’ ”

DWR Response: Reject. This definition is part of the existing regulation (California Code of Regulations, Title 23 Section 490 (i)). However, there is a minor modification to this definition which is renumbered as Section 491 (m).

G101 Summary of Comment 44:

Established Landscape. Commenter stated that “after the word site add [the words] soil/soil media.”

DWR Response: Reject. This definition is part of the existing regulation (California Code of Regulations, Title 23 Section 491 (j)). This definition is renumbered as Section 491 (n).

G102 Summary of Comment 85:

Established Landscape. Commenter stated that [it] “means the point at which plants in the landscape have developed significant root growth into the native soil beyond the original planting hole. Generally, most plants are established after one or two years of growth". This seems more descriptive of the goal of establishing a mature plant root system.”

DWR RESPONSE: Reject. This definition is part of the existing regulation (California Code of Regulations, Title 23 Section 490 (j)). This definition is renumbered as Section 491 (n).

G103 Summary of Comment 44:

Establishment Period. Commenter stated that “not all projects are built and maintained under the same parameters of the stated timelines due to the type of project. Establishment may take longer than 1 or 2 years, depending on project owners and those that are to take over the projects. Suggest inserting generally in front of means.”

DWR Response: Reject. This definition is part of the existing regulation (California Code of Regulations, Title 23 Section 490 (k)). However, there is a minor modification to this definition which is renumbered Section 491 (o).

G104 Summary of Comment 163:

Establishment Period Commenter stated that “there does not seem to be any recognition in the ordinance for the establishment period of a water efficient landscape. Water use may actually increase during the first one to three years when you are installing a native landscape, and so the amount of water that is actually needed would go up. Whereas over the longevity of it, after that third year, you could actually see the water almost actually being completely turned off. So there needs to be recognition particularly during that first part and to establish a healthy garden environment, that water rates may need to -- may need to increase.”

DWR Response: Reject. This definition is part of the existing regulation (California Code of Regulations, Title 23 Section 490 (k)). However, there is a minor modification to this definition which is renumbered Section 491 (o).

G105 Summary of Comment 150:

Establishment Period. Commenter stated that “there does not seem to be recognition in this document that water use may increase during the establishment period (1 to 3 years) of a drought tolerant landscape. After that establishment period, the landscape would then be more efficient, and recognition of that is vital.”

DWR Response: Reject. This definition is part of the existing regulation (California Code of Regulations, Title 23 Section 490 (k)). However, there is a minor modification to this definition which is renumbered Section 491 (o).

G106 Summary of Comment 44:

ET Adjustment Factor. Commenter requested to “replace the words needs to be with the word is.”

DWR Response: Reject. This definition is part of the existing regulation (California Code of Regulations, Title 23 Section 490 (n)). However, there is a minor modification to this definition which is renumbered Section 491 (q).

G107 Summary of Comment

ET Adjustment Factor: Commenter stated that “DWR is proposing to reduce the ET Adjustment factor from 0.8 to 0.7 as a measure of water efficiency. 0.8 is an effective and aggressive factor for our area as we are working to reduce the factor form 1.0 to .8. Further reductions will not be feasible.”

DWR Response: Reject. See the DWR’s White Paper regarding lowering the ETAF.

G108 Summary of Comment 44:

Flow Rate. Commenter stated that “after the words flows through add water use equipment.”

DWR Response: Reject. This definition is part of the existing regulation (California Code of Regulations, Title 23 Section 490 (p)). However, there is a minor modification to this definition which is renumbered Section 491 (s).

G109 Summary of Comment 44:

Hydrozone. Commenter requested to “remove [hydrozone] with the same irrigation schedule. Not all hydrozones, though having the same water use classification plants (low, medium or high), and watered by separate valve/s, may have the same watering schedule. Not all conceivable scenarios with watering schedules can be covered, due to site details and therefore should not be part of this definition.”

DWR Response: Accept in part and reject in part. This definition is part of the existing regulation (California Code of Regulations, Title 23 Section 491 (q)). However, there is a minor modification to this definition which is renumbered Section 491 (v).

G110 Summary of Comment 25:

Irrigation Efficiency. Commenter stated that “since irrigation efficiency is derived from measurements and estimates of irrigation system characteristics and management practices, it can

be the applicant's judgment or an agency's determination of the accuracy of a derived efficiency. Example of calculations at the end of the package alludes to this as assumptions."

DWR Response: Reject. This definition is part of the existing regulation (California Code of Regulations, Title 23 Section 490 (s)). There is no change to this definition which is renumbered Section 491 (y).

G111 Summary of Comment 90:

Irrigation Efficiency. Commenter stated that "irrigation efficiencies of 0.71 are very aggressive. Current requirements of 0.625 are a challenge to meet in most installations as it is. This is not a feasible target."

DWR Response: Reject. See the DWR's White Paper regarding lowering the ETAF.

G112 Summary of Comment 44:

Landscape Area. Commenter asked "What criteria were used in determining the 10% non-irrigated planting area in a landscape design plan as subject to the MAWA calculation? Why not all non-irrigated planting areas counted as landscape area for the MAWA calculation, since they would yield water savings when not irrigated? Whether properties will be utilized or remain with planting designs as permanently and solely dedicated use areas cannot be determined, and there should be some mechanism to allow for redesignation."

DWR Response: Accept in part.. The definition was modified and renumbered Section 491 (cc).

G113 Summary of Comment 5:

Landscape Area. Commenter stated that "it is our understanding that this proposed ordinance does not apply to agricultural related activities. However, under Section 491, Definitions. #27, titled "landscape area", the last sentence refers to areas permanently and solely devoted to edible plants such as orchards and vegetable gardens as being subject to the MAWA. This is confusing. This reference appears on its face to be an area devoted to agricultural activities to which these proposed regulations do not apply. Agricultural activities; commercial or private, large or small, should not be subject to this regulation. Please provide clarification. Also, the preceding sentence states what is "not" included in the landscape area. This sentence should be at the end of the definition so that we are not reading what is a landscape area, then what is not, then what is again."

DWR Response: Accept in part. This definition is part of the existing regulation (California Code of Regulations, Title 23 Section 490 (u)). The definition was modified and renumbered Section 491 (cc). Provisions were included for food producing plants.

G114 Summary of Comment 10:

Landscape Area: Commenter stated that "The Town of Los Altos Hills is currently reviewing the proposed update to the Model Water Efficient Landscape Ordinance and need clarification on several sections 491.27 Landscape Area (Definition)."

DWR Response: Accept in part. This definition is part of the existing regulation (California Code of Regulations, Title 23 Section 490 (u)). The definition was modified and renumbered Section 491 (cc).

G115 Summary of Comment 14:

Landscape Area. Commenter stated that “landscape area only allows 10% of the pervious, non-irrigated planting areas to be counted toward water allowance. I think there should be a higher allowance so that there is encouragement to use pervious surfaces instead of solid planting. This might help allow for a small, useable lawn area surrounded by a large decomposed granite perimeter with drip irrigated plants. If this stays at 10% I would be encouraged to plant as much area as possible to increase my water allowance. This is counter to the goal.”

DWR Response: Accept in part. The definition was modified and renumbered Section 491 (cc).

G116 Summary of Comment 154:

Landscape area. Commenter stated that “our endorsement of the 0.7 ETAF, however, is contingent on the fair and reasonable definition of landscape area. Currently, the proposed definition is too narrow, will act as a disincentive for water conservation, resulting in a number of inequities. We believe that the definition of landscape area should include pervious areas, such as dry stream beds, non-irrigated succulent plants and native landscapes, as well as decks and other decorative features. Two projects with equal unpaved area should be allowed the same water budget. Please allow the talented designers in our state the flexibility to comply in many unique and interesting ways.”

DWR Response: Accept in part. This definition is part of the existing regulation (California Code of Regulations, Title 23 Section 490 (u)). The definition was modified and renumbered Section 491 (cc).

G117 Summary of Comment 58:

Landscape Area. Commenter stated that “we strongly disagree with this definition and believe that pervious non-irrigated areas should be allowed as part of the landscape area. Only 10% of non-irrigated allowable area unnecessarily limits the designer's creativity for compliance. This is a narrow-minded definition and is based on old and outdated design methodology. If two projects each have 10,000 square feet of pervious landscape area then they both should be given the same water budget. The way the document is written if one designer uses no pervious non irrigated surfaces then they are allowed to use more water on their site than another designer that includes a wood deck, succulent garden or decorative dry stream bed, in fact, this will increase water use in projects because it provides a disincentive to using succulent gardens and other non-irrigated landscape solutions. This is also simply not fair and unnecessarily constraint design creativity. The definition of landscape area should include pervious surfaces WITHOUT limitation.”

DWR Response: Accept in part. This definition is part of the existing regulation (California Code of Regulations, Title 23 Section 490 (u)). The definition was modified and renumbered Section 491 (cc).

G118 Summary of Comment 122:

Landscape Area. Commenter stated that “the definition of landscape area creates a disincentive to conserve water. It only allows for 10% of the landscape area to including non-irrigated planting areas. This is counter productive. Non-irrigated planting areas should be encouraged. We recommend that there be no limitation of non-irrigated planting areas in the definition of landscape area.”

DWR Response: Accept in part. This definition is part of the existing regulation (California Code of Regulations, Title 23 Section 490 (u)). The definition was modified and renumbered Section 491 (cc).

G119 Summary of Comment 59:

Landscape Area. Commenter stated that “it’s important that DWR’s use of terms of art and other nomenclature be consistent with the established use in practice by industry. 1. Landscape Area: The definition of landscaped area is ambiguous and will result in confusion on how to calculate the area subject to MAWA By limiting the square footage of pervious non-irrigated planting areas, it is not clear if all areas that are not wetted areas should be excluded. Stakeholders suggest the definition Is irrigated area, In lieu of incorporating non-Irrigated design elements. Conceivably, two otherwise identical sites could be subject to very different water budgets. The proposed definition may discourage the use of natural plants that do not require supplemental irrigation. It should be made clear that the calculated landscape area shall be used to determine both the applicability of the site to the requirements of the ordinance and the MAWA. The following definition of Landscape areas should be used: The entire parcel less the building footprint, driveways, non-irrigation portions of parking lots, hardscapes such as decks and patios, and other non-porous areas. Water features are included in the calculation of the landscaped area. Areas dedicated to edible plants such as orchards or vegetable gardens are not included”

DWR Response: Accept in part. This definition is part of the existing regulation (California Code of Regulations, Title 23 Section 490 (u)). The definition was modified and renumbered Section 491 (cc).

G120 Summary of Comment 83:

Landscape Area. Commenter stated that “our endorsement of the .7 ETAF budget, however, is contingent on a fair and reasonable definition of “Landscape Area.” Currently, the proposed definition will act as a disincentive for water conservation and most assuredly, will result in a number of inequities. We believe very strongly that the definition of “Landscape Area” should include pervious areas such as dry streambeds, non-irrigated succulent gardens or native landscape, as well as decks and other decorative features. Our landscapes should not be designed by formula. Please allow the talented designers in our state the flexibility to comply in many unique and interesting ways.”

DWR Response: Accept in part. This definition is part of the existing regulation (California Code of Regulations, Title 23 Section 490 (u)). The definition was modified and renumbered Section 491 (cc).

G121 Summary of Comment 77:

Landscape Area. Commenter stated that “landscaping planted on slopes should be excluded from the total landscaped area because the landscaping is necessary for erosion control and the prevention of water pollution.”

DWR Response: Reject This definition is part of the existing regulation (California Code of Regulations, Title 23 Section 490 (u)).

G122 Summary of Comment 85:

Landscape Area. Commenter stated that “change to one hundred percent of non-irrigated planting areas in a landscape design plan should be included in the definition of landscape area.

Excluding non-irrigated areas would encourage owners to irrigate property when they might otherwise be inclined to leave portions of the property unirrigated. The spirit of this definition could be easily evaded by running drip line into the non-irrigated area. If an owner decides not to irrigate a portion of a landscape, he or she should receive "credit" for that and be allowed to apply a little more water than otherwise on the irrigated areas, as long as he or she stays under the overall water budget. Allowing owners to include 10 percent of the non-irrigated planting area in the landscape area requires one more computation in an already overly complicated process. Finally, it should be pointed out that the AB 2717 Task Force did not recommend that non-irrigated planting areas in a landscape design plan be excluded from the definition of landscape area; it recommended that "areas designated for non-development by the local land use agency" be excluded. CLCA suggests that the first part of the definition be changed to something like the following: Landscape area includes all of the porous areas as well as water features in a landscape design plan..."

DWR Response: Accept in part. This definition is part of the existing regulation (California Code of Regulations, Title 23 Section 490 (u)). The definition was modified and renumbered Section 491 (cc).

G123 Summary of Comment 105:

Landscape Area. Commenter stated that [it] "has been defined to include a maximum of 10% of non-irrigated areas, rather than the more widely accepted definition of all areas that could be planted. This will greatly reduce the water budget."

DWR Response: Accept in part. This definition is part of the existing regulation (California Code of Regulations, Title 23 Section 490 (u)). The definition was modified and renumbered Section 491 (cc).

G124 Summary of Comment 14:

Low Volume Irrigation. Commenter stated that "this is defined as having a flow rate of 0.75 per hour. Flow rate is not defined. Is it the amount coming out of nozzle, or the precipitation rate of the triangular spaced system? If it is the precipitation rate, this will allow most rotor type sprinklers, so slopes can be irrigated with rotors. If flow rate defines the volume coming out of the nozzle, then inches per hour is not the right unit to use to measure this."

DWR Response: Accept in part. The definition of low volume irrigation was modified and renumbered Section 490 (jj). Flow rate is defined in the existing regulation (California Code of Regulations, Title 23 Section 490 (p) and renumbered Section 491 (s) in the modified text of the regulations.

G125 Summary of Comment 44:

Low Volume Irrigation. Commenter stated that "this definition refers to a type of system. This is a confusing definition for 'low volume irrigation' and should be simplified and revised to work with and complement low flow devices which encompass the types stated in the definition, and not mention precipitation rate (for example of volume output, see item 14, page 5 for emitter). (Check current definition): It is the 'precipitation' rate that occurs in inches per hour, not 'flow' rate (see definition of flow rate under item 23, page 5). (After the word) including, (add): surface and above surface. There are low flow technologies/devices available that do not fit in the category of 'rotor sprinkler, impact sprinkler, bubbler and spray sprinkler' that provide irrigation effectively with little or no ponding or run-off. Yet when placed in a system they can

have precipitation rates that exceed the stated 0.75 inches per hour, and still meet or have a slower percolation rate than the infiltration rate of the soil/soil media. Coarse sandy soils for example, have up to a 2 inch per hour infiltration rate.”

DWR Response: Accept in part. The definition of low volume irrigation was modified and renumbered Section 491 (jj).

G126 Summary of Comment 20:

Low Volume Irrigation. Commenter stated that “means any irrigation system with a flow rate equal to or less than 0.75 inches per hour, including drip irrigation, subsurface drip, micro-sprinklers and similar irrigation type. Issue: Low volume irrigation as defined above cannot meet the precipitation rate of 0.75 inches per hour. Low volume does not mean low precipitation rate. Precipitation rate (PR) for irrigation devices is determined by the universal formula where the PR is equal to 96.3 times the flow in GPM divided by the area of coverage. Drip irrigation, subsurface drip and micro-sprinklers do not pass the precipitation rate test. Consider the following: A one gallon per hour drip emitter applying water in a one foot square area will have a PR of 1.6 inches per hour. A 0.4 gallon per minute full circle micro spray spaced at 5 feet on center will have a PR of 1.54 inches per hour. A 0.9 gallon per hour sub-surface drip with emitters spaced 12” on center with 12. Between rows will have a PR of 1.44 inches per hour. A 3.7 gallon per minute full circle spray spaced at 15 feet on center will have a PR of 1.58 inches per hour which is lower that a drip emitter. A 7.58 gallon per minute full circle rotor spaced at 35 feet on center will have a PR of only0.60 inches per hour which is much lower that a drip emitter. A 29.4 gallon per minute full circle rotor spaced at 75 feet on center will have a PR of only 0.50 inches per hour which is much lower than all of the sprinklers noted above.” Commenter makes the following recommendation: “Consider removing low volume irrigation from the definitions and from requiring low volume irrigation from the text of the ordinance and requiring the use of proper irrigation devices as determined by the designer of the irrigation system.”

DWR Response: Accept in part. The definition of low volume irrigation was modified and renumbered Section 491 (jj).

G127 Summary of Comment 112:

Low Volume Irrigation. Commenter stated that “we oppose or suggest modification of #33. List of acceptable low volume devices below .75 inches per hour should include multi stream low volume rotating .4 inches per hour heads.”

DWR Response: Accept in part. The definition of low volume irrigation was modified and renumbered Section 491 (jj).

G128 Summary of Comment 67:

Low Volume Irrigation. Commenter stated that “defines low volume irrigation as any irrigation system with a flow rate equal to or less than 0.75 inches per hour, including drip irrigation, subsurface drip, micro-sprinklers and similar irrigation type. Flow rate is traditionally referenced in unit volume over time, such as gallon per minute or gallons per hour. Inches per hour generally references precipitation rate and 0.75 inches per hour is not reflective of a low volume system.” Commenter recommended striking this definition and all reference to it or alter the terminology.

DWR Response: Accept in part. The definition of low volume irrigation was modified and renumbered Section 491 (jj).

G129 Summary of Comment 85:

Low Volume Irrigation. Commenter stated that “define this according to the volume of water per minute or hour rather than inches of water per hour. The amount of water moving through the irrigation device is more important for a definition of the device than the amount of water that is actually applied.”

DWR Response: Accept in part. The definition of low volume irrigation was modified and renumbered Section 491 (jj).

G130 Summary of Comments 105, 113:

Local Agency. Commenter stated that “there is no definition of local retail water purveyor included in Definitions. In Section 490.2(6), local agencies are asked to coordinate with the local retail water purveyor to implement a tiered rate structure without referencing the fact that water providers have requirements under state law concerning water rates well outside the purview of any local agency coordination.” Another commenter stated that a “local agency has been narrowly defined as a city or county . . . responsible for adopting and implementing the ordinance.”

DWR Response: Accept. The statute (Statutes of 2006 Chapter 559) defines a local agency accordingly: “*any city, county, or city and county, including a charter city or charter county*” (Section 65591 (b)). The proposed regulation was modified to include separate definitions for a local agency (Section 491 (hh)) and a local water purveyor (Section 491 (ii)).

G131 Summary of Comment 114:

Local Agency. Commenter stated that “AB 1881 [the legislation] identified water agency and water purveyor (on page 2, section 4). Neither AB 1881 nor the Draft Model Ordinance defines agency and water purveyor.”

DWR Response: Accept. The statute (Statutes of 2006 Chapter 559) defines a local agency accordingly: “*any city, county, or city and county, including a charter city or charter county*” (Section 65591 (b)). The proposed regulation was modified to include separate definitions for a local agency (Section 491 (hh)) and a local water purveyor (Section 491 (ii)).

G132 Summary of Comment 111:

Local Agency: Commenter stated that a “local agency is defined as a local land use authority that is responsible for permit approval, plan check, and design review for a project. However, in various sections of the Draft State Ordinance, it implies that the Local Agency has water use authority (e.g. Section 492.4 (5)). Since not all Local Agencies have this authority, the County of Riverside recommends that the State review this ambiguity, consult with lead agencies who do not have water service capabilities, and revise this definition to more accurately define the role of Local Agency vs. Water Purveyor.”

DWR Response: Accept. The statute (Statutes of 2006 Chapter 559) defines a local agency accordingly: “*any city, county, or city and county, including a charter city or charter county*” (Section 65591 (b)). The proposed regulation was modified to include separate definitions for a local agency (Section 491 (hh)) and a local water purveyor (Section 491 (ii)).

G133 Summary of Comment 44:

Mulch. Commenter stated that “after the words reducing evaporation add: a comma; delete: and; after suppressing weeds add: encouraging lateral water distribution across soil surfaces, and aesthetic purposes.”

DWR Response: Accept in part. This definition is part of the existing regulation (California Code of Regulations, Title 23 Section 490 (z)). The definition was modified and renumbered Section 491 (oo).

G134 Summary of Comment 79:

Mulch. Commenter suggested the following definition for mulch: “means any organic material such as compost, wood chips, tree trimmings, leaves, bark, and straw or other inorganic mineral mulches materials such as rocks, gravel, and decomposed granite left loose and applied to the soil surface for the beneficial purposes of reducing evaporation and suppressing weeds.”

DWR Response: Accept in part. This definition is part of the existing regulation (California Code of Regulations, Title 23 Section 490 (z)). The definition was modified and renumbered Section 491 (oo).

G135 Summary of Comment 44:

Precipitation Rate. Commenter stated that “this definition can be likened to application rate when devices are incorporated in a system design. Likewise, a precipitation rate of a single device can be different than a precipitation rate in a system with more than one device in it. Since all these emission devices stated in the definition are devices with outputs measured in gallons per hour, and that these can be spaced at various distances in a system design, precipitation rates are irrelevant. Delete (after the word) system: “with a flow rate equal to or less than 0.75 inches per hour. The definition should read: low volume irrigation means any irrigation system including surface and above surface drip irrigation, subsurface drip, micro-sprinklers and similar irrigation type.”

DWR Response: Reject. There is no change to this definition which is renumbered Section 491 (vv).

G136 Summary of Comment 67:

Rain Sensor. Commenter requested to “define rain sensor and soil moisture sensor, respectively and therefore, create the possibility of discriminating between platforms of technology.”

Commenter suggested incorporating a definition of “moisture sensing technology that suspends or limits irrigation application in periods of sufficient moisture or rainfall and replace ordinance text where appropriate.”

DWR Response: Reject. This definition is part of the existing regulation (California Code of Regulations, Title 23 Section 490 (ee)). There is no change to this definition which is renumbered Section 491 (xx).

G137 Summary of Comment 85:

Rain Sensor. Commenter stated that “change means a component which automatically suspends the irrigation event when measurable rain occurs. These devices can be set for different amounts of rainfall.”

DWR Response: Reject. This definition is part of the existing regulation (California Code of Regulations, Title 23 Section 490 (ee)). There is no change to this definition which is renumbered Section 491 (xx).

G138 Summary of Comment 44:

Record Drawing. Commenter stated that “after the words drawings which show add: the work as installed, including exact information of. After the words in the field add: dimensioning.”

DWR Response: Reject. This definition is part of the existing regulation (California Code of Regulations, Title 23 Section 490 (ff)). There is no change to this definition which is renumbered Section 491 (yy).

G139 Summary of Comment 85:

Record Drawing. Commenter stated that “change record drawing or as-builts to - mean a set of drawing which show significant changes in the work made during construction and which are usually based on drawings marked up in the field and other data furnished by the contractor. . . . All drawings are reproducible.”

DWR Response:

Reject. This definition is part of the existing regulation (California Code of Regulations, Title 23 Section 490 (ff)). There is no change to this definition which is renumbered Section 491 (yy).

G140 Summary of Comments 58, 83:

Recreation Area. Commenter stated that “this definition reads, in part, where turf provides a playing surface or serves other high-use recreation purposes. As noted in Section 490, passive recreation areas are of equal importance to -- as active recreation areas. Our parks are the highest and best public use of our water resources and, therefore, should be highly valued. The important of passive recreation has been well documented with studies by Dr. Roger Ulrich and others that have correlated exposure to outdoor environments and nature with human well being and health. The importance of passive recreation has been well documented and is important to our quality of life. Limited turf areas on private properties where it is used only for decoration is appropriately regulated. However, it can be argued that our parks are the highest and best public use of our water resources and therefore, should be highly valued. The definition of recreation area must be expanded to include passive recreation areas, as well as active.”

DWR Response: Reject. This definition is part of the existing regulation (California Code of Regulations, Title 23 Section 490 (gg)). However, minor modifications were made to this definition renumbered Section 490 (zz).

G141 Summary of Comment 59:

Recreation Area. Commenter stated that “this should be further defined. Parks are often defined as ‘passive recreation or active recreation’ While a passive area may not be a surface for high use recreation, they are intended to allow spontaneous play and informal activities (parties, carnivals, public events, etc). These areas will need to be turf and will most likely require the higher ET. Both passive and active recreation areas should be included in the definition.”

DWR Response: Reject parts and accept parts. This definition is part of the existing regulation (California Code of Regulations, Title 23 Section 490 (gg)). However, minor modifications were made to this definition renumbered Section 491 (zz).

G142 Summary of Comment 160:

Recreation area. Commenter stated that “we have concerns regarding the definition of recreation area. This definition reads, in part, where turf provides a playing surface or serves other high-use recreation purposes. As noted in Section 490, passive recreation areas are of equal importance to -- as active recreation areas. Our parks are the highest and best public use of our water resources and, therefore, should be highly valued. The definition of recreation area must be expanded to include passive recreation areas, as well as active.”

DWR Response: Reject. This definition is part of the existing regulation (California Code of Regulations, Title 23 Section 490 (gg)). However, minor modifications were made to this definition renumbered Section 491 (zz).

G143 Summary of Comment 50:

Rehabilitated Landscape. Commenter stated that “this definition is too broad and would cause individual homeowners with minor re-landscaping projects to be affected by the MO. Applicability to rehabilitated landscapes should be included in the definition.”

DWR Response: Accept in part. This definition is part of the existing regulation (California Code of Regulations, Title 23 Section 490 (jj)). However, modifications were made to this definition renumbered Section 491 (ccc).

G144 Summary of Comment 44:

Swing Joint. Commenter stated that “after the word sprinkler add [the word] emission device.”

DWR Response: Reject. There is no change to this definition renumbered as Section 491 (kkk).

G145 Summary of Comment 44:

Valve. Commenter stated that “replace the word emitters with the words emission devices” and “after the words in a line add the word common.”

DWR Response: Reject. This definition is part of the existing regulation (California Code of Regulations, Title 23 Section 490 (rr)). However, modifications were made to this definition renumbered Section 491 (mmm).

G146 Summary of Comment 59:

A commenter requested to add “the following definitions should be added: contract documents, flow sensor, master control valve, sub-meter, operating pressure, control system.”

DWR Response: Reject. The Department determined that it is not necessary to add these additional terms.

G147 Summary of Comment 79:

A commenter requested to “add compost, healthy soil, humus, and soil organic matter” and commenter provides suggested definitions.

DWR Response: Reject. The Department determined that it is not necessary to add these additional terms.

G148 Summary of Comment 74:

A commenter stated that “there is no definition for the Landscape Design Plan that is referenced later in the document. Add a definition. Alternative solution: Simplify all requirements so that

they can be included in the existing standard landscape package without the need for a new landscape design plan”

DWR Response: Reject. The Department determined that landscape design plan does not need a definition because it is considered standard terminology. The landscape design plan is one element of the Landscape Documentation Package.

G149 Summary of Comment 75, 114:

A commenter stated that “our planning staff would like to see Registered Historic Site include those sites on an agency’s local list, as well as sites on a state or federal list. Our city has many historic sites, and this clarification (perhaps unique to us) would be helpful.” Another commenter requested that registered historic Sites should include locally-designated Historic Sites.

DWR Response: Accept in part. The statute (Statutes of 2006 Chapter 559) did not specify whether registered historic sites applied to federal, state, and/or local sites. Minor modifications were made to the proposed regulation accordingly: *This ordinance does not apply to registered local, state or federal historical sites* (Section 490.1 (b) (1)).

Summary and Response: Section 492.1 Compliance with Landscape Documentation Package and Section 492.3 Elements of the Landscape Documentation Package (LDP)

G150 Summary of Comment 38, 114:

Commenter stated that “since the local retail water purveyor has a role in compliance with these regulations, they should be given a copy of the Landscape Documentation Package not just the Water Efficient Landscape Worksheet.” Another commenter stated that “water purveyors can benefit from receiving the full Landscape Documentation Package as it contains important information, including irrigated area measurements and plant palettes, the can be used to implement the model ordinance and future water conservation programs. MWDOC suggests the following edit to the proposed language: (3) submit a copy of the Water Efficient Landscape Worksheet Landscape Documentation Package to the local retail water purveyor.”

DWR Response: Accept in part and reject in part. The Landscape Documentation Package and the Water Conservation Concept Statement are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (1-12). Modifications were made to the Landscape Documentation Package and Water Efficient Landscape Worksheet (formerly the Water Conservation Concept Statement). The worksheet contains a hydrozone information table and the water budget calculations which are considered useful information for a water purveyor. The provision that the project applicant submits the worksheet to the water purveyor remains (see Section 492.1 (c) (3)). In addition, the Department encourages cooperation between local agencies and water purveyors in Section 490 (b) (6): *encourage local agencies to designate the necessary authority that implements and enforces the provisions of the Water Efficient Landscape Ordinance or its local landscape ordinance*. A local agency may choose to include an additional provision in its ordinance such as the project applicant shall submit a copy of the approved Landscape Documentation Package to the water purveyor.”

G151 Summary of Comment 59:

Commenter stated that “the required documentation needs to be reduced and streamlined. All that is needed is one worksheet demonstrating MAWA compliance, a landscape design plan, an

irrigation design plan, a grading plan for reference, and a soil analysis report. A copy of the Water Efficient Landscape Worksheet should be submitted to the local retail water purveyor by the local agency instead of the applicant to ensure that the retail water purveyor receives the final approved worksheet.”

DWR Response: Accept in part and reject in part. The Landscape Documentation Package and the Water Conservation Concept Statement are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (1-12). However, modifications were made to the Landscape Documentation Package and Water Efficient Landscape Worksheet (formerly the Water Conservation Concept Statement). The worksheet contains a hydrozone information table and the water budget calculations which are considered useful information for a water purveyor. The provision that the project applicant submits the worksheet to the water purveyor remains (see Section 492.1 (c) (3)). In addition, the Department encourages cooperation between local agencies and water purveyors in Section 490 (b) (6): *encourage local agencies to designate the necessary authority that implements and enforces the provisions of the Water Efficient Landscape Ordinance or its local landscape ordinance*. A local agency may choose to include an additional provision in its ordinance such as the project applicant shall submit a copy of the approved Landscape Documentation Package to the water purveyor.”

G152 Summary of Comment 74, 133, 140:

Multiple commenters stated that cities do not have the resources to comply with the provisions regarding the Landscape Documentation Package. One commenter stated that the compliance with landscape documentation package “includes new responsibilities for the City which translate into additional staff time to be paid for.” Another commenter stated that the “additional technical inspections, services, technical studies such as a soils analysis report, water usage studies, and annual water audits would be required for projects. The City does not have the resources, expertise or the ability to provide these services and review these types of studies.” Commenter stated that the “landscape documentation packet is very prescriptive and technical. It needs to be reduced and streamlined. The City will either have to hire a consultant to review the technical requirements or send staff to training.”

DWR Response: Accept in part and reject in part. Comments regarding the requirements of the Landscape Documentation Package are general objections to the proposed regulation. First and foremost, the Landscape Documentation Package is part of the current existing regulation (California Code of Regulations, Title 23 Section 492 (c) (1-12). However, modifications were made to the Landscape Documentation Package. In addition, the Department encourages cooperation between local agencies and water purveyors in Section 490 (b) (6): *encourage local agencies to designate the necessary authority that implements and enforces the provisions of the Water Efficient Landscape Ordinance or its local landscape ordinance*.

G153 Summary of Comment 77, 109

Commenter stated that “the complexity of the Landscape Documentation Package makes it unusable by the average homeowner. Compliance will require the use of expensive licensed or certified professionals and laboratories. Onerous landscape documentation that is required upon issuance of a permit and that is too complex for the average homeowner to comply with will discourage people from obtaining permits.” Another commenter stated that “while we applaud the intent behind the Landscape Documentation Package, we recommend that the materials be simplified. As proposed, the materials would require prohibitive amounts of time for the local

agencies to review the package in addition to being overly complicated for single family homeowners to submit without technical assistance.”

DWR Response: Accept in part and reject in part. The Landscape Documentation Package and the Water Conservation Concept Statement are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (1-12). However, modifications were made to the Landscape Documentation Package. The applicability to homeowner installed or provided landscapes remains the same in the modified text of the proposed regulation but renumbered as Section 490.1 (c). More specifically, the threshold was increased from 2,500 square foot to 5,000 square foot for homeowner installed or provided landscape projects only. Urban landscapes account for significant amounts (30-50 percent) of outdoor water use in California and the Department supports provisions targeting this sector. In addition, the Department encourages cooperation between local agencies and water purveyors in Section 490 (b) (6): *encourage local agencies to designate the necessary authority that implements and enforces the provisions of the Water Efficient Landscape Ordinance or its local landscape ordinance.*

G154 Summary of Comment 140:

Commenter stated that “the scope of the required worksheets is highly technical and burdensome. The forms need to be easier to understand and streamlined. The implementation of this section is confusing. For example in 2.b.2 it states that prior to construction, the project applicant shall submit a copy of the approved landscape documentation package to the property owner or his/her designee. According to the definition set forth in the ordinance, a "project applicant" may be the property owner or his/her designee.”

DWR Response: Accept in part and reject in part. Comments regarding the requirements of the Landscape Documentation Package are general objections to the proposed regulation. The Landscape Documentation Package is part of the current existing regulation (California Code of Regulations, Title 23 Section 492 (c) (1-12). However, modifications were made to the Landscape Documentation Package. The provisions directed at the project applicant for compliance with the Landscape Documentation Package remains (see Section 492.1). Also, in many cases the project applicant is a manager, engineer or landscape architect from a development company – all of which act as the property owner’s designee.

G155 Summary of Comment 167:

Commenter stated that “there is no clear distinction in the landscape ordinance for cities that do not have water departments. Cities would have to approve the landscape design from a planning standpoint, and water purveyors would then be required to perform complicated irrigation audits. This ordinance applies to new construction for public agency projects and private development projects with a landscape area greater than 2,500 square feet that require a permit, land check or design review. This submittal would go through the cities of Rancho Cucamonga, Ontario, Upland and Fontana, the Cucamonga Valley service area.”

DWR Response: Accept in part and reject in part. Comments regarding the requirements of the Landscape Documentation Package are general objections to the proposed regulation. First and foremost, the Landscape Documentation Package and the 2,500 square foot threshold are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (a) and Section 492 (c) (1-12), respectively). However, modifications were made to the Landscape Documentation Package. In addition, the Department encourages cooperation between local agencies and water purveyors in Section 490 (b) (6): *encourage local agencies to designate the necessary authority*

that implements and enforces the provisions of the Water Efficient Landscape Ordinance or its local landscape ordinance.

Summary and Response: Waivers & Variances (Deleted Sections in the Modified Text)

G156 Summary of Comment 59:

A commenter stated that Section 492.3 “does not provide specific criteria for a waiver or variance and requests clarification.”

DWR Response: Reject. However, this section was removed from the modified text of the proposed regulation.

Summary and Response: Section 492.2 Penalties

G157 Summary of Comment 38:

A commenter, a water purveyor, stated that “termination of water service is only practical, if there is a dedicated irrigation meter serving the property. Commenter adds that termination of water service would need to be done by the water purveyor and requires the water purveyor to adopt a policy or ordinance allowing for these penalties for non-compliance [with the Model Ordinance]”. Commenter suggested that “additional guidance be developed for the water purveyor regarding this provision Section 492.4 (5).”

DWR Response: Accept in part. Significant modifications were made to this provision renumbered as Section 492.2 in the modified text of the proposed regulation.

G158 Summary of Comments 59, 74, 140:

Multiple commenters suggested to delete “terminate water service as a penalty because local agencies do not supply water and lack authority to terminate water service and local agencies do not own the water meter. In addition, there are public health concerns and equity issues associated with termination of water service where termination would not be merited based on landscape water use.” Other commenters asserted that “housing Codes require properties to have water, sewer and other services if they are to be safely occupied so terminating water service simply due to inefficient use of water in the landscape might create a circumstance where the property would be rendered uninhabitable by the requirements of housing codes. This would create additional and difficult legal and procedural hurdles for a local entity seeking to use this particular enforcement mechanism.” One commenter suggested “directing responsibility for shutting off water supply for violations be placed with the water purveyor since they provide the water supply and the water meters.”

DWR Response: Accept in part. Significant modifications were made to this provision renumbered as Section 492.2 in the modified text of the proposed regulation.

G159 Summary of Comment 140:

A commenter stated that “the penalties outlined in Section 492.4 are either difficult to enforce or not under the purview of cities [local agencies].” Similar commenters stated that “it creates new responsibilities for local agencies.”

DWR Response: Accept in part. Significant modifications were made to this provision renumbered as Section 492.2 in the modified text of the proposed regulation.

G160 Summary of Comment 156:

A group of commenters supported “the provisions allowing a local agency to administer penalties for non-compliance with the ordinance.” They assert that “these penalties include denying certificate of occupancy, monetary fines, and termination of water service. Commenters asserted that these types of changes [to the Model Ordinance] are necessary to authorize the local agency to enforce the ordinance.”

DWR Response: Accept in part. Significant modifications were made to this provision renumbered as Section 492.2 in the modified text of the proposed regulation.

G161 Summary of Comment 98:

A commenter stated “a local agency cannot impose the locking of a meter (terminate water use) on one project with a separate water meter for irrigation when there are other adjacent projects without separate meters for irrigation.” Commenter requested clarification on how this type of situation be addressed.

DWR Response: Accept in part. Significant modifications were made to this provision renumbered as Section 492.2 in the modified text of the proposed regulation.

G162 Summary of Comment 81:

A commenter suggested “applying substantial price increase for usage that exceeds MAWA.” Commenter used the “example that his/her water purveyor did not get much result from economic based signals until the upper rates blocks reached about 10X the base rate – about \$20+ per unit.” Commenter added that “continued excessive and irresponsible usage that far exceeds MAWA without explanation water purveyors be expected to impose fines or install flow restrictors.”

DWR Response: Reject in part. However, significant modifications were made to this provision renumbered as Section 492.2 in the modified text of the proposed regulation.

G163 Summary of Comment 152:

A commenter suggested “imposing monetary and other penalties on the project applicant for non-compliance [with the ordinance].”

DWR Response: Reject. However, significant modifications were made to this provision renumbered as Section 492.2 in the modified text of the proposed regulation.

G164 Summary of Comment :

A commenter indicated that while the [Model Ordinance] “lists penalties that can be imposed to maintain implementation of ordinance locally, there are no penalties identified should a local agency choose not to implement the requirements of AB 1881.” Commenter asked: “What are the penalties that could be imposed on a local agency for not implementing a local ordinance?”

DWR Response: Reject in part. However, significant modifications were made to this provision renumbered as Section 492.2 in the modified text of the proposed regulation Comment is on local agencies not adopting MO and is beyond the scope of the Model Ordinance.

**Summary and Response: Section 492.4 & Section 495. 2
Water Efficient Landscape Worksheet**

G165 Summary of Comment 16, 20, 58, 85, 87, 111:

Commenter stated that the Water Efficient Landscape Worksheet is very complex and detailed suggested that “it seems more appropriate for the Model Ordinance to establish performance criteria rather than analysis, methodology, and providing calculation examples.” Another commenter stated that “the worksheet is too cumbersome, requires duplication of work already included in the landscape and irrigation design plan, and adds to the cost of preparing landscape and irrigation design plans without assuring any additional water savings.” Multiple commenters stated that the “requirement for a Water Efficiency Statement [Section B] is an unnecessary requirement and will not result in beneficial information; in contrast, the requirements under Section A (General Project Information), Section C (Water Budget Calculations) and Section D (Hydrozone Information) effectively provide necessary information to determine the water efficiency of the landscaped area.” Commenters recommended “removing Section B - Water Use Efficiency Statement from the Sample Water Efficient Landscape Worksheet because it is a pointless exercise for the project applicant as well as the local agency [to review].” Also, another commenter stated that “the requirements of these two sections (Landscape Documentation Package and Water Efficient Landscape Worksheet Components Section 492.1 and 492.6 respectively) appear to be excessive. The County recommends that the State work with a subcommittee of Local Agencies to streamline these requirements so that they are more relevant to the land use development process.” One commenter recommended “eliminating the multiple pages of the worksheet to combine them into one simple MAWA calculation worksheet.”

DWR Response: Accept in part and reject in part. The Model Water Efficient Landscape Ordinance, including the landscape documentation package and water conservation statement [worksheet], is an existing regulation in effect since 1992 (California Code of Regulations, Title 23 Section 490-495). Elements of the landscape documentation package remain in the Model Ordinance and renumbered as Section 491.1 and Section 492.3. Also, the Water Efficient Landscape Worksheet (provisions were renumbered as Section 492.4 and sample worksheet is renumbered as Section 495.2) was significantly modified from the February 8, 2008 noticed version of the proposed regulation.

G166 Summary of Comment 44:

A commenter suggested the addition of temperature sensor at the end of the second paragraph after the words soil moisture sensor in Section 492.6 (3).

DWR Response: Reject. The Model Water Efficient Landscape Ordinance, including the statement [worksheet], is an existing regulation in effect since 1992 (California Code of Regulations, Title 23 Section 490-495). The Water Efficient Landscape Worksheet requirements were significantly modified from the February 8, 2008 noticed version of the proposed regulation. More specifically, Section 492.6 (3) was renumbered as Section 492.4 (c) (1).

G167 Summary of Comment 79:

A commenter suggested “the addition of a new question on the Water Efficient Landscape Worksheet: What mulches or soil amendments were used to improve water retention and infiltration?”

DWR Response: Reject. The Model Water Efficient Landscape Ordinance, including the statement [worksheet], is an existing regulation in effect since 1992 (California Code of Regulations, Title 23 Section 490-495). More specifically, the Water Efficient Landscape

Worksheet (provisions were renumbered as Section 492.4 and sample worksheet is renumbered as Section 495.2) was significantly modified from the February 8, 2008 noticed version of the proposed regulation.

G168 Summary of Comment 59:

Commenter requested clarification on Section 492.6 (3) (b) (1) stating that “in areas where precipitation amount is not significant, applicants can skip this section yet it [Model Ordinance] provides no guidance on where precipitation would be significant; San Diego receives approximately 9-10 inches per year of precipitation, generally in a short period of time. The effective precipitation calculation should not apply to the San Diego region because it is not significant.”

DWR Response: Accept in part. The Model Water Efficient Landscape Ordinance, including the statement [worksheet], is an existing regulation in effect since 1992 (California Code of Regulations, Title 23 Section 490-495). In the modified text of the proposed regulation, a local agency may consider effective precipitation and the Department provides an alternative equation for calculating MAWA in Section 494. The Water Efficient Landscape Worksheet has been significantly modified or reduced from the February 8, 2008 noticed version of the proposed regulation. More specifically, Section 495.3 Sample Effective Precipitation Disclosure Statement was deleted in its entirety.

G169 Summary of Comment 90:

A commenter stated that “the [Water Efficient Landscape] worksheet asks the project applicant questions as to whether they worked [coordinated] with the water purveyor and/or local agency to develop a landscape plan, an irrigation plan and a water budget.” Commenter recommended that “this coordination isn’t specified elsewhere in the proposed Model Ordinance as a requirement and suggests that the questions should be removed from the worksheet.”

DWR Response: Accept in part and reject in part. The Model Water Efficient Landscape Ordinance, including the statement [worksheet], is an existing regulation in effect since 1992 (California Code of Regulations, Title 23 Section 490-495). The Water Efficient Landscape Worksheet has been significantly modified or reduced from the February 8, 2008 noticed version of the proposed regulation. More specifically, Section 495.2 Water Efficient Landscape Worksheet Section B Water Use Efficiency Statement was deleted in its entirety. Coordination between local agencies and water purveyors was indicated in the February 8, 2008 noticed version; however, the Department included additional provisions to encourage coordination in the modified text of the proposed regulation in Section 490 (b) (6) and (7), Section 492 (a) and Section 493 (a).

G170 Summary of Comment 96

A commenter suggested in “Appendix B - Sample Water Efficient Landscape Worksheet to coordinate the list of plans with 492.8 (2) and others, i.e. Site Plan, Hydrozone Plan etc.”

DWR Response: Reject. The Model Water Efficient Landscape Ordinance, including the landscape documentation package and water conservation statement [worksheet], is an existing regulation in effect since 1992 (California Code of Regulations, Title 23 Section 490-495). Elements of the landscape documentation package remain in the Model Ordinance and renumbered as Section 491.1 and Section 492.3. The worksheet is one of the submittals of the

landscape documentation package. The landscape documentation includes the landscape, irrigation and grading design plans plus other elements.

**Summary and Response: Evapotranspiration Adjustment Factor (ETAF)
Section 490 (q) and Section 492.5 (c)**

G171 Summary of Comments 21, 25, 34, 35, 49, 67, 71, 95, 109, 159:

Multiple commenters stated that there wasn't sufficient scientific evidence provided to justify lowering the ETAF to 0.7. Several commenters stated that the ETAF study should have been completed to scientifically determine the landscape water use adjustment factor. Others stated that lowering the ETAF to 0.7 was too draconian and would penalize the landscape industry.

DWR Response: Reject. The evapotranspiration adjustment factor is part of the existing regulation (California Code of Regulation, Title 23 Section 490 (n) and Section 492 (c) (2)). The Department of Water Resources has determined that the evapotranspiration adjustment factor of 0.7 is reasonable and appropriate. The Department of Water Resources also updated the Evapotranspiration Adjustment Factor White Paper to further explain the ETAF of 0.7 in the modified text of the regulation.

G172 Summary of Comments 75, 83, 85, 107, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 182:

Several hundred people wrote in favor of the lowering the ETAF to 0.7 stating that the water budget was achievable and realistic especially with recent improvement in irrigation technology.

DWR Response: Accept. The evapotranspiration adjustment factor is part of the existing regulation (California Code of Regulation, Title 23 Section 490 (n) and Section 492 (c) (2)). The Department of Water Resources has determined that the evapotranspiration adjustment factor of 0.7 is reasonable and appropriate. The Department of Water Resources also updated the Evapotranspiration Adjustment Factor White Paper to further explain the ETAF of 0.7 in the modified text of the regulation.

G173 Summary of Comment 35:

One commenter stated that the use of the 90% percent management factor in the calculation of irrigation efficiency was too high and not achievable.

DWR Response: Reject. After carefully reviewing the comments and evidence in the ETAF White paper, DWR has determined that 90% management factor is reasonable and appropriate. The 90% management factor remains in the ETAF White Paper calculation.

G174 Summary of Comment 25, 83:

Commenters stated that there was the lack of good scientific information on the water use of trees and shrubs and that more detailed studies were needed to quantify water use.

DWR Response: Reject. The evapotranspiration adjustment factor is part of the existing regulation (California Code of Regulation, Title 23 Section 490 (n) and Section 492 (c) (2)). The source of water use of turf, trees and shrubs is derived from WUCOLS authored by the University of California Cooperative Extensions. The White Paper list the other reference sources.

G175 Summary of Comment 15:

A commenter stated that the ETAF doesn't work across the range of climates found in California.

DWR Response: Reject. The evapotranspiration adjustment factor is part of the existing regulation (California Code of Regulation, Title 23 Section 490 (n) and Section 492 (c) (2)). The Department of Water Resources has determined that the evapotranspiration adjustment factor of 0.7 is reasonable and appropriate. The Department of Water Resources also updated the Evapotranspiration Adjustment Factor White Paper to further explain the ETAF of 0.7 in the modified text of the regulation. ETAF is based on the cities local ETo (climate); therefore, it works across the range of climates throughout California.

G176 Summary of Comment 64:

A commenter suggested that ETAF be established at 0.75 as a compromise value.

DWR Response: Reject. The evapotranspiration adjustment factor is part of the existing regulation (California Code of Regulation, Title 23 Section 490 (n) and Section 492 (c) (2)). The Department of Water Resources has determined that the evapotranspiration adjustment factor of 0.7 is reasonable and appropriate. The Department of Water Resources also updated the Evapotranspiration Adjustment Factor White Paper to further explain the ETAF of 0.7 in the modified text of the regulation.

G177 Summary of Comment 120:

A commenter stated that tiered rates would be more effective than the ETAF in reducing water use.

DWR Response: Reject. The evapotranspiration adjustment factor is part of the existing regulation (California Code of Regulation, Title 23 Section 490 (n) and Section 492 (c) (2)). The Department of Water Resources has determined that the evapotranspiration adjustment factor of 0.7 is reasonable and appropriate. The Department of Water Resources also updated the Evapotranspiration Adjustment Factor White Paper to further explain the ETAF of 0.7 in the modified text of the regulation. DWR can only encourage the use of tiered rates (see Section 490 (b) (6)) because tiered rates are regulated by the California Public Utilities Commission (CPUC).

G178 Summary of Comment 16:

A commenter stated that sports fields should be exempt from the 0.7 ETAF.

DWR Response: Accept in part. The evapotranspiration adjustment factor is part of the existing regulation (California Code of Regulation, Title 23 Section 490 (n) and Section 492 (c) (2)). Sport fields are classified as "Special Landscape Areas" (SLA) and the ETAF of SLA shall not exceed 1.0 (see Section 492.4 (b) (3) and (4)).

G179 Summary of Comment 112:

Regarding Section 492.6 (3) (a), commenter stated that we support the goal of "lowering of the cool season turf coefficient from .8 to .7, this will cause systems with poor uniformity to show brown spots, those spots can and should be corrected."

DWR Response: Reject. DWR lowered the ETAF from 0.8 to 0.7 not the cool season turf coefficient as commenter stated.

Summary & Response: Maximum Applied Water Allowance (MAWA)

G180 Summary of Comment 14: Commenter stated that the Epsilon symbol (Σ) in the formula of Section 492.6 (3) (c) (2) is not defined in the ETWU formula; that Greek characters may not be available or understandable to everyone or print out correctly on printers; that this formula is not clear; that it looks like the “1 to n” says “ton.” Commenter request clarification on what this formula calculates.

DWR Response: Accept. The Epsilon symbol (Σ) in the Estimated Total Water Use formula was deleted. The Estimated Total Water Use is part of the existing regulation (California Code of Regulations, Title 23, Section 492). Significant modifications were made to the proposed water budget calculation section and renumbered as 492.4 (d). More specifically, the Estimated Total Water Use section was clarified with a new formula and new example calculations.

G181 Summary of Comment 64: Commenter stated that “what needs to happen is for the Model Ordinance to be rewritten to provide an end result in terms of maximum applied water application (MAWA) and not how to reach MAWA.”

DWR Response: Reject part and accept part. This comment is a general objection to the proposed regulation. The water budget component is part of the existing regulation (California Code of Regulations, Title 23 Section 492). Also, the statute (Statutes of 2006, Chapter 559, Section 65596 (b) mandated that the Department 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.” However, significant modifications were made to the proposed water budget calculation section to clarify concepts and the entire section was renumbered as Section 492.4.

G182 Summary of Comment 61: Commenter asked to “define plant coefficients [factors] for use in the Estimated Water Use formulas [Section 492.6 (3) (c)]. In other words, which species are ranked as low water use, moderate water use, etc.?”

DWR Response: Reject part and accept part. Definition for “plant factor” (Section 491 (uu)) was modified to indicate that plant factors used in the Model Ordinance were derived from WUCOLS (Water Use Classification of Landscape Species) which the Department considers to be the best available information at this time. Modifications were made to explicitly state in Section 492.4 (b) that the plant factors, low (0-0.3), moderate (0.4-0.6) and high (0.7-1.0) shall be used for the water budget calculation. Definition for “water conserving plants” (Section 491 (nnn)) was modified to include only very low and low plant factor. The Estimated Total Water Use section was clarified with a new formula and new example calculations.

G183 Summary of Comment 74: Commenter stated that effective precipitation is only 25% of rainfall; that this appears to be a conservative figure. Commenter also stated that plant factors are lower than previously acceptable to the City; that it is noted that recreation turf is allocated a higher plant factor than is appropriate.

DWR Response: Reject part and accept part. The effective precipitation is part of the existing regulation (California Code of Regulations, Title 23 Section 494). Significant modifications were made to the proposed regulation regarding effective precipitation calculation and disclosure statement to make it optional. Definition for “plant factor” (Section 491 (uu)) was modified to indicate that plant factors used in the Model Ordinance were derived from WUCOLS (Water Use

Classification of Landscape Species) which the Department considers WUCOLS to be the best available information at this time. The plant factors are low (0-0.3), moderate (0.4-0.6) and high (0.7-1.0). Recreational turf is considered in the Model Ordinance as a “special landscape area” that needs additional water.

G184 Summary of Commenter 67: Commenter stated that they object the use 0.7 in the MAWA formula (Section 492.6 (3) (a)); that MAWA that is quite complex in nature due to the cross referencing required; and that mathematical errors could be problematic for both regulated and regulator. Commenter suggested the following revision: Reference tables could be altered to provide per square foot MAWA based upon local climatic conditions thereby simplifying the process. The example provided would then be altered as follows: 50,000 sq. ft. x 22.1774 gals/sq.ft = 1,108,870 gals. yr.

DWR Response: Reject. The change in the ETAF (from 0.8 to 0.7) is a general objection to the proposed regulation. MAWA is part of the existing regulation (California Code of Regulations, Title 23 Section 492). Also, the statute (Statutes of 2006, Chapter 559, Section 65596 (b) mandated that the Department 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.” Example calculations are provided for explanatory purposes to aid the reader. The MAWA calculation gives the maximum water budget for an entire year based on historic evapotranspiration for one year. Because the landscape area is one of the variables in the MAWA calculation, the MAWA can be calculated on per square foot basis. However, the per square foot value is not relevant because actual water use is actually based on plant types and hydrozones. The end result of the MAWA calculation is the amount of water in a yearly water budget allowance. Therefore, the MAWA calculation is necessary to derive that value.

G185 Summary of 81: Commenter stated the following: “Modify the MAWA portion of the Model Ordinance to apply to all residences and the landscape portions of commercial establishments. For residences, develop a set of models for purveyors to apply in remotely creating a MAWA based on lot size. Then expect purveyors to monitor actual usage versus MAWA, apply very substantial price increase for usage that substantially exceeds MAWA (our District didn’t get much result from economic based signals until the upper rates blocks reached about 10x the base rate – about \$20+ per unit). For continued excessive and irresponsible usage that far exceeds MAWA without explanation purveyors should be expected to impose fines or install flow restrictors. The goal should be one of establishing a MAWA based water usage monitoring structure that can be created and monitored largely through computer tools using existing data bases.”

DWR Response: Reject. MAWA is part of the existing regulation (California Code of Regulations, Title 23 Section 492). Also, the statute (Statutes of 2006, Chapter 559, Section 65596 (b) mandated that the Department 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.” The local agency may adopt additional provisions beyond what is provided in the Model Ordinance to further achieve water use efficiency in landscapes.

Summary & Response: Section 492.5 Soil Management Plan

G186 Summary of Comments 42, 56, 58, 83:

Multiple commenters stated that a Soil Management Plan is unnecessary; that the existing [regulation] adequately addressed water conservation pertaining to soils. Commenters recommended requiring the results of soils [analysis] that would indicate any needs and specifications for soil amendments.

DWR Response: Accept in part. The soil analysis provision is part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (11) (A)). The soil management plan section including an on-site soil assessment was modified significantly in the Model Ordinance and renumbered as Section 492.5. The provisions for the soil management plan are within the range of standard practice and shall remain in the Model Ordinance. More specifically, the inclusion of a soil management implements the recommendation number 29 by the AB 2717 Landscape Task Force (Water Efficient Landscapes in California Final Report December 2005) The item added to the soil analysis requiring *other soil physical or chemical properties relevant to improving water use efficiency and maintaining plant health* has been removed because it did not have a specific and clear requirement. The item added requiring the use of a soil specialist has been removed based on public comments that soil specialists are not defined, are uncommon in the State, and would add considerable expense. The requirement for an on-site soil assessment is deemed reasonable and shall remain in the Ordinance. Compare to recommendations made by USDA-NRCS in *Protecting Urban Soil Quality: Examples for Landscape Codes and Specifications* December 2003, page 11. Additionally, the Landscape Task Force Recommendation 29, Action 29.1 includes recommendations for an on-site soil assessment.

Reference – <http://soils.usda.gov/sqi/publications/files/Infiltration.pdf>

Reference http://soils.usda.gov/sqi/management/files/protect_urban_sq.pdf

G187 Summary of Comment 59, 85:

Commenters stated that requiring a qualified soil specialist or scientist to provide an on-site soil assessment is a significant and unnecessary expense; that the Model Ordinance fails to define a qualified soil specialist. Commenters recommended requiring a laboratory soil analysis with recommendations.

DWR Response: Accept in part. The soil analysis provision is part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (11) (A)). The soil management plan section including an on-site soil assessment was modified significantly in the Model Ordinance and renumbered as Section 492.5. More specifically, the provision regarding a soil specialist was deleted from the proposed regulation. However, a preliminary site inspection is now required that includes determining the appropriate level of soil sampling and sampling method needed to obtain representative soil samples (see Section 492.5 (b)). A soil analysis with recommendations is also still required (see Section 492.5 (c)).

G188 Summary of Comment 74:

Commenter stated that a licensed landscape architect has achieved a level of competency whereby checking soil types prior to preparing planting and irrigation plans is standard; that it is not necessary to include a Soil Management Plan in the Ordinance.

DWR Response: Reject. The soil analysis provision is part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (11) (A). The soil management plan section including an on-site soil assessment was modified significantly in the Model Ordinance and renumbered as Section 492.5. The provisions for the Soil Management Plan are within the range of standard practice and shall remain in the Model Ordinance.

The ordinance requires that the landscape and irrigation design plans be submitted with the Landscape Documentation Package. This may be very far in advance of mass grading. Therefore, it is not always possible to know the final soil type when these plans are developed. The Soil Management Plan requires consideration of the soil at the time of submitting an application, as well as after mass grading, and shall remain in the ordinance to ensure adequate consideration of soil conditions that may affect water infiltration and retention.

G189 Summary of Comment 74:

Commenter stated that soil amelioration is a standard component of planting plans and specifications; that a separate Soil Management Plan for this is not necessary.

DWR Response: Reject part and accept part. The soil analysis provision is part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (11) (A). The soil management plan section including an on-site soil assessment was modified significantly in the Model Ordinance and renumbered as Section 492.5. The provisions for the Soil Management Plan are within the range of standard practice and shall remain in the Model Ordinance.

G190 Summary of Comments 14, 22, 79:

Several commenters stated that the use of soil amendments is not addressed; that Section 65596 (1) of the statute states "...the ordinance must include provisions for landscape maintenance practices that foster long-term landscape water conservation." Commenters stated that amendments improve the water holding capacity of the soil, resulting in the need for less irrigation and more water conservation. Commenters suggested including a requirement for compost as a soil amendment.

DWR Response: Accept in part. The soil analysis provision is part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (11) (A). Section 492.6 (a) (3) (D) Landscape Design Plan now includes a provision for amendments: *Soil amendments shall be incorporated according to the recommendations of the soil report and what is appropriate for the plants selected (Section 492.5).* The proposed regulation will not require specific amendments.

G191 Summary of Comments 10, 22, 79:

Commenters requested including regular re-application of minimum 2" of appropriate compost or mulch.

DWR Response: Reject. The soil analysis provision is part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (11) (A). The proposed regulation includes several provisions that sufficiently addresses mulch. Section 492.6 (a) (3) Landscape Design Plan requires a minimum two inch layer of mulch applied on all exposed soil surfaces of planting areas landscape design (see Section 492.6 (a) (3)). Section 492.11 (b) Landscape and Irrigation Maintenance Schedule requires inclusion of replenishing mulch in the schedule.

The practices that maintain efficient water use in a landscape, such as re-application of mulch, are generally not monitored after the landscape installation. Proper maintenance will be reflected

in landscape water use remaining below the MAWA. A requirement to re-apply mulch will not be included in the Ordinance.

G192 Summary of Comment 90:

Commenter stated that soil testing requirements are very timely and labor intensive; add costs to landscape designs.

DWR Response: Reject. The soil analysis provision is part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (11) (A). The soil management plan section including an on-site soil assessment was modified significantly in the Model Ordinance and renumbered as Section 492.5.

The inclusion of soil testing requirements documents that soil amelioration is based on adequate information. The requirements for the Soil Management Plan are within the range of standard practice and shall remain in the Ordinance. **REFERENCE:**

http://soils.usda.gov/sqi/management/files/protect_urban_sq.pdf

G193 Summary of Comments 150, 163:

Commenters stated that the standard soil reporting may not be appropriate for all landscapes; that nearly all soil nutritional reports are done with crops or turf as the baseline, and with the assumption "amendments" will be needed. Commenter asked "What would be much more appropriate and sustainable is to say, based on the soils report, what you can grow here without additional inputs to the landscape system?"

DWR Response: Reject. The soil analysis provision is part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (11) (A). The soil management plan section including an on-site soil assessment was modified significantly in the Model Ordinance and renumbered as Section 492.5.

The landscape designer is responsible for using the information provided to determine which plants and other inputs are most appropriate for the landscape. Standard soil reporting is used widely and routinely in the landscaping industry. The Landscape Design Plan requires that plants be selected and planted appropriately based upon their adaptability to the climatic, geologic and topographical conditions of the project site.

G194 Summary of Comment 90:

Commenter stated that sampling techniques for the soil analysis are not delineated. Commenter asked "What would be considered appropriate representation of sample data to design a landscape?"

DWR Response: Accept. The soil analysis provision is part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (11) (A). The soil management plan section including an on-site soil assessment was modified significantly in the Model Ordinance and renumbered as Section 492.5. More specifically, a preliminary site inspection is now required that includes determining the appropriate level of soil sampling and sampling method needed to obtain representative soil samples (see Section 492.5 (b)).

The Soil Management Plan includes a provision for the on-site inspector to determine the appropriate level of soil sampling and sampling method needed to obtain a representative soil sample. These techniques will not be included in the Ordinance. Soil sampling techniques are found in industry literature and provided by laboratories that analyze soils.

REFERENCE: UC ANR Bulletin 1879 Soil and Plant Tissue Testing in California, p 39-40, Chemical Soil Tests for Soil Fertility Evaluation, H. M. Reisenauer, J. Quick, R. E. Voss, and A. L. Brown

REFERENCE: Personal communication with Environmental Technical Services ETS

REFERENCE: Abiotic Disorders of Landscape Plants A Diagnostic Guide, UC ANR Ch 2, pp 16-18

G195 Summary of Comment 79:

Commenter stated that the terms “organic matter” and “organic compost” are used in the Model Ordinance, we recommend that they are defined in the definitions section.

DWR Response: Reject. The soil management plan section was modified significantly in the Model Ordinance and renumbered as Section 492.5. The term “organic matter” is used when referring to “Percent Organic Matter” in a laboratory analysis of the soil which is not necessary to further define. The provision referring to “organic compost” was deleted from the proposed.

G196 Summary of Comment 90:

Commenter stated that some soil analysis may be redundant; that for areas with similar soils characteristics, it may be acceptable to use general soil samples and eliminate specific analysis.

DWR Response: Accept in part. The soil analysis provision is part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (11) (A). The soil management plan section including an on-site soil assessment was modified significantly in the Model Ordinance and renumbered as Section 492.5. More specifically, a provision for a preliminary site inspection to determine the appropriate level of soil sampling and sampling method and a provision to obtain a representative soil sample were added to the proposed regulation.

REFERENCE: UC ANR Bulletin 1879 Soil and Plant Tissue Testing in California, p 39-40, Chemical Soil Tests for Soil Fertility Evaluation, H. M. Reisenauer, J. Quick, R. E. Voss, and A. L. Brown

REFERENCE: Personal communication with Environmental Technical Services ETS

G197 Summary of Comments 20, 55:

Several commenters stated that the Model Ordinance would require that soils testing be conducted prior to grading, which does not make sense; that some projects involve a significant amount of grading, and the soil to be landscaped is different than the soil that was graded. Also, a commenter stated that the Model Ordinance would require final soil information before irrigation plans are completed; that irrigation plans are normally completed long before final soil information is available. Commenters suggested developing an alternative plan that can use soil information when it becomes available.

DWR Response: Accept. The soil analysis provision is part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (11) (A). The soil management plan section including an on-site soil assessment was modified significantly in the Model Ordinance and renumbered as Section 492.5. More specifically, the final soils information will now be submitted with the Certificate of Completion (see Section 492.9 (b) (4) Certificate of Completion).

The Soil Management Plan has been modified so that the soil testing is done after mass grading. This will ensure that the tested soil is the soil of the plant root zone. The project applicant must

ensure that the irrigation designer receives the soils information when it becomes available, in order to allow for any needed modifications to the design plan.

G198 Summary of Comment 162:

Commenter stated that ET doesn't include soil characteristics; that water infiltration and retention of the soil are important characteristics that affect water efficiency.

DWR Response: Reject. The soil analysis provision is part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (11) (A). The soil management plan section including an on-site soil assessment was modified significantly in the Model Ordinance and renumbered as Section 492.5. Factors affecting evapotranspiration (ET) are outside the scope of the model ordinance.

G199 Summary of Comment 85:

Commenter stated that cation exchange is not listed as a requirement in the soil analysis; that information on cation exchange complex and cation exchange capacity is pretty standard in landscape soil analyses and provides important information for future plant health. Commenter suggested requiring cation exchange information in the soil analysis.

DWR Response: Reject. The soil analysis provision is part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (11) (A). The soil management plan section including an on-site soil assessment was modified significantly in the Model Ordinance and renumbered as Section 492.5. More specifically, all the soil physical and chemical properties that can be analyzed and that are relevant to improving water use efficiency and maintaining plant health were deleted. Though not listed, cation exchange capacity is commonly measured by soil laboratories. Because this is a water conservation ordinance, cation exchange will not be included as required information in the soil analysis.

G200 Summary of Comments 59, 85:

Several commenters stated that an on-site soil assessment by a soil specialist is unnecessary; that requiring a qualified soil specialist or scientist to provide an on-site soil assessment would add \$600 to \$900 per sample to the cost of a project compared to \$150 to \$250 for a laboratory analysis of a soil sample. Commenters recommended deleting the requirement for on-site soil assessment; maintain requirement for the submittal of laboratory soil analysis only.

DWR Response: Accept in part. The soil analysis provision is part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (11) (A). The soil management plan section including the on-site soil assessment was modified significantly in the Model Ordinance and renumbered as Section 492.5. More specifically, the provision regarding a soil specialist was deleted from the proposed regulation. The provision for an on-site soil assessment is deemed reasonable and shall remain in the proposed regulation. Compare to recommendations made by USDA-NRCS in *Protecting Urban Soil Quality: Examples for Landscape Codes and Specifications* December 2003, page 11. Additionally, the Landscape Task Force Recommendation 29, Action 29.1 includes recommendations for an on-site soil assessment.

Reference http://soils.usda.gov/sqi/management/files/protect_urban_sq.pdf

Topsoil depth 4" p 14 of 20

Pg 11 of 20 specifies 6 required on-site inspections

G201 Summary of Comment 85:

Commenter stated that further analysis of [soil conditions] such as soil toxicity is not needed in a water conservation ordinance.

DWR Response: Accept. The soil analysis provision is part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (11) (A). The soil management plan section including an on-site soil assessment was modified significantly in the Model Ordinance and renumbered as Section 492.5. More specifically, the provision regarding the additional analysis of soil conditions such as soil toxicity was deleted from the proposed regulation.

Summaries and Responses: Section 492.6 Landscape Design Plan

G202 Summary of Comments 42, 56: Several commenters recommended deleting “Avoid fire-prone plant materials and mulches” because it conflicts with the mulch section and it does not promote water conservation.

DWR Response: Accept and reject parts. Statutes of 2006, Chapter 559 (AB 1881) required DWR to address wildfire concerns in the Model Ordinance. Section 4.92.6 (a) (1) (C) (iv) has been modified to clarify the mulch requirement.

G203 Summary of Comment 114: A commenter suggested that artificial turf should be included as a plant material choice to promote use of plant material alternatives as long as the EAWU does not exceed the MAWA. Commenter suggested artificial turf should be included in the water conserving plant material category which cannot be prohibited by common interest developments.

DWR Response 114: Reject. Artificial turf is a non-living surfacing material such as gravel or other pervious hardscape material. Therefore, the promotion and use of artificial turf is beyond the scope of the Notice of Proposed Rulemaking for the Model Ordinance.

Section 492.8.1 (a) (4) Invasive plants

G204 Summary of Comment 114: One commenter suggested stronger language (prohibit rather than avoid) regarding use of invasive plants near parks, greenbelts, water bodies, etc. Commenter suggested using local watershed plant lists and lists of invasive species compiled by CDFG, SWRCB, USACOE, etc. due to the costs of management or removal of invasive species.

DWR Response: Reject. Statutes of 2006, Chapter 559 (AB 1881) does not allow the Model Ordinance to prohibit any plant species. However, the statute does instruct DWR to address regional concerns which may include the topic of invasive plants. Local agencies should follow local and state regulations concerning invasive species - see State of California Department of Food and Agriculture’s Noxious Weed Information Project. This topic will be expanded in the guidebook for the Model Ordinance.

G205 Summary of Comment 85: One commenter suggested referencing the California Invasive Plant Council (CIPC).

DWR Response: Reject. Though CIPC is the authority on invasive plant species, it will not be referenced in the modified text of the proposed regulation but included in the guidebook for the Model Ordinance.

G206 Summary of Comment 150: One commenter suggested noting [in the provision] that Sunset Western Climate Zones are changing over time due to global warming.

DWR Response: Reject. This suggestion is unnecessary as Sunset updates the Western Garden Book every few years and modifies the Climate Zone maps as needed. This item will be expanded in the guidebook for the Model Ordinance.

Section 492.8 (a) (2) (A) and (B)

G207 Summary of Comment 50: One commenter suggested that the criteria in Section 492.8 (a) (2) (A) and (B) would constrain a property owner's right to implement certain landscape concepts and that it would be cost prohibitive and impractical for individual homeowners to conduct long-term maintenance of these irrigation technologies.

DWR Response: Accept and reject in part. Section 492.8 (a) (2) (A) and (B) are updates to the existing regulation (California Code of Regulation Title 23, Section 492 (c) (6) (A): “*Special attention shall be given to avoid run off on slopes and to avoid overspray in planting areas with a width less than ten feet, and in median strips.*” As irrigation technology improves, so does the ease of maintenance. However, modifications were made to Section 492.8.

G208 Summary of Comment 1: A commenter suggested the addition of: “Turf grass is one of the highest water requiring plants commonly used in California landscapes. Because of this, minimal or no use of turf grass is highly recommended.”

DWR Response: Reject. While this statement is generally true, Statutes of 2006, Chapter 559 (AB 1881) does not allow prohibiting or making conditions that would in effect prohibit any plant, including turf. The Guidebook for the Model Ordinance will contain information about the water use requirements of turf compared to other plant types and provide suitable alternatives to turf in landscapes.

G209 Summary of Comments 14, 112: Commenters disagreed with the 4:1 slope limitation asking for both steeper slopes and flatter slopes as a limit for turf. One commenter suggest a 5:1 slope may be more appropriate than 4:1 slope because “4:1 areas would be too steep to prevent runoff in spray irrigated turf” and “drip would be impractical on a 4:1 sloped lawn.” Commenter continues: “Slopes greater than 4:1 require low volume irrigation or drip. Generally we are trying to establish hydro-seed on large slopes over 4:1, so rotor sprays are necessary.” This commenter asked that the Model Ordinance allow rotor irrigation for hydro-seed on slopes. Another commenter suggested that a maximum slope of 15 degrees is unrealistic and that the maximum should be 30 degrees or 2:1. Commenter states that low flow multi-trajectory stream heads with a precipitation rate of .75 inches per hour can avoid runoff in slopes up to 30 degrees.

DWR Response: Accept and reject parts. The provision was modified for clarity. A reasonable compromise is 25% as a maximum for slopes planted with turf; where 25% means 1 foot of vertical elevation change for every 4 feet of horizontal length (rise divided by run x 100 = slope percent). According to “*Residential Landscape Architecture*” by Booth and Hiss, lawn surfaces should not exceed 25 percent because steeper slopes are dangerous to mow. Runoff will occur

with standard technology. To prevent runoff, precipitation rate must not exceed infiltration rate. Steeper slopes are allowed (within local engineering codes) for other types of plant material if drip or other low volume irrigation is used. Precipitation rate must not exceed infiltration rate. Rotor irrigation is allowed if precipitation rate does not exceed infiltration rate. Local agencies may further restrict slope limits, if they find it appropriate in their service areas.

G210 Summary of Comment 112: One commenter suggested that multi-stream low volume rotating heads should be included as allowable irrigation devices for narrow turf areas.

DWR Response: Reject. Narrow turf areas are difficult to irrigate without overspray. Statutes of 2006, Chapter 559 (AB 1881) requires provisions to minimize runoff and overspray. Technology used must be able to irrigate without runoff or overspray. No overhead technology has been proven to avoid all overspray in narrow areas. Section 492.8 (a) (2) (A) and (B) are updates to the existing regulation (California Code of Regulation Title 23, Section 492 (c) (6) (A): *“Special attention shall be given to avoid run off on slopes and to avoid overspray in planting areas with a width less than ten feet, and in median strips.”*

G211 Summary of Comment 44: One commenter suggested adding these provisions: “adjacent to non-permeable vehicular and pedestrian hard paved surfaces,” and “constructed structures and where practical and efficient.” The commenter suggests that effects of overspray and runoff can occur from turf of any size and can be inconsequential.

DWR Response: Reject. Statutes of 2006, Chapter 559 (AB 1881) requires provisions to minimize overspray and runoff, no matter the location. Technology used must be able to irrigate without runoff or overspray. Spray irrigation is allowed adjacent to permeable surfaces. Section 492.8 (a) (2) (A) and (B) are updates to the existing regulation (California Code of Regulation Title 23, Section 492 (c) (6) (A): *“Special attention shall be given to avoid run off on slopes and to avoid overspray in planting areas with a width less than ten feet, and in median strips.”*

G212 Summary of Comment 76: One commenter suggested turf should not be allowed in medians and parkways due to the significant amount of runoff in these locations.

DWR Response: Reject. Statutes of 2006, Chapter 559 (AB 1881) disallows prohibiting or making conditions that would in effect prohibit any plant, including turf. The guidebook for the Model Ordinance will contain information about the water use of turf versus other plant types, and alternatives to using turf in non-playing surfaces. Turf areas less than eight feet wide require low volume irrigation. Local agencies should consider the appropriateness of turf in medians and associated overspray and runoff which can be hazards to public safety. Section 492.8 (a) (2) (A) and (B) are updates to the existing regulation (California Code of Regulation Title 23, Section 492 (c) (6) (A): *“Special attention shall be given to avoid run off on slopes and to avoid overspray in planting areas with a width less than ten feet, and in median strips.”*

G213 Summary of Comment 90: One commenter stated that the drip/subsurface requirement in narrow turf conflicts with the City’s Specific Plan and that subsurface turf irrigation is unproven.

DWR Response: Reject. It is difficult to irrigate narrow turf areas efficiently without overspray and runoff. Subsurface irrigation is used successfully. Existing regulation prohibits turf in medians less than 10 feet wide, proposed regulation requires subsurface irrigation in turf areas less than eight feet wide. Local agencies should consider the appropriateness of turf in medians

and associated overspray and runoff which can be hazards to public safety. Section 492.8 (a) (2) (A) and (B) are updates to the existing regulation (California Code of Regulation Title 23, Section 492 (c) (6) (A): “*Special attention shall be given to avoid run off on slopes and to avoid overspray in planting areas with a width less than ten feet, and in median strips.*”

G214 Summary of Comment 74: One commenter stated subsurface or low volume conflicts with current public works requirements and that drip and subsurface irrigation are encouraged in the legislation. Additional costs to the City will be incurred due to maintenance needs.

DWR Response: Reject. It is difficult to irrigate narrow turf areas efficiently without overspray and runoff. Subsurface irrigation is used successfully. The City may consider updating its Public Works requirements to include alternative irrigation technology. Turf and other planting areas require regular maintenance, if the city is currently maintaining its irrigation systems, this requirement should not add an extra burden. Section 492.8 (a) (2) (A) and (B) are updates to the existing regulation (California Code of Regulation Title 23, Section 492 (c) (6) (A): “*Special attention shall be given to avoid run off on slopes and to avoid overspray in planting areas with a width less than ten feet, and in median strips.*”

G215 Summary of Comment 85: One commenter stated that there are nozzles that spray four feet or less. The commenter states it makes sense to restrict turf in medians due to length of medians, it is not necessary to restrict narrow turf in all landscapes.

DWR Response: Reject. It is difficult to irrigate narrow turf in any location without overspray or runoff. Spray irrigation is allowed adjacent to pervious surfaces. Section 492.8 (a) (2) (A) and (B) are updates to the existing regulation (California Code of Regulation Title 23, Section 492 (c) (6) (A): “*Special attention shall be given to avoid run off on slopes and to avoid overspray in planting areas with a width less than ten feet, and in median strips.*”

G216 Summary of Comment 82: One commenter suggested that requirement for drip or subsurface irrigation will be a challenge for homeowners and others to implement due to lack of maintenance skills or access to a skilled irrigation professional.

DWR Response: Accept and reject parts. Requirements for homeowners have changed and the regulation has been modified accordingly.

G217 Summary of Comments #: Two commenters suggested deleting the requirement of drip or subsurface irrigation within 24” of non-pervious hardscape due to public safety issues, long-term pedestrian access, design limits, maintenance issues, plant issues and equipment issues. The commenters suggested advances in technology will solve problems with spray irrigation technology.

DWR Response: Accept and reject parts. Spray irrigation is allowed adjacent to pervious hardscapes and other pervious surfaces. Several commenters stated that they have no trouble implementing a setback to reduce runoff and overspray. Runoff and overspray create plant, maintenance and safety issues of their own. It is not practical to waste water and pollute watersheds while waiting for technology to catch up when an alternative exists.

G218 Summary of Comment 44: One commenter stated that this turf setback should be renamed “landscape areas” when it applies to both turf, shrub/groundcover/tree plantings, and mulch; that this provision seems impractical and unnecessary due to the variation and scale of

landscape size. The commenter recommended (adding at the beginning): “Where practical and efficient,”... (after the words): “non-permeable hardscape,” (add): where overspray and runoff would otherwise occur.”

DWR Response: Accept and reject parts. Turf areas growing adjacent to hardscapes are difficult to irrigate without overspray and runoff. The setback will allow any overspray or runoff to soak into the ground and be available to plants. Several commenters supported this provision and stated it is easy to implement. Turf areas are allowed adjacent to pervious surfaces where overspray and runoff will soak into the ground. “Where practical and efficient” is subjective and can weaken the intent. If the setback is planted, it will be considered a landscape area. The setback may be irrigated or non-irrigated.

G219 Summary of Comment 90: One commenter stated that the requirement of subsurface or drip irrigation in the 24” setback conflicts with the City’s specific plan.

DWR Response: Accept and reject parts. The setback will allow any overspray or runoff to soak into the ground. Several commenters supported this provision and state it is easy to implement. The City may consider updating its Specific Plan to include advances in irrigation technology or to use more pervious surfaces.

G220 Summary of Comments 123, 124, 125, 126, 127, 128, 129, 130, 131, 132: Ten commenters stated that they supported this change in the Model Ordinance (24” setback) because it will help to reduce wasteful and polluted runoff. Commenters noted that water agencies such as Coachella Valley Water District already required drip irrigation or low volume flow on this 24”setback and that this amendment will do much to reduce runoff and improve water quality.

DWR Response: Thank you for your comment. Staff agreed that this provision will reduce the amount of runoff and non-point pollution entering stormwater systems and watersheds.

G221 Summary of Comments 123,124: Two commenters stated they commend DWR for requiring the setback and drip/subsurface irrigation and that the Model Ordinance can go further by limiting the amount of turf used in non-recreational landscapes. Commenters stated that agencies such as Coachella Valley Water District limit turf to 25% of the landscaped area and that DWR should consider adopting similar guidelines to increase water use efficiency and still have esthetically pleasing landscapes.

DWR Response: Staff agrees that the setback provision will reduce the amount of runoff and non-point pollution entering stormwater systems and watersheds. Statutes of 2006, Chapter 559 (AB 1881) disallows prohibiting or making conditions that would in effect prohibit any plant, including turf. The guidebook for the Model Ordinance will contain information about the water use requirements of turf grasses versus other plant types. Local agencies may adopt an ordinance that limits turf or other plant materials if the local agency believes it is appropriate in their service areas.

G222 Summary of Comment 112: One commenter opposed the setback requirement or suggested modification of the 24” setback requirement to allow gravel or wood mulch in the setback. The commenter stated it was unrealistic and costly to install a Netafim subsurface perimeter.

DWR Response: Accept and reject parts. DWR inquiry has shown costs of non-turf landscapes approximately equal costs of turf landscapes per square foot. The setback requirement is to

prevent runoff and overspray onto hardscapes which has been called for by the Legislature. Mulching is allowed in the setback. The Model Ordinance does not require a specific brand or type of technology to be used in order to prevent overspray and runoff. The ordinance was modified to include the statement *“The surfacing of the setback may be mulch, gravel or other porous material.”*

G223 Summary of Comment 34: One commenter stated that the use of drip irrigation in the landscape is highly over-rated in terms of longevity and that good drip systems have a lifespan of 7-10years, less in high mineral content water. The commenter stated that well designed drip is very efficient, but that it is difficult to find designers and contractors that understand how to use drip. The commenter opposed using drip within 24” of landscape elements and suggests requiring heads be at least 4” from a hard edge (further in non-turf applications) to control overspray.

DWR Response:

Reject. Statutes of 2006, Chapter 559 (AB 1881) requires provisions to minimize overspray and runoff, no matter the location. Technology used must be able to irrigate without runoff or overspray. Spray irrigation is allowed adjacent to permeable surfaces.

G224 Summary of Comment 59: One commenter stated that the setback creates a hardship on recreational turf by inhibiting pedestrian access and freedom of play. The commenter stated that the technology is possible but unproven and may be costly. The commenter suggested removing the setback from recreational turf and shrub areas that can be irrigated without overspray. The commenter suggested that design criteria should require consideration of plant selection, location and mature size when selecting irrigation methods to avoid blocking irrigation spray and “reducing uniformity”.

DWR Response: Accept and reject parts. Spray irrigation is allowed adjacent to pervious hardscape and surfaces. Irrigation design criteria should always take into account plant selection, mature size and growth forms when selecting appropriate irrigation technology. Many commenters stated they implement this setback requirement successfully.

G225 Summary of Comment 87: One commenter stated that the 24” setback and subsurface irrigation “should only apply to areas adjacent to parking lots and/or streets” The commenter stated that “such a standard could negatively impact public parks, or public spaces where meandering pathways through landscapes areas are generally found.” “The intent should focus on reducing wasteful overspray and urban run-off,” but allow for flexible landscape and irrigation designs in order to achieve such a standard.”

DWR Response: Accept and reject parts. Spray irrigation is allowed adjacent to pervious hardscapes. The Model Ordinance does not dictate the type of irrigation technology or design solutions chosen by the designer and property owner. The setback provision is meant to reduce or eliminate overspray and runoff, a common problem in many landscapes including new installations.

G226 Summary of Comments 67, 87: Two commenters stated that the 24” setback will stifle innovation in irrigation methodology and that in some landscapes with meandering shapes, high distribution uniformity will be limited. The commenter recommended “Remove reference to specific technology and project desired outcome in the language such as, no direct overspray of hardscape and consider the following; 1) No water on hard surface that is part of a public road

right of way (i.e., sidewalks) 2.) No direct distribution of water onto properties owned by others 3.) No water on hard surface that results in runoff to other properties, public rights of way or municipal storm sewers. 4.) No water across hard surfaces wider than 3-4' 5.) No water across hard surfaces that provide direct pedestrian access to a commercial building 6.) Any plans to distribute water across such hard surfaces should be clearly indicated on plans or submittals that are part of any review process. 7.) Specific exemptions for public parks, cemeteries, jogging paths or common areas should be considered, as long as alternate pedestrian routing is available.”

DWR Response: Accept and reject parts. The avoidance of overspray and runoff is in existing regulation in the current Model Ordinance and a provision of AB 1881. Desired outcomes are addressed in the draft updated Model Ordinance. Unfortunately, overspray and runoff are still daily occurrences in thousands of landscapes throughout the state. Innovations in irrigation technology will continue and may be driven by this provision. Waiting for innovation in irrigation methodology to catch up is not practical in the current state of water supply. Spray irrigation is allowed adjacent to pervious hardscapes.

G227 Summary of Comment 85: One commenter stated that the 24” setback is a bad idea. Commenter stated that “this requirement, which suggests that future innovation in irrigation technology will not occur, would limit design creativity and result in unattractive landscapes, especially in the case of small projects. This requirement would generally add about \$1,000 to the cost of a 2,500 square foot landscape (for irrigation lines, a possible extra valve, header boards, possible gravel or stone, possible mulch, etc.). The Model Ordinance should not dictate the appearance of a landscape as a general rule.”

DWR Response: Accept and reject parts. The avoidance of overspray and runoff is in existing regulation in the Model Ordinance and a provision of AB 1881. Desired outcomes are addressed in the current draft updated Model Ordinance. Unfortunately, overspray and runoff are still daily occurrences in thousands of landscapes throughout the state. Waiting for innovation in irrigation methodology and technology to catch up is not practical in the current state of water supply. Spray irrigation is allowed adjacent to permeable hardscapes. The Model Ordinance does not dictate design standards or styles, the purpose of the Model Ordinance is to guide landscape design, installation and maintenance that create landscapes that require no more than a reasonable amount of water and avoid waste, while still having viable functions and aesthetics.

G228 Summary of Comment 20: One commenter stated that the 24” setback is a “significant aesthetic and functional design issue. The addition of 24” buffer of drip of subsurface irrigation is very costly and does not assure a reduction in landscape water use and does not necessarily reduce runoff. Proper management of the irrigation system reduces or eliminates runoff.” The commenter cited a study by EPA and Center for Irrigation Technology on Smart Controllers posted on the Irvine Ranch Water District website. The commenter stated that the Model Ordinance should not dictate the appearance of landscapes and that water conservation and runoff objectives can be met without 24” setback. The commenter stated that equipment and scheduling should be left to applicant. The commenter recommended striking this provision.

DWR Response: Accept and reject parts. The setback provision does not necessarily reduce the amount of water used. It will reduce the amount of wasted water. The setback will reduce the amount of runoff and overspray onto pavement and into storm drains. The setback will allow any overspray or runoff to soak into the ground and therefore be available to plants. Scheduling is

left to the maintenance contractor or other agent, however, prior research has shown that efficient irrigation scheduling and maintenance are weak points in the sustainability of landscapes. Equipment choices are left to the irrigation designer. The Model Ordinance does not dictate design choices, the designer is free to design any landscape style so long as it meets the goals of a water budget and prevent overspray and runoff.

G229 Summary of Comment 96:

One Commenter stated that “requiring only drip or sub subsurface irrigation for all planting areas within 24" of non-permeable hardscape would increase system complexity, cost and maintenance effort (cost)”. The commenter also suggested “Change the wording to refer to "low volume irrigation" per Definition #33.”

DWR Response: Accept and reject parts. This section has been clarified. The Model Ordinance does not dictate design choices, the designer is free to design any landscape style so long as it meets the goals of a water budget and prevent overspray and runoff.

G230 Summary of Comment 100: One commenter states “the design criteria calls for no sprinklers within 24 inches of hardscape. I support this requirement and do not find it difficult to implement”.

DWR Response: Several commenters have agreed that this provision can be implemented with desired results.

G231 Summary of Comment 58: One commenter stated that to remove the word “turf” as the sentence is already in the turf section (setback).

DWR Response: Accept. This comment has been incorporated.

G232 Summary of Comment 14: One commenter suggested that pool and spa covers should be required.

DWR Response: Reject. The pool and spa cover recommendation is part of the existing regulation (California Code of Regulations, Title 23 Section 492) and it remains modified text of the proposed regulation. Requiring pool covers is beyond the scope of the Notice of Proposed Rulemaking for the Model Ordinance. A local agency may adopt an ordinance to require pool covers if that is appropriate in their service area.

G233 Summary of Comment 20: One commenter opposed subjecting water features to the MAWA calculation and that the category is not defined, and that swimming pools are not excluded. The commenter stated that most water features use recycled, filtered water and are a closed system. The commenter recommended that water features and swimming pools not be subject to the MAWA calculation and that other ordinances should regulate water features.

DWR Response: Reject. Water Features have been defined. Water Features are part of the landscape area in existing regulation. Water features use water through evaporation at the rate of (at least) a high water use plant for the same surface area and must be replenished. The water used by water features must be accounted as part of MAWA. For example a 500 square feet pool will use at least as much water through evaporation as a 500 square feet lawn area.

G234 Summary of Comment 44: One commenter suggested adding the words “where reviewed and pre-approved for use in the design by the local county health department” in regards to

recycled water use in water features. The commenter stated that the health department has determined that certain water borne diseases could occur in recycled water sources and recycled water may not be allowed in landscape on structures, especially where direct discharge would occur into piped storm drain systems.

DWR Response: Reject. Tertiary treated recycled water is filtered and disinfected. Once exposed to the environment, any water source can become contaminated and have organisms living in it as will any natural body of water.

G235 Summary of Comment 85: One commenting organization stated that they believe that recycled water normally should not be used as a source of water for water features.

DWR Response: Reject. Tertiary treated recycled water is filtered and disinfected.

G236 Summary of Comment 20: One commenter stated that using mulch is a design, functionality, and cost issue; that it should be used on level planting areas where it will not wash away. The commenter stated using mulch is a horticultural and maintenance consideration and should not be part of a water conservation ordinance.

DWR Response: Accept and reject parts. The mulch requirement is part of the existing regulation (California Code of Regulations, Title 23 Section 492 (11)). Modifications were made to the mulch requirements to address special planting situations. Mulch has been shown to reduce evaporation and weeds and is standard practice in most non-turf planting situations and will contribute to water conservation. Organic mulch will also improve soil condition, again contributing to water conservation. On slopes, a stabilizing mulching product may be substituted. The alternative (no mulching) on slopes would result in unchecked soil erosion and negative impacts to stormwater.

G237 Summary of Comment 163: One commenter stated that mulching wildflower areas will be detrimental and potentially harm wildflower displays, cacti collections and other water conserving landscapes.

DWR Response: Accept and reject parts. The mulch requirement is part of the existing regulation (California Code of Regulations, Title 23 Section 492 (11)). Modifications were made to the mulch requirements to address special planting situations.

G238 Summary of Comment 44: One commenter agreed with the horticultural benefits of mulch but is concerned with using mulch on slopes or near waterways where flow fluctuates. The commenter stated that studies have shown that mulching inhibits the nesting ability of ground nesting (beneficial) bees. The commenter recommended revising the mulch section to “indicating mulch application on flat areas up to a maximum slope gradient (to be stated), and where practical.” “This item needs to be revised to encompass various possible site situations and applications, as well as environmental impacts.” The commenter stated that mulching in hydro-seeded areas will smother the hydroseed and suggests adding “or other low volume irrigation technology” after “drip irrigation”.

DWR Response: Accept and reject parts. The mulch requirement is part of the existing regulation (California Code of Regulations, Title 23 Section 492 (11)). Mulch has been shown to reduce evaporation and weeds and is standard practice in most non-turf planting situations. Organic mulch will also improve soil condition. On slopes, a stabilizing mulching product may be substituted for loose mulch. The alternative (no mulching) on slopes would cause unchecked

soil erosion. In hydroseeded applications, the mulching product in the slurry is considered mulch. Landscaping (not habitat restoration) is usually not installed in the active streambed, in these cases the local agency may designate appropriate action and the project applicant must follow CA Dept. Fish and Game regulations regarding Streambed Alterations. Concerns regarding mulch and bees are beyond the scope of the Notice of Proposed Rulemaking for the Model Ordinance.

G239 Summary of Comment 85:

One commenter suggested deleting “the use of drip irrigation is highly recommended” and states that “there is no special relationship between mulch and drip irrigation”. The commenter stated that drip irrigation is not good for use in mulched areas with “groundcover, annual color, large shrubs, or areas with heavy foot traffic”. The commenter recommended low volume irrigation in mulch areas.

DWR Response: Accept and reject parts. The mulch requirement is part of the existing regulation (California Code of Regulations, Title 23 Section 492 (11)). Stakeholder comments suggested that drip irrigation in mulched areas maximizes the volume and rate of water infiltration compared to spray irrigation. This is due to the way drip irrigation works, either dripper line is installed under mulch or other emitter types that concentrate water to soak in one place. Mulch is not required in special planting situations. Mulch does reduce evaporation and may reduce soil compaction from foot traffic. Modifications were made to the mulch requirements.

G240 Summary of Comment 92: One commenter stated that mulching would be counter productive to displays that are important examples of water conservative landscapes.

DWR Response: Accept and reject parts. The mulch requirement is part of the existing regulation (California Code of Regulations, Title 23 Section 492 (11)). Modifications were made to the mulch requirements.

G241 Summary of Comment 14: One commenter stated that “the title "Specifications" is confusing and is in conflict with the common meaning in the industry.” The commenter stated that usually Specifications are a booklet or other document “detailing the precise materials and techniques to be used in the construction.” The commenter stated that specification is not defined in the definitions, but they are still required to certify them. The commenter and suggests using the word "Requirements."

DWR Response: Accept. Modifications were made to simplify the specifications or requirements for landscape design plans, irrigation design plans and grading design plans.

G242 Summary of Comment 96: One commenter stated that the “word ‘specification’ is misleading since it normally refers to the technical specifications of construction”. Commenter suggested that “requirements” would be a clearer choice.

DWR Response: Accept. Modifications were made to simplify the specifications or requirements for landscape design plans, irrigation design plans and grading design plans.

G243 Summary of Comment 96: One commenter suggested changing to "Requirements" on the Site Plan, Hydrozone Plan and Planting Plan. Commenter suggested moving (f) 2 (Stormwater) and 3 (rain harvesting) to 492.10 Grading plan.

DWR Response: Accept and reject parts. Modifications were made to simplify the specifications or requirements for landscape design plans, irrigation design plans and grading design plans.

G244 Summary of Comment 14: The commenter asked “why is inclusion of "Benchmark" on the forms so important or even needed?” and that the effort to research the benchmark will be too burdensome for small home projects, and landscape upgrades, and does not add to the appropriate information.” The commenter suggests that “many small projects can be designed to the finish floor of the building, instead of the expense of hiring a surveyor.”

DWR Response: Accept. Modifications were made to simplify the specifications or requirements for landscape design plans, irrigation design plans and grading design plans.

G245 Summary of Comments 42, 56: Two commenters suggested deleting the “Benchmark requirement as it is unnecessary and time-consuming”.

DWR Response: Accept. Modifications were made to simplify the specifications or requirements for landscape design plans, irrigation design plans and grading design plans.

G246 Summary of Comment 20: One commenter stated that “All jurisdictional agencies have requirements for landscape project submittal inclusions or specifications. It is unnecessary for the water efficient landscape ordinance to confuse existing agency requirements.” The commenter stated that none of this information will save water and that “Obtaining this information for existing and smaller projects may be next to impossible as well as very costly and time consuming.” The commenter recommended striking this and that “Jurisdictional agency requirements shall govern”.

DWR Response: Accept and reject parts. The design criteria and plan specifications are part of the existing regulation (California Code of Regulations, Title 23 Section 492). Modifications were made to simplify the specifications or requirements for landscape design plans, irrigation design plans and grading design plans.

Section 492.8 (2) (a) (9) Location of Utilities:

G247 Summary of Comment 67: One commenter stated that “The responsibility of locating utilities rests with the utility provider. This requirement may create additional liability for applicants regardless of any disclaimer or exception.” Commenter suggested removing this requirement at “the very least, an exemption for residential applications.”

DWR Response: Accept. Modifications were made to simplify the specifications or requirements for landscape design plans, irrigation design plans and grading design plans.

G248 Summary of Comment 85: One commenter stated that “planting plans do not generally include the location of utilities. All that can be included are the points of connection of utilities. What is underground usually is not yet known. The planting plan should simply state that the installing contractor call Underground Service Alert.”

DWR Response: Accept. Modifications were made to simplify the specifications or requirements for landscape design plans, irrigation design plans and grading design plans. Overhead utilities should be noted due to tree/utility conflicts.

G249 Summary of Comments 42, 56: Two commenters suggested deleting hydrozone specifications in the landscape design plan because they are “unnecessary, time-consuming, and will needlessly duplicate requirements” already in the irrigation design plan.

DWR Response: Accept and reject parts. Requirements for hydrozones are part of the existing regulation (California Code of Regulations, Title 23 Section 492). Modifications were made to simplify the specifications or requirements for landscape design plans, irrigation design plans and grading design plans.

G250 Summary of Comment 58: One commenter stated that the plan asks for more detail than necessary to accomplish water conservation such as benchmark, topography, location of utilities, and square footage of hydrozones.

DWR Response: Accept and reject parts.

Modifications were made to simplify the specifications or requirements for landscape design plans, irrigation design plans and grading design plans. The measured area of hydrozones is important information used in calculating the water budget.

G251 Summary of Comment 20:

One commenter stated that “Water quality/run-off management documentation is based on federal legislation and is governed by a myriad of existing ordinances and codes. These documents require separate submittal and permits”. The commenter recommended striking this requirement because it is legislated otherwise.

DWR Response: Reject. Statutes of 2006, Chapter 559 (AB 1881) requires the Model Ordinance to address stormwater issues. The Model Ordinance directs applicants to follow local, state and federal regulations regarding stormwater.

G252 Summary of Comment 20: One commenter stated that “all licensed landscape architects are required to sign each sheet of project documentation acknowledging their compliance with all regulations applicable to the subject project.” Commenter recommended striking this requirement as redundant.

DWR Response: Accept and reject parts. The design criteria and plan specifications are part of the existing regulation (California Code of Regulations, Title 23 Section 492). Modifications were made to simplify the title block requirements for landscape design plans, irrigation design plans and grading design plans.

G253 Summary of Comment 110: One commenter stated that “the detailed design, construction, and maintenance guidelines outlined in Section 492 are unbelievably specific and onerous.” The commenter states that most smaller local agencies and water purveyors do not have staff to understand and review the projects or conduct irrigation audits on a regular basis.

DWR Response: Accept and reject parts. The design criteria and plan specifications are part of the existing regulation (California Code of Regulations, Title 23 Section 492). Modifications were made to simplify the specifications or requirements for landscape design plans, irrigation design plans and grading design plans.

G254 Summary of Comment 113: One commenter suggested adding “*and shall meet any local agency code requirements*” to Section 492.8 Landscape Design Plan be consistent with the language at the beginning of Section 492.9 Irrigation Design Plan. Commenter stated it would

“incorporate by reference local codes requiring a minimum amount of landscaping or pervious area per property.”

DWR Response: Reject and accept parts. Modifications were made to simplify the specifications or requirements for landscape design plans, irrigation design plans and grading design plans. Also, the statute (Statutes of 2006, Chapter 559) states “*Nothing in this ordinance shall be construed to require the local agency’s water efficient landscape ordinance to duplicate, or conflict with, a water efficiency program or measure implemented by a public water system, as defined in Section 116275 of the Health and Safety Code, within the jurisdiction boundaries of the local agency.*”

G255 Summary of Comment 74: One commenter stated that this “appears to be an enhancement of a standard planting plan. It needs a definition.” The commenter recommends staying with a standard planting plan, because experienced reviewers will know when plants are not in hydrozones; that landscape architects are trained to design with hydrozones in mind; that stormwater BMPs will be on the civil engineer’s plan and the construction plans.

DWR Response: Accept and reject parts. Modifications were made to simplify the specifications or requirements for landscape design plans, irrigation design plans and grading design plans. Stormwater BMPs can be part of a landscape and may be appropriate to show on the landscape design plan.

G256 Summary of Comment 74: One commenter suggested that the “efficient use of water” statement be placed on the title sheet only or modify the “declaration of responsible charge” signature box on the title sheets. This is all that is required at the city of Chula Vista.

DWR Response: Accept. Modifications were made to simplify title block requirements for landscape design plans, irrigation design plans and grading design plans.

G257 Summary of Comment 85: One commenter suggested “adding *licensed landscape contractor*” to the title block because “licensed landscape contractors are permitted by law to do design plans for design-build projects.”

DWR Response: Accept. Modifications were made to simplify title block requirements for landscape design plans, irrigation design plans and grading design plans.

Section 492.8 (2) (a) (6): Topography

G258 Summary of Comment 85: One commenter suggested that identifying contour lines is appropriate for large projects, but overkill on projects less than 20,000 square feet. The commenter states that a survey with plans by an engineer will add more than \$1000 to the costs of a 2500 sq ft project.

DWR Response: Accept. Modifications were made to simplify the specifications or requirements for landscape design plans, irrigation design plans and grading design plans.

G259 Summary of Comment 85:

One commenter suggested “deleting 2(f)(1) or make it clear that this provision only applies to landscape architects. Design-build landscape contractors do not need and generally do not do installation details for the landscape.”

DWR Response: Accept. Modifications were made to simplify the specifications or requirements for landscape design plans, irrigation design plans and grading design plans.

Summary and Response: Section 429.9 Irrigation Design Plan

G260 Summary of Comment 73: Commenter, a landscape architect, stated: “Irrigation design criteria are legislated by the Model Ordinance. Drip irrigation or micro spray irrigation is to be used on slopes. In turf areas, a two (2) foot wide area adjacent to hardscape will need to be irrigated by drip or other low volume irrigation to avoid runoff. Irrigation water schedules for both temporary plant establishment and long term maintenance will be required. Maintenance schedules will also be required. Irrigation designers estimate that their fees may double as a result from the Model Ordinance requirements.”

DWR Response: Reject. The provisions for irrigation design plans are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (6)). The irrigation design was modified and renumbered as Section 492.7. Costs are addressed in the Initial Statement of Reasons, and later in the Final Statement of Reasons.

G261 Summary of Comment 114: Commenter stated: “Some sites may choose not to install an irrigation system, The Model Ordinance should accommodate this choice as hand watering is the most efficient form of irrigating a landscape.”

DWR Response: Reject. The provisions for irrigation design plans are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (6)). The irrigation design was modified and renumbered as Section 492.7. A local agency may choose to include provision that addresses special cases (i.e., hand watering).

G262 Summary of Comment 67, 99: Several commenters expressed support of metering all landscape water use. One commenter stated we “applaud this suggestion as measurement of water applied is the only way to determine the effectiveness of any water use efficiency measures” and suggested DWR to “continue to advocate for separate landscape water use measurement on all projects, where practical.” Another commenter stated “provide separate water meter(s) per each site for irrigation only.”

DWR Response: Accept. Meters are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (6) (A) (iii)). Meters are also required by statute (Statutes of 2006, Chapter 559, Article 4.5 Irrigated Landscape, Section 535 (a) and (c)). This provision was renumbered in the modified text of the proposed regulation as Section 492.7 Irrigation Landscape Plan (a) (1) (A).

G263 Summary of Comment 14, 56, 151: Commenters raised numerous concerns about meters. Commenters stated that the water use from meters may not necessarily indicate water use for landscape but also from interior and exterior uses; that meter reading can be inaccurate; that leakage from municipal water pipes should be considered; and that the new requirement would impact smaller developments and add expense to meet the mandate of separate water meters for irrigation which would also have implications for public parks and recreation facilities (i.e., sports fields).

DWR Response: Meters are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (6) (A) (iii)). Meters are also required by statute (Statutes of 2006, Chapter 559, Article 4.5 Irrigated Landscape, Section 535: “(a) A water purveyor shall require

as a condition of new retail water service on and after January 1, 2008, the installation of separate water meters to measure the volume of water used exclusively for landscape purposes” and “(c) applies only to a service connection for which both of the following apply: the connection serves property with more than 5,000 square feet of irrigated landscape and the connection is supplied by a water purveyor that serves 15 or more service connections.” This provision was renumbered in the modified text of the proposed regulation as Section 492.7 Irrigation Landscape Plan (a) (1) (A).

G264 Summary of Comment 38: Commenter requested that “dedicated landscape water meters should also be required on single family residences with landscaped area greater than 5,000 square feet.”

DWR Response: Reject. Meters are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (6) (A) (iii)). Also, the statute exempts meters on single-family residential connections (Statutes of 2006, Chapter 559, Article 4.5 Irrigated Landscape, Section 535 (b) (1)). This provision was renumbered in the modified text of the proposed regulation as Section 492.7 Irrigation Landscape Plan (a) (1) (A).

G265 Summary of Comment 114: Commenter stated that “each water meter should have an assigned MAWA to facilitate monitoring of water use by the local agency and/or water purveyor. The ordinance should also require one water meter per irrigation controller. Matching the meter to the controller to the MAWA will also help to facilitate irrigation system surveys, audits, and water use monitoring by the site managers. Every effort should be made to avoid designing a looped irrigation system, a single irrigation system served by two water meters. If a looped system cannot be avoided due to unique site conditions, it should be clearly identified on the irrigation system design plan and throughout the documentation package.”

DWR Response: Reject. The provisions for irrigation design plans are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (6)). The irrigation design was modified and renumbered as Section 492.7. The modified Model Ordinance does not specify that only one controller be used with one landscape meter.

Summary & Response: Section 492.9 Irrigation Design Plan (1) Criteria (b) Hydrozones

G266 Summary of Comments 44, 67, 85:

Commenters stated that ‘matched application rates’ in Section 492.9 Irrigation Design Plan (1) (b) (3) should be changed to ‘matched precipitation rates’ which reflects the correct industry terminology.

DWR Response: Accept. Modifications were made to this provision of the proposed regulation and renumbered as Section 492.7 Irrigation Design Plan (a) (1) (N).

G267 Summary of Comments 44, 67:

Commenters stated that manufacturers have recommendations other than head-to-head coverage and commenters recommended the following revision for Section 492.9 (1) (b) (4): “Sprinkler spacing and pattern shall be optimized for maximum distribution uniformity and shall be based upon nozzle performance at the site-specific operating pressure and flow.”

DWR Response: Accept. Modifications were made to this provision of the proposed regulation and renumbered as Section 492.7 Irrigation Design Plan (a) (1) (N) to read “*Sprinkler heads and other emission devices shall have matched precipitation rates, unless otherwise directed by the manufacturer specifications.*”

G268 Summary of Comment 44:

The commenter stated that Section 492.9 Irrigation Design Plan (1) (b) (5) was not clear about the installation [of swing joints] as “above grade or below grade; that the terms adjacent and high traffic areas were not defined.” Commenter also stated that “missing from the items listed is a recommended use of pop-up sprinklers within a close distance to the high traffic areas (should specify a distance). This type of sprinkler reduces the chances of harm and liability due to potential tripping and falling over installations.”

DWR Response: Accept and reject parts. For clarification, installation of swing joints or other riser-protection components is generally below grade. Pop-up sprinklers are not omitted in this provision and they are compatible or available with riser-protection components. Section 492.9 Irrigation Design Plan (1) (b) (5) was renumbered as Section 492.7 Irrigation Design Plan (a) (1) (P). Modifications were made to this provision and renumbered as accordingly: Swing joints and other riser protection components shall be required on all risers subject to damage that are adjacent to high traffic areas.

G269 Summary of Comment 20, 56, 58, 67, 85, 112:

Commenters are concerned about the two provisions (Section 492.8 Landscape Design Plan (1) (b) (3) and Section 492.9 Irrigation Design Plan (1) (b) (8)) regarding long, narrow or irregularly shaped turf and non-turf areas less than eight feet in width. A commenter stated that there were spray nozzles capable of irrigating four feet strips or less and that it makes sense to restrict narrow turf in median strips, but not in the general landscape setting. Several commenters stated that the narrow turf requirement limited landscape design and that the desired results (of no runoff or overspray) should be dictated not the technology or design. One commenter stated that shrubs can be irrigated with spray nozzles in a narrow landscape and another requested that multi stream low volume rotating heads be included.

DWR Response: Accept and reject parts. The provision was deleted from the Landscape Design Plan. Modifications were made to this provision and renumbered as 492.8 (a) (2) (B). The change is an update to the existing regulation (California Code of Regulation Title 23, Section 492 (c) (6) (A) (i). This provision maintains the requirement that landscape area (including turf areas) less than eight feet wide be irrigated with drip or low volume irrigation technology. ~~While multi-stream rotating nozzles or heads have lower application rates than spray heads, they are not considered to be low volume irrigation.~~

G270 Summary of Comment 44, 67, 96:

Commenters have concerns about the type of irrigation required for the 24” setback in Section 492.8 Landscape Design Plan (1) (b) (4) and Section 492.9 Irrigation Design Plan (1) (b) (9). A commenter stated this provision “should be renamed “(b) Landscape areas” when it applies to both turf, shrub/groundcover/tree plantings, and mulch, one that covers all landscape. It appears that this item is trying to address overspray and run-off from overhead spray irrigation. Where planted landscape areas can vary in size and shape from tens, hundreds, thousands, ten thousands, or hundreds of thousands of square feet or more, this item seems impractical and

unnecessary. This commenter recommend “adding ‘where practical and efficient,’ adding ‘non-permeable hardscape,’ adding ‘where overspray and runoff would otherwise occur.’ ” One commenter stated that [the 24” setback provisions] “suggest that no further innovation is possible in irrigation methodology and will stifle the ability to innovate. Also, in contained areas with small, meandering hardscape features, the ability to keep distribution uniformity high will be limited due to irregular areas created by such features.” Commenter requested to remove references to specific technology and instead state the desired outcome in the language such as, no direct overspray of hardscape and provided examples. Another commenter stated that “requiring only drip or subsurface irrigation for all planting areas within 24” of non-permeable hardscape would increase system complexity, cost and maintenance effort (cost) and recommended changing the language to refer to ‘low volume irrigation’ per definition #33.”

DWR Response: Accept and reject parts. The 24” setback requirement was deleted from the Landscape Design Plan but it remains in the Irrigation Design Plan, renumbered as Section 492.7 Irrigation Design Plan (a) (1) (S). Modifications were made to clarify the 24” setback provision.

G271 Summary of Comment 0:

Commenter stated that “sprinkler stations irrigating shrubs or groundcovers shall be designed to ensure that all sprinkler heads spray un-obstructed after plants have grown to full maturity.”

DWR Response: Agree. The irrigation system and its components should always be properly installed (type of equipment and placement of equipment). More specifically, the Model Ordinance states in Section 492.7 (a): irrigation system and its related components shall be planned and designed to allow for proper installation, management and maintenance; and in Section (a) (2) (B): sprinkler heads and other emission devices shall be selected based on what is appropriate for the plant type within that hydrozone. Also, the mature size of planting materials should always be considered per Section 492.6 (a) (1) (C) (ii): Recognize the horticultural attributes of plants (i.e., mature plant size, invasive surface roots, etc.) to minimize damage to property or infrastructure (e.g., buildings, sidewalks, power lines, etc.).

G272 Summary of Comment 52, 67, 112:

Commenters are concerned about the two provisions regarding slopes for turf and non-turf areas (Section 492.8 Landscape Design Plan (1) (b) (4) and Section 492.9 Irrigation Design Plan (1) (b) (10)). Commenters stated they have concerns that “the results (no runoff or overspray) should be dictated and not the type of irrigation technology used on slopes.” Also, commenters stated that multi stream rotating heads be included this in the list of low flow irrigation technology (from definition #33). Another commenter stated that it “conflicts with our experience in the High Desert Region of Southern California. If the intent is to conserve water, drip irrigation is very efficient. However, if the intent is to permanently stabilize the slope in a timely and efficient manner, our experience has shown that the plant material does not spread away from the drip emitter into the surrounding soil at a rapid enough rate to effectively stabilize the slope. It is quite possible that other areas are able to utilize the effective precipitation to aid in the spread of the plant material; however, we do not have that additional rainfall here in the desert to aid in plant growth. Please consider altering the wording to suggest this course of action, but not mandating it.”

DWR Response: Accept and reject parts. The slope provision was modified in the Landscape Design Plan and renumbered as Section 492.6 (a) (2) (A). Modifications were also made in the Irrigation Design Plan and renumbered as Section 492.7 (a) (1) (T). While multi-stream rotating

nozzles or heads have lower application rates than spray heads, they are not considered to be low volume irrigation. Because overhead irrigation on slopes generally produces runoff, drip irrigation or other low volume irrigation technology will help to minimize or prevent runoff. Regarding slope stabilization refer to the local agency's requirements for erosion and sediment control plans or equivalent.

G273 Summary of Comment 20:

The commenter stated that low volume does not mean a low precipitation rate and since drip applies water to a small area, runoff could occur. Commenter stated "low volume irrigation as defined above cannot meet the precipitation rate of 0.75 inches per hour. Low volume does not mean low precipitation rate. Precipitation rate (PR) for irrigation devices is determined by the universal formula where the PR is equal to 96.3 times the flow in GPM divided by the area of coverage. Drip irrigation, subsurface drip and micro-sprinklers do not pass the precipitation rate test." Commenter provided the following revision: "Consider removing low volume irrigation from the definitions and from requiring low volume irrigation from the text of the ordinance and requiring the use of proper irrigation devices as determined by the designer of the irrigation system."

DWR Response: Accept and reject in parts. The revised Model Ordinance maintains the requirement that slopes greater than 4:1 be irrigated with drip or other low volume irrigation technology. Definition of low volume has been modified.

G274 Summary of Comment 44:

The commenter stated in Section 492.9 (1) (b) (11) that the term 'high water use plant' should be plural and recommended the addition of these words "in these combinations."

DWR Response: Accept and reject parts. Modifications were made to this provision in the proposed regulation and renumbered as Section 492.7 (a) (2) (D).

G275 Summary of Comment 74: 44

The commenter stated that only licensed landscape architect should determine the hydrozones for the planting plan. A commenter had a concern about "hydrozones on the irrigation plan." Commenter stated: the licensed landscape architect is the only professional who determines the hydrozones on the planting plan. If there is a separate irrigation consultant, the consultant obtains hydrozone information from the landscape architect."

DWR Response: Reject. The modified Model Ordinance allows a licensed landscape architects, certified irrigation designers or licensed landscape contractors to stamp and sign irrigation design plans.

G276 Summary of Comments 20, 85:

Several commenters wanted to require pressure compensating devices. More specifically, one commenter requested "all irrigation systems to use, when available, sprinkler heads that incorporate anti-drain valves and pressure compensating nozzles for maximum irrigation system efficiency." Another commenter requested "requiring pressure compensating devices on all sprinkler heads to fine tune spray radius for maximum irrigation efficiency."

DWR Response: Reject. The modified Model Ordinance in Section 492.7 (1) (c) already states: The irrigation system shall be designed to ensure that the dynamic pressure at each emission device is within the manufacturer's recommended pressure range for optimal performance and

Section 492.7 (1) (c) (i) further states that pressure regulating devices shall be installed. Also in Section 492.7 (1) (Q), anti-drain valves are required for all irrigation systems.

Summary and Response: Section 492.9 Irrigation Design Plan (2) Specifications

G277 Summary of Comment 20:

Regarding Section 492.9 (2) (a), commenter stated that “local jurisdictions already have their own requirements for landscape plan submittals and that this information would be difficult to find for smaller projects.” Commenter recommended the removal of “this section so as not to conflict with local requirements.”

DWR Response: Reject and accept parts. Significant modifications were made to the specifications of the irrigation design plan and this entire section was renumbered as Section 492.7 (b) (1) to (7). Local agencies can add their own requirements when adopting the Model Ordinance.

G278 Summary of Comment 85:

Commenter stated that in Section 492.9 (2) (a) (5) the “topography with contour lines requirement is overkill for projects under 20,000 square feet and would cost \$1,000 to meet the requirement for a 2,500 square feet project.”

DWR Response: Accept. Significant modifications were made to the specifications of the irrigation design plan and this entire section was renumbered as Section 492.7 (b) (1) to (7). Showing topography with contour lines and elevations have been deleted from the regulation.

G279 Summary of Comments 67, 85:

Several commenters stated that in Section 429.9 (2) (a) (8) “the requirement to mark utility lines is not the responsibility of the landscape or irrigation contractor.” Commenters suggested “instead of marking the utility lines, the point of the utility connection should be marked.”

DWR Response: Accept. Showing utilities has been deleted from the regulation. Significant modifications were made to the specifications of the irrigation design plan and this entire section was renumbered as Section 492.7 (b) (1) to (7).

G280 Summary of Comment 114:

Commenter suggested “including the location of water meters with the utilities that must be shown on the irrigation design plan.”

DWR Response: Reject. Only showing utilities has been deleted from the regulation. Significant modifications were made to the specifications of the irrigation design plan and this section was renumbered as Section 492.7 (b) (1) to (7).

G281 Summary of Comment 20:

Commenter stated that “all the requirements in subsection (c) of Section 492.9 [irrigation design plan] (2) duplicate the requirements of the landscape design plan.” **DWR Response:** Accept. Significant modifications were made to the specifications of the irrigation design plan (as well as the landscape design plan) to reduce duplication and the entire irrigation design plan section was renumbered as Section 492.7 (b) (1) to (7).

G282 Summary of Comment 20, 74:

Several commenters stated that “this requirement duplicates the license statute that all landscape architects must sign every page.” Commenter suggested that the “efficient use of water statement be signed only on the title page.”

DWR Response: Accept and reject parts. Significant modifications were made to the specifications of the irrigation design plan and this entire section was renumbered as Section 492.7 (b) (1) to (7). Only one sheet of the design plans (landscape, irrigation, and grading) now only require signature and stamp.

Summary & Response: Section 492.8 Grading Design Plan**G283 Summary of Comment 14:**

Commenter stated that the Model Ordinance makes no mention of reducing grading; that the less area disturbed, the less irrigation is required. Commenter suggested encouraging less grading and displacement of natural vegetation.

DWR Response: Reject and accept parts. The grading design plan provisions are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (10)). The grading design plan provisions were modified significantly and renumbered as Section 492.8. More specifically, Section 492.8 (3) (A), (B) and (C) are included to prevent excessive erosion and runoff, to avoid disruption of natural drainage patterns and to avoid soil compaction, respectively.

G284 Summary of Comment 100:

Commenter stated that explicitly specifying coordination of grading design with possible onsite stormwater infiltration in the Model Ordinance is necessary to change the habit of positive drainage only. Commenter stated that this will save significant water.

DWR Response: Accept. The grading design plan provisions are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (10)). These provisions were modified significantly and renumbered as Section 492.8. Furthermore, the grading design plan requires inclusion of stormwater retention improvements (Section 492.8 (a) (1) (E)) and Section 492.8 (3) (A), (B) and (C) are included to prevent excessive erosion and runoff, to avoid disruption of natural drainage patterns and to avoid soil compaction, respectively.

G285 Summary of Comment 96:

Commenter stated that some specifications in the Landscape Design Plan are more appropriate for the Grading Design Plan. Commenter recommended moving the Specifications in Section 492.8.2 (f) (2) Stormwater BMPs and Section 492.8.2 (f) (3) Rain Harvesting of the Landscape Design Plan to Specifications in Section 492.10.2 of the Grading Design Plan.

DWR Response: Accept in part. The grading design plan provisions are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (10)). The grading design plan provisions were modified significantly and renumbered as Section 492.8. Section 492.5 (a) Stormwater Management recommends implementation of stormwater best management practices in both the landscape and grading design plans. These provisions were modified significantly and renumbered as Section 492.8. Stormwater retention improvements were added to Section 492.8 (a) (1) (E).

G286 Summary of Comment 100:

Commenter stated that [the Model Ordinance] should clearly state that the project must comply with the new stormwater permit regulations and use Low Impact Development (LID) methods to capture as much stormwater as possible and practical for the site to either infiltrate or retain for future irrigation.

DWR Response: Accept in part. The grading design plan provisions are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (10)). The grading design plan provisions were modified significantly and renumbered as Section 492.8. The grading design plan requires inclusion of stormwater retention improvements (Section 492.8 (a) (1) (E)) and Section 492.8 (3) (A), (B) and (C) are included to prevent excessive erosion and runoff, to avoid disruption of natural drainage patterns and to avoid soil compaction, respectively. The Department also addresses stormwater management in a separate provision Section 492.15 which is sufficient.

G287 Summary of Comments 14, 20, 58, 59, 100:

Multiple commenters stated that the name of the grading plan is easily confused with another plan that is already required elsewhere; that generally a “grading plan” must be prepared by a licensed civil engineer and that this type of plan does not really perform the same function as a “site grading plan” so should not be called the same thing. Commenters recommended changing the name to “landscape grading plan.”

DWR Response: Accept in part. The grading design plan provisions are part of the existing regulation (California Code of Regulations, Title 23 Section 492). The grading design plan provisions were modified significantly and renumbered as Section 492.8. Section 492.8 (a) (1) now requires a “landscape grading plan.”

G288 Summary of Comments 20, 58, 59, 85, 100:

Multiple commenters stated that it is inappropriate and confusing to include grading design and specification criteria in a Model Ordinance; that the grading design plans are legislated by public works or engineering ordinances and codes; and that grading design plans require separate permitting. Commenters suggested striking the grading design plan [provisions] and specifications. Change language to “...A grading design plan meeting the following design criteria and specifications shall be submitted as part of the Landscape Documentation Package, if the grading design plan is different from the grading plan previously submitted by the civil engineer.” Require submittal of the approved grading plans.

DWR Response: Accept in part. The grading design plan provisions are part of the existing regulation (California Code of Regulations, Title 23 Section 492). The grading design plan provisions were modified significantly and renumbered as Section 492.8. Section 492.8 (a) (1) now requires a “landscape grading plan.”

G289 Summary of Comment 55:

Commenter stated that requiring submittal of a grading design plan with the landscape design package makes no sense since grading is usually completed much earlier in the process than landscape plans.

DWR Response: Reject. The grading design plan provisions are part of the existing regulation (California Code of Regulations, Title 23 Section 492) including submittal with the landscape

[documentation] package (Section 492.3). The grading design plan provisions were modified significantly and renumbered as Section 492.8. Section 492.8 (a) (1) now requires a “landscape grading plan.”

G290 Summary of Comment 42:

Commenter stated that it is unreasonable to include restrictions concerning the scope and substance of grading design plans within the Model Ordinance, such as to “avoid disturbing natural drainage patterns.”

DWR Response: Reject. The grading design plan provisions are part of the existing regulation (California Code of Regulations, Title 23 Section 492). The grading design plan provisions were modified significantly and renumbered as Section 492.8. Section 492.8 (3) (A), (B) and (C) are included to prevent excessive erosion and runoff, to avoid disruption of natural drainage patterns and to avoid soil compaction, respectively.

G291 Summary of Comment 55:

Commenter stated that the Model Ordinance should clearly state that grading design plans be used by landscape designers for reference only.

DWR Response: Reject. The grading design plan provisions are part of the existing regulation (California Code of Regulations, Title 23 Section 492). The grading design plan provisions were modified significantly and renumbered as Section 492.8. Department believes it is not necessary to specify that grading design plans be used by landscape designers for reference only.

G292 Summary of Comments 42, 56:

Commenter stated that grading plans in California are prepared primarily by civil engineers, not landscape architects and other landscape professionals; that it is unreasonable to require grading plans with landscape [documentation package] submittals. Commenters recommended deleting this section.

DWR Response: Accept and reject in parts. The grading design plan provisions are part of the existing regulation (California Code of Regulations, Title 23 Section 492) including submittal with the landscape [documentation] package (Section 492.3). The grading design plan provisions were modified significantly and renumbered as Section 492.8. Section 492.8 (a) (1) now requires a “landscape grading plan.”

G293 Summary of Comments 55, 58, 85, 100:

Commenter stated that grading plans are not done on projects that don’t require a grading permit; that small sites or renovation of existing landscapes projects are often completed without grading plans; that grading design plans are not generally done for residential projects; and that 2,500 sq. ft. landscapes often don't require a grading plan.

DWR Response: Reject. The grading design plan provisions are part of the existing regulation (California Code of Regulations, Title 23 Section 492) including submittal with the landscape [documentation] package (Section 492.3). The grading design plan provisions were modified significantly and renumbered as Section 492.8. Section 492.8 (a) (1) now requires a “landscape grading plan.”

G294 Summary of Comment 52:

Commenter stated that the following provision “the grading plan shall be drawn at a scale identical to the landscape design plan” will create a conflict as most grading plans are drawn at a scale of 1:40 and most landscape plans are drawn at a scale of 1:20. Commenter recommended change the wording from “shall” to “is suggested.”

DWR Response: Accept. The grading design plan provisions are part of the existing regulation (California Code of Regulations, Title 23 Section 492). The grading design plan provisions were modified significantly and renumbered as Section 492.8. Specifically, the provision requiring the grading design plan to be drawn on project base sheets in the same format and scale as the landscape design plan was deleted.

G295 Summary of Comment 85:

Commenter stated that locating utilities on the Grading Design plan will not be possible; and that grading design plans do not generally include the location of utility lines because only points of connection of utilities are known and what is underground is unknown. Commenter recommended deleting Section 2 (a) (7) Location of all utilities and that the grading plan should simply state that the installing contractor call Underground Service Alert.

DWR Response: Accept. The grading design plan provisions are part of the existing regulation (California Code of Regulations, Title 23 Section 492). The grading design plan provisions were modified significantly and renumbered as Section 492.8. Most of the specifications to the grading design plan were deleted.

G296 Summary of Comment 85:

Commenter stated that identifying topography with proposed contour lines and elevations are overkill and not customary for design-build or owner-designed residential projects smaller than 20,000 square feet; that this is more appropriate for a larger project; that a proper survey with plans by an engineer would add more than \$1000 to the cost of a 2,500 square foot project.

DWR Response: Accept in parts. The grading design plan provisions are part of the existing regulation (California Code of Regulations, Title 23 Section 492). The grading design plan provisions were modified significantly and renumbered as Section 492.8. Most of the specifications to the grading design plan were deleted. The purpose of the grading design plan is to minimize soil erosion, runoff, and water waste on landscape projects subject to the Model Ordinance.

G297 Summary of Comment 20, 74:

Commenters stated that it is not appropriate for there to be a signature box of this type on a civil engineers sheet and recommended deleting this requirement from the Model Ordinance and require an "efficient use of water" statement to be signed. Another commenter recommended striking the requirement that each sheet of the grading design plan be signed by civil engineer, landscape architect or licensed landscape contractor; that all licensed landscape architects are required to sign each sheet of project documentation acknowledging their compliance with all regulations applicable to the subject project; and that requiring separate acknowledgement of compliance with this Model Ordinance is unnecessary and redundant.

DWR Response: Accept. The grading design plan provisions are part of the existing regulation (California Code of Regulations, Title 23 Section 492). The grading design plan provisions were modified significantly and renumbered as Section 492.8. A signature is still required on the grading design plan but only once, not on all the sheets.

Summary and Response: Section 492.9 Certificate of Completion

G298 Summary of Comments 123, 124, 125, 126, 127, 128, 129, 130, 131, 132:

Multiple commenters stated that the proposed Model Ordinance “clearly identifies the required elements and responsible parties during the design, installation, and inspection of a landscape project in order to certify compliance; that these changes are necessary to authorize a local agency to enforce the proposed Model Ordinance. Commenter supports that the proposed Model Ordinance “increases compliance and enforcement of the landscape ordinances. Commenter “points out there are typically discrepancies between the landscape irrigation design on paper and the actual in-ground installation of the system. While the proposed Model Ordinance requires the responsible landscape contractor and landscape architect to certify compliance, this is sometimes done without an on-site inspection of the installed landscape.”

DWR Response: Accept.

G299 Summary of Comment 25:

Commenter stated that “the [Model Ordinance] allows certain tasks to be accomplished by professionals that are not in compliance with state law. Licensed Landscape Architects under 5615 of the Business and Professions Code may prepare construction drawings and specifications as well as responsible construction observation. This pertains to constructed elements, planting, irrigation, and grading. Under the Landscape Architects Practice Act Article 3, Section 5641 identifies exemptions and exceptions. Within this section it clarifies the responsibilities and capabilities of Property Owners, Nurserymen, Architects, Professional Engineers, Land Surveyors, Landscape Contractors, Golf Course Architects, and Irrigation Consultants. The [Model Ordinance] should be revised to reflect the responsibilities of these professionals. For example, the [Model Ordinance] allows Landscape Contractors to submit designs and certify completion. However, under state law they are only allowed to complete design services if they are also performing or directly supervising installation. This should be clarified.”

DWR Response: Reject. It is beyond the scope of the Notice of Proposed Rulemaking to address permitted landscape practices among professionals and contractors. The Department provided definitions of professionals, contractors and other certified individuals in the proposed regulation and determined that further clarification is not necessary. However for the purposes of the update of the Model Ordinance, the Department received valid documentation from the Assistant Executive Director of the California Landscape Contractor’s Association. This documentation indicates that licensed landscape contractors are authorized to do the design work on their own projects but that they are prohibited from preparing designs and selling them to others to perform (Business and Professions Code, Section 7027.5). CLCA’s documentation also shows that the Department of Consumer Affairs’ Contractors State License Board determined that Section 5537, 5537.2 of the Business and Professions Code exempts licensed landscape contractors from the Architects Act for designing their own work and to do the design work and sell those designs to others is a violation of the law.

G300 Summary of Comment 25:

Commenter stated that “it is our opinion that a Certified Water Auditor may not have the necessary skills, knowledge or experience that would enable them to accurately judge whether or not an irrigation system was efficient in its design or installation. It is our understanding that in order to maintain a certification to be a water auditor all that is needed is to complete a 2 day seminar. A landscape architect goes to school for 4 years were they take intensive design and construction classes. After graduation they must work for 2 years in an internship position under a licensed landscape architect before being eligible to qualify for the Landscape Architects Registration Examination (LARE). This is a national exam which must be completed successfully over the course of multiple days prior to obtaining a license to practice in CA. The minimum amount of time invested from start to finish is approximately 7 years. We are concerned how an individual who only takes a seminar for 2 days can be considered equal in their abilities to determine the effectiveness of an irrigation system. We would suggest that this section be clarified so that the appropriate responsibilities of licensed professionals under state law be identified and noted and that water auditors be taken out of this section completely and make it a requirement to have a CA licensed landscape architect or licensed landscape contractor conduct the determination as the efficiency of the irrigation system and submit the Certificate of Completion.”

DWR Response: Reject. It is the beyond the scope of the Notice of Proposed Rulemaking to address permitted landscape practices among professionals and contractors. The Department provided definitions of for professionals, contractors and other certified individuals in the proposed regulation and determined that further clarification is not necessary. The Certificate of Completion is part of the existing regulation (California Code of Regulation, Title 23 Section 492 (c) (12)) and remains in the modified text of proposed regulations (renumbered as Section 492.9 and Section 495.2). Also, the modified text of the proposed regulation still includes the definitions of certified landscape irrigation auditors and certified irrigation designers in Section 491 (f) and (g), respectively. The Department supports the certification of landscape and irrigation professionals. The certification programs by professional trade organizations and accredited educational organizations help promote landscape water use efficiency (i.e., Irrigation Association’s certification programs: Certified Irrigation Designer, Certified Landscape Irrigation Auditor and Certified Water Conservation Manager – Landscape; and California Landscape Contractors Association Water Management Certification Program, etc.). The U.S. Environmental Protection Agency also has its own WaterSense Certification Programs for irrigation professionals - Irrigation Auditor, Irrigation Designer and Irrigation Installation and Maintenance Professional). For more detail see response on page 105 (Comments 20, 25, 83)

G301 Summary of Comment 78:

Regarding the Certificate of Completion [signatures], commenter stated “though landscape projects can be approved by cities, the real long term effectiveness of drought tolerant landscaping and water conservation for large landscaped areas rests with landscape maintenance contractors and they are not included as responsible parties in the [Model] Ordinance requirements.” Commenter recommended requiring landscape contractor irrigation planner and personnel certifications in the [Model] Ordinance so they are also held responsible for compliance.”

DWR Response: Reject. Comments regarding who is responsible for implementing and enforcing the Model Ordinance are general objections directed at the proposed regulation. The Model Water Efficient Landscape Ordinance is an existing regulation in effect since 1992

(California Code of Regulations, Title 23 Section 490-495). The statute (Statutes of 2006 Chapter 559) defines a local agency accordingly: “*any city, county, or city and county, including a charter city or charter county*” (Section 65591 (b)). The proposed regulation was modified to include separate definitions for a local agency (Section 490 (hh)) and a local water purveyor (Section 490 (ii)). Furthermore, the Department supports the certification of landscape and irrigation professionals. The certification programs by professional trade organizations and accredited educational organizations help promote landscape water use efficiency (i.e., Irrigation Association’s certification programs: Certified Irrigation Designer, Certified Landscape Irrigation Auditor and Certified Water Conservation Manager – Landscape; and California Landscape Contractors Association Water Management Certification Program, etc.). The U.S. Environmental Protection Agency also has its own WaterSense Certification Programs for irrigation professionals - Irrigation Auditor, Irrigation Designer and Irrigation Installation and Maintenance Professional).

G302 Summary of Comments 58, 85:

Commenter stated that a local agency should not have to conduct a final field inspection of the project (Section 492.2 (2) (b)) because it should be self-certified by the landscape architect of record. Commenter asked “under what authority does a Certified Irrigation Auditor have to observe an irrigation system (Section 492.2 (2) (a))?” Commenter asserted that certified irrigation auditors “do not have the training or capabilities to observe or inspect irrigation systems and should be removed from this section.” Also, commenter stated that requiring every project to conduct an irrigation audit is unnecessary (Section 492.2 (2) (c)) because if the project has been documented and self-certified by the design professional of record then it is in substantial compliance of the plans and specifications. The audit serves no purpose and should be eliminated.” Commenter stated that submitting to the local water purveyor is not necessary (Section 492.2 (2) (f)). Another commenter stated “delete Section 492.2 (2) (a). It is not a common practice to inspect the irrigation system prior to backfilling. Doing so would be very impractical and would slow down the project considerably. Lateral lines typically are buried as they are complete. This allows the work to progress in all areas. If there are lateral leaks below the surface, they will become manifest during the final field observation after project installation. Flow sensors also would pick up future mainline leaks and breaks in the lateral lines. Mainline inspection is the only inspection that is typically done before backfilling. The requirement in Section 492.2 (2) (a) to hire a landscape professional to conduct a final field observation would be prohibitively expensive for homeowners who are installing their landscape themselves.”

DWR Response: Accept in part and reject in part. The Certificate of Completion is an existing regulation in effect since 1992 (California Code of Regulations, Title 23 Section 492 (c)(12)). Section 492.2 was significantly modified and combined with Section 492.11 into a renumbered Section 492.9. Preliminary and final inspections are required in the modified text of the proposed regulation.

G303 Summary of Comment 112:

Commenter stated “we oppose or suggest modification of Section 492.2 Compliance with the Certificate of Completion. The project [landscape architect] should have final sign off for the irrigation system, the irrigation contractor. No installer should have the duty of inspecting and certifying their own work. However, new construction as built verification be included, as a guarantee of as built matching approved design.”

DWR Response: Accept in part and reject in part. The Certificate of Completion is an existing regulation in effect since 1992 (California Code of Regulations, Title 23 Section 492 (c)(12)). Section 492.2 was significantly modified and combined with Section 492.11 into a renumbered Section 492.9. Preliminary and final inspections are required in the modified text of the proposed regulation.

G304 Summary of Comment 59:

Commenter stated that “final sign-off of the project installation should be consistent with what is allowed by landscape architects and licensed contractors in the Business and Professions Code. See Chapter 3.5, commencing with Section 5615, of Division 3 for landscape architects. Section 7027.5 for landscape contractors. Auditors are not licensed professionals under the business and professions code and are not authorized with final sign off authority. For a new irrigation system, where the installation has been approved by a licensed professional, an audit is not necessary. This will only increase costs to the applicant with no additional benefit. The local agency should have the option of relying on the final sign-off of the project by a licensed landscape architect without an additional requirement to conduct a final agency inspection. The certificate of completion section should separately address sign off procedures for homeowner designed and Installed projects.”

DWR Response: Accept in part and reject in part. The Certificate of Completion is an existing regulation in effect since 1992 (California Code of Regulations, Title 23 Section 492 (c)(12)). Section 492.2 was significantly modified and combined with Section 492.11 into a renumbered Section 492.9. Preliminary and final inspections and audits are required in the modified text of the proposed regulation.

G305 Summary of Comments 67, X, 140:

Commenter stated that “Section 492.2 (2)(a) requires prior to backfilling, have a licensed landscape architect, certified irrigation auditor, or licensed landscape contractor conduct a preliminary field observation of the irrigation system. A certified irrigation auditor is not the appropriate person for such inspection and this step is not always practical.” Commenter suggested the following revision: “At appropriate project milestones, have a licensed landscape architect, certified irrigation contractor, certified irrigation designer, or licensed landscape contractor conduct a preliminary field observation of the irrigation system for the purposes of preserving the integrity of the design intent.” Another commenter stated that “the requirement for a final field inspection or the project by the city is unnecessary. The landscape architect is required to provide a certificate of completion; this should be adequate.” A commenter stated that “this section requires that the local agency conduct a final field inspection of the project (1.b) and requires the project applicant to have a licensed landscape architect or licensed landscape contractor conduct a final field observation (2.b). Thus seems not only redundant but puts a financial burden on both the [local] agency and [project] applicant.”

DWR Response: Accept in part and reject in part. The Certificate of Completion is an existing regulation in effect since 1992 (California Code of Regulations, Title 23 Section 492 (c)(12)). Section 492.2 was significantly modified and combined with Section 492.11 into a renumbered Section 492.9. Preliminary and final inspections and audits are required in the modified text of the proposed regulation.

G306 Summary of Comments 20, 133, 152:

Commenter stated that the [Model Ordinance] would place conditions on the Building Department upon issuance of Certificates of Completion and Occupancy. Landscaping is the last thing to be installed and Certificates of Completion and Occupancy are typically granted before the landscaping has been completed.” Another commenter stated that requiring “a new Certificate of Completion for the landscaping project prior to issuance of a “Certificate of Occupancy” which is not a typical county, municipality, or district requirement. Again, this could lead to delays in securing final approval for homebuilders.”

DWR Response: Accept and reject in parts.. Comments regarding the requirement of a Certificate of Completion are general objections directed at the proposed regulation. First and foremost, the Certificate of Completion is part of the existing regulation (California Code of Regulation, Title 23 Section 492 (c) (12)). Provisions from the noticed version of the Model Ordinance (February 8, 2008) regarding the Certificate of Completion were modified and consolidated into one section, Section 492.9 in the modified text of the regulation (November 26, 2008). Also, the modified Sample Certificate of Completion was renumbered as Section 495.3 Appendix C. The statute (Statutes of 2006, Chapter 559 Section 65595 (a) (1) directed the Department to consider the recommendations of the AB 2717 Landscape Task Force Final Report Water Smart Landscapes for California December 2005. Thus, the Department considered the task force’s recommendation number 3 action 3.1: the DWR should make the Certification of Compliance requirement in the Model Ordinance more rigorous. The Department recognized that there are documentation requirements more appropriate before project installation and others after project installation. The existing regulation required the submittal of 12 pieces of documentation prior to project installation. Both noticed proposed regulation (February 8, 2008 and November 26, 2008) reduced the number of submittals to 10 and divided them up between pre-installation and post-installation. More specifically, six pieces of documentation are required with the Landscape Documentation Package [or at pre-installation] (see Section 492.3) and the remaining four documents are required with the Certificate of Completion [or at post-installation] (see Section 492.9). Also, the Department recognized that the process for issuing a Certificate of Occupancy can vary among the 478 incorporated cities and counties in the State of California; therefore, “or equivalent” was included to the provisions in Section 492.9 (c) (2) and (d) (3) to accommodate a process.

G307 Summary of Comment 20:

Commenter stated that the project applicant’s compliance with “the Certificate of Completion requires delivery of the Certificate of Completion to the local water purveyor and the [property] owner. Because of privacy issues, the required local agency Certificate of Completion cannot be shared with the local water purveyor unless authorized by the [property] owner. In conversations with Irvine Ranch Water District, I was told that because of privacy issues, information gathered about a specific project by one agency can not be shared with another agency or other entity without express consent of the owner or developer of the project. Therefore, if a given project exceeds the maximum irrigation water allowance allocated by the local agency or the local water purveyor, the information cannot be shared between the agencies. Since the local water purveyor is the keeper of the water use information, this information will not be available to the local agency. Because the local agency will not be privy to the water use information of specific projects, they will not know if the landscape irrigation systems within these projects have been

operated in accordance with the terms of the Model Ordinance.” Commenter recommended “striking the local retail water purveyor from [Section 492.2 (2)] (f).”

DWR Response: Accept in part and reject in part. Comments regarding the Certificate of Completion are general objections to the proposed regulation. The Certificate of Completion is part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (12) and remains in the modified text of proposed regulations (renumbered as Section 492.9 and Section 495.2). The Department encourages coordination between a local agency and water purveyor to implement and enforce the provisions in the Model Ordinance. More specifically, Section 490.2 (2) was modified and renumbered as Section 490 (b) (6) *encourage local agencies to designate the necessary authority that implements and enforces the provisions of the Water Efficient Landscape Ordinance or its local landscape ordinance*. Also, the proposed regulation was modified to include separate definitions for a local agency (Section 490 (hh)) and a local water purveyor (Section 490 (ii)).

G308 Summary of Comments 74, 90:

Commenter stated that “as with the landscape documentation package, it is important for the certificate of completion to be as simple as possible to encourage its proper use. Chula Vista already has a simple certificate that it uses - see attached example.” Another commenter stated that the “local agency requirements for reviews, permits and inspections are a considerable increase in effort which will increase costs to development. This will be challenged by the development community and require additional processes to be developed by local agencies.”

DWR Response: Accept in part and reject in part. Comments regarding the Certificate of Completion are general objections to the proposed regulation. The Certificate of Completion is part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (12) and remains in the modified text of proposed regulations (renumbered as Section 492.9 and Section 495.2). The Department recognized that there are documentation requirements more appropriate before project installation and others after project installation. The existing regulation required the submittal of 12 pieces of documentation prior to project installation. Both noticed proposed regulation (February 8, 2008 and November 26, 2008) reduced the number of submittals to 10 and divided them up between pre-installation and post-installation. More specifically, six pieces of documentation are required with the Landscape Documentation Package [or at pre-installation] (see Section 492.3) and the remaining four documents are required with the Certificate of Completion [or at post-installation] (see Section 492.9). Also, the Department recognized that the process for issuing a Certificate of Occupancy can vary among the 478 incorporated cities and counties in the State of California; therefore, “or equivalent” was included to the provisions in Section 492.9 (c) (2) and (d) (3) to accommodate a process.

G309 Summary of Comments 20, 58, 74:

Multiple commenters objected to the audits, audit reports and schedules in Section 492.2. Commenter stated that “requiring an irrigation audit of a new system prior to final installation certification is unnecessary, very costly and will impact completion schedule. Water audits may be warranted when exceeding water allotments and should not necessarily have a schedule requirement. A water audit schedule submitted with the initial landscape development package is not necessary or regulatory. Strike any requirement for an irrigation audit as a prerequisite to the installation certification and strike all references to a schedule of water audits.” A commenter stated that “an audit should not be required for certification of completion. In addition, an audit

report should not be required.” Another commenter stated that [Section 492.2] contained “too much detail. [It is] burdensome for the inspectors and the [project] applicants. Now includes irrigation audits and audit reports. City has the right to charge applicants for water audits. Also requires ongoing audits of 20% of sites of 2,500 square foot. An alternative method of checking water use could be a system such as the system the City currently employs for public landscape areas where by [the] water budget is included at the design stage and the water purveyor notifies the City if the budget is exceeded. The City already uses local weather based control systems.”

DWR Response: Accept in part and reject in part. Comments regarding the Certificate of Completion and audit submittals are general objections to the proposed regulation. The Certificate of Completion is part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (12) and remains in the modified text of proposed regulations (renumbered as Section 492.9 and Section 495.2). The Department recognized that there are documentation requirements more appropriate before project installation and others after project installation. The existing regulation required the submittal of 12 pieces of documentation prior to project installation. Both noticed proposed regulation (February 8, 2008 and November 26, 2008) reduced the number of submittals to 10 and divided them up between pre-installation and post-installation. More specifically, six pieces of documentation are required with the Landscape Documentation Package [or at pre-installation] (see Section 492.3) and the remaining four documents are required with the Certificate of Completion [or at post-installation] (see Section 492.9). The audit schedule requirement was deleted from the modified text of the proposed regulation but the other audit requirements remain (see Section 492.9 (b)). See the irrigation audits section of this document for the Department’s responses to public comments regarding irrigation audits.

G310 Summary of Comment 59:

Commenter stated that “the number of site visits required by the Certificate of Completion is onerous. This will result in increased fees and expenses for local agencies that conduct the reviews. These costs should be addressed in the Statement of Reasons for the ordinance. The irrigation audit report is an unnecessary requirement for a new landscape where plans that have been signed off by a licensed landscape architect and the system was Installed per the plans. Auditors are not licensed professionals. The costs of implementing this added requirement should be included in the Statement of Reasons for this regulation.”

DWR Response: Accept in part and reject in part. Comments regarding the Certificate of Completion and audit submittals are general objections to the proposed regulation. The Certificate of Completion is part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (12) and remains in the modified text of proposed regulations (renumbered as Section 492.9 and Section 495.2). The Department recognized that there are documentation requirements more appropriate before project installation and others after project installation. The existing regulation required the submittal of 12 pieces of documentation prior to project installation. Both noticed proposed regulation (February 8, 2008 and November 26, 2008) reduced the number of submittals to 10 and divided them up between pre-installation and post-installation. More specifically, six pieces of documentation are required with the Landscape Documentation Package [or at pre-installation] (see Section 492.3) and the remaining four documents are required with the Certificate of Completion [or at post-installation] (see Section 492.9). See the irrigation audits section of this document for the Department’s responses to

public comments regarding irrigation audits. Costs are addressed in the Initial Statement of Reasons, and later in the Final Statement of Reasons.

G311 Summary of Comment 85:

Commenter requested that the “wording of [Section 492.2] (a) and (b) should be modified to take into account [of] ‘as-builts’ which become the overriding plans for the project.”

DWR Response: Reject. In the existing regulation (California Code of Regulations, Title 23 Section 492 (b) (2) and in both noticed versions of the proposed regulation (February 8, 2008 and November 26, 2008), the term ‘as-builts’ are included in the definition for ‘record drawings’ (see Section 490 (yy)) both of which are part of the Landscape Documentation Package (see Section 492.1 (c) (2)).

Summary & Response: Section 492.10 Irrigation Scheduling

G312 Summary of Comment 20:

A commenter stated that in the irrigation schedule for the plant establishment period, the established landscape and the temporarily irrigated areas using historic ET are not accurate enough to use for actual scheduling.

DWR Response: Accept in part. Irrigation schedules are part of the existing regulation (California Code of Regulations, Title 23 492 (c) (7)). This section in the Model Ordinance was modified such that irrigation schedules shall be based on current time ETo and renumbered Section 492.10.

G313 Summary of Comments 20, 58, 59, 67, 76, 85, 100, 108:

Multiple commenters stated that there was no need to develop irrigation schedules when smart controllers were required.

DWR Response: Reject. Irrigation schedules are part of the existing regulation (California Code of Regulations, Title 23 492 (c) (7)). Minor modifications were made to this section and renumbered Section 492.10.

G314 Summary of Comments 42, 56:

Several commenters stated that irrigation scheduling language from first ordinance should be retained the additional language regarding ET Controllers is of little value.

DWR Response: Reject. Irrigation schedules are part of the existing regulation (California Code of Regulations, Title 23 492 (c) (7)). Minor modifications were made to this section and renumbered Section 492.10.

G315 Summary of Comment 44:

A commenter stated that the irrigation schedule should be developed by landscape maintenance as they will know best about the particular situation at the site.

DWR Response: Reject. Irrigation schedules are part of the existing regulation (California Code of Regulations, Title 23 492 (c) (7)). Minor modifications were made to this section and renumbered Section 492.10.

G316 Summary of Comment 44:

A commenter stated commented that a water window needs to be developed for drip and micro-sprays.

DWR Response: Reject. Irrigation schedules are part of the existing regulation (California Code of Regulations, Title 23 492 (c) (7)). Minor modifications were made to the water window provision and renumbered Section 492.10 (a) (2).

G317 Summary of Comment 44:

A commenter stated that the word “help” should be added before the words “avoid runoff” in Section 492.12 (5) (B) and (C).

DWR Response: Reject. Irrigation schedules are part of the existing regulation (California Code of Regulations, Title 23 492 (c) (7)). Minor modifications were made to this section and renumbered Section 492.10.

G318 Summary of Comments 50, 85, 90, 113:

Several commenters stated that the local agencies [should] be allowed to establish the water windows. Another commenter stated that it was unclear in determining watering windows, what the criteria is for having a stricter schedule, total number of hours or time of day. One commenter stated that water window in the Model Ordinance may not work for turf or plant establishment time period.

DWR Response: Reject. Irrigation schedules are part of the existing regulation (California Code of Regulations, Title 23 492 (c) (7)). Minor modifications were made to the water window provision and renumbered Section 492.10 (a) (2).

**Summary and Response: Section 492.11
Landscape and Irrigation Maintenance Schedule**

G319 Summary of Comments: 114, 173

Several commenters stated maintenance requirements would accomplish very little to ensure that landscapes will actually be irrigated under the Maximum Applied Water Allowance.

DWR Response: Reject. Maintenance provisions are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (8)).

G320 Summary of Comments: 114, 121, 166, 171

Multiple commenters stated that only landscape water managers, who are not included within this ordinance, can control the landscape maintenance requirements; that the Model Ordinance does not provide enough accountability for the person maintaining the landscape; that the requirements for landscape maintenance contractors, such as CLCA and IA water management certifications, should be incorporated into the Model Ordinance.

DWR Response: Reject. Maintenance provisions are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (8)).

G321 Summary of Comments: 20, 98, 114

Multiple commenters stated that the Model Ordinance does not address the ongoing maintenance of the landscape, repair of the irrigation system and regular irrigation scheduling adjustments;

that maintenance requirements are dynamic; that maintenance guidelines are never prepared with the construction documents and are not part of a permitted package and that governing agencies do not review or inspect non-permitted work. Commenters recommended to strike this section reasoning that water district/agency requirements shall govern.

DWR Response: Reject. Maintenance provisions are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (8)).

G322 Summary of Comments: 114

A commenter stated that AB 1881 [the legislation] Section 65596 (l) listed provisions for landscape maintenance that "may" include, but are not limited to, performing routine irrigation system repair and adjustment, conducting water audits, and prescribing the amount of water applied per landscaped acre. Commenter suggested that these items be listed as items that could be voluntarily implemented by a local agency or water purveyor.

DWR Response: Reject. Maintenance provisions are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (8)). To meet the statute (Section 65595 (l)), these provisions were slightly modified and renumbered as Section 492.11.

Summary and Response: Audits - overall comments

G323 Summary of Comment 14:

Commenter stated that audits of municipal water delivery systems are not addressed in the [Model] Ordinance; that a large amount of water is wasted through municipal water mains; that if the individuals [property owners] are audited, municipal water districts must also be monitored. Commenter suggesting requiring audits for municipal water systems.

DWR Response: Reject. Irrigation audits, for new and rehabilitated landscapes and existing landscapes, are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (9)). Significant modifications were made to the irrigation audit sections and renumbered as Section 492.12 (new and rehabilitated landscapes) and Section 493.1 (existing landscapes). Requiring an audit on municipal's water system is beyond the authority of the Notice of Proposed Rulemaking. Refer to the Urban Water Management Planning Act Section 10631 (f) and (h) or California Urban Water Conservation Council Best Management Practice number 3.

G324 Summary of Comment 45:

Commenter stated that under the Model Ordinance, a new development would be required to comply with the requirements while an established development of comparable size and characteristics would not need to comply; thereby allowing potential water usage at a higher level without controls.

DWR Response: Reject. Irrigation audits, for new and rehabilitated landscapes and existing landscapes, are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (9)). Significant modifications were made to the irrigation audit sections and renumbered as Section 492.12 (new and rehabilitated landscapes) and Section 493.1 (existing landscapes). The provisions for existing landscapes are not as stringent because of the extreme burden it would impose to evaluate and retrofit the many thousands of existing landscapes in California. Rather, existing landscapes will be regulated by water waste prohibitions and audits of properties over one acre every five years. Water purveyors will also offer irrigation system inspections to their customers. Additionally, AB 2572 (Kehoe) requires an urban water supplier to install water

meters on all municipal and industrial water service connections that are located in its service area, which will serve to regulate water use in existing landscapes.

G325 Summary of Comments 20, 59, 62, 65, 76, 78, 87, 91, 95, 102, 112, 114, 120, 164ot, 173:

Multiple commenters recommend tiered rate structures and waste water enforcement in place of monitoring existing water consumption.

DWR Response: Reject. Irrigation audits, for new and rehabilitated landscapes and existing landscapes, are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (9)). Significant modifications were made to the irrigation audit sections and renumbered as Section 492.12 (new and rehabilitated landscapes) and Section 493.1 (existing landscapes). DWR can only encourage the use of tiered rates (see Section 490 (b) (6)) because tiered rates are regulated by the California Public Utilities Commission (CPUC).

G326 Summary of Comment 108:

Commenter stated that information about individual customer water use is confidential under Government Code section 6250 (California Public Records Act) and not something local governments may have access to.

DWR Response: Accept. The Model Ordinance has been modified accordingly: Section 492 (a) and Section 493 (a) *A local agency may designate another agency, such as a water purveyor, to implement some or all of the requirements stipulated in this ordinance. Local agencies may collaborate with water purveyors to determine the appropriate responsibilities as they pertain to this ordinance.*

If the local agency does not have access to customer water use data, it may designate the water purveyor to carry out provisions of the ordinance requiring that data.

G327 Summary of Comment 20:

Commenter stated that audits cannot create irrigation schedules using real time ET data.

DWR Response: Reject. Irrigation audits, for new and rehabilitated landscapes and existing landscapes, are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (9)). Significant modifications were made to the irrigation audit sections and renumbered as Section 492.12 (new and rehabilitated landscapes) and Section 493.1 (existing landscapes). Audits are not intended to create irrigation schedules. They are intended to improve and monitor the efficiency of the irrigation system.

G328 Summary of Comments 20, 25:

Several commenters stated that audits are not appropriate for all landscaped areas; that audits can only be conducted on turf areas not on drip systems or in shrub areas; that a water audit is traditionally done on flat turf surfaces but the Model Ordinance requires that ALL landscaped areas in excess of 2,500 sq. ft. be required to have a water audit. Commenters stated that they are not sure how accurate a water audit on a 2:1 slope would be or what use that data would be in determining water efficiency and suggested deleting water audits.

DWR Response: Reject. Irrigation audits, for new and rehabilitated landscapes and existing landscapes, are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (9)). Significant modifications were made to the irrigation audit sections and renumbered as Section 492.12 (new and rehabilitated landscapes) and Section 493.1 (existing landscapes).

Irrigation audits are the best available method for evaluating the efficiency of an irrigation system. Appendix A of the Irrigation Association Certified Landscape Irrigation Auditor Training Manual (2004) provides procedures for drip/microspray auditing procedures.

G329 Summary of Comments 14, 58, 59, 83, 85, 91, 99, 107, 154:

Multiple commenters stated that irrigation audits are not an effective means of saving water; that audits themselves will do very little in identifying the corrective actions necessary to alleviate over watering; that audit serves no purpose and should be eliminated; that the merits of audits compared to other performance motivators, such as escalating block rate structures, or water budget feedback loops, warrants further investigation.

DWR Response: Reject. Irrigation audits, for new and rehabilitated landscapes and existing landscapes, are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (9)). Significant modifications were made to the irrigation audit sections and renumbered as Section 492.12 (new and rehabilitated landscapes) and Section 493.1 (existing landscapes). DWR can only encourage the use of tiered rates (see Section 490 (b) (6)) because tiered rates are regulated by the California Public Utilities Commission (CPUC).

G330 Summary of Comments 20, 25, 83:

Multiple commenters stated that irrigation audits are not reliable; that the results cannot be duplicated nor are they verifiable; that this method of auditing produces low irrigation distribution uniformity and does not give a true picture of the irrigation efficiency. Commenters suggested deleting water audits.

DWR Response: Reject. Irrigation audits, for new and rehabilitated landscapes and existing landscapes, are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (9)). Significant modifications were made to the irrigation audit sections and renumbered as Section 492.12 (new and rehabilitated landscapes) and Section 493.1 (existing landscapes).

G331 Summary of Comment 82:

Commenter stated that “this requirement will require that we track all accounts, including single family homes, that have rehabilitated their landscape under the criteria listed. This will have a limited benefit, will require a significant amount of staff time to keep updated, and therefore, is not practicable. This might be more appropriate for accounts with dedicated irrigation meters.”

DWR Response: Reject. Irrigation audits, for new and rehabilitated landscapes and existing landscapes, are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (9)). Significant modifications were made to the irrigation audit sections and renumbered as Section 492.12 (new and rehabilitated landscapes) and Section 493.1 (existing landscapes).

G332 Summary of Comment 102:

Commenter stated that there may be duplication with the National Pollutant Discharge Elimination System (NPDES) permitting program and some of the auditing requirements; that a cooperative effort could potentially alleviate the issue of an unfunded mandate for irrigation audits as well as the conflict over which agency bears responsibility for completing the audits and ensuring compliance; that this effort would ensure that the regulations are complementary and avoid duplication. Commenter suggested collaborating with the State Water Resources Control Board and Regional Water Quality Control Board's to determine if there are opportunities to use NPDES permitting as a means to accomplish some of the goals

DWR Response: Reject. The stormwater management provision is not intended to duplicate any NPDES program and it remains in the modified text of the regulation (renumbered as Section 492.492.15). Stormwater management was address to comply with the statute (Statutes of 2006, Chapter 559 Section 65596 (d) and (m)).

DWR has communicated with SWRCB in order to avoid duplication with their NPDES program. Given the modifications to the audit requirements in the model ordinance, and communications with SWRCB, no duplication is found.

G333 Summary of Comment 90:

Commenter stated that there is duplication of audit requirements with Urban Water Management Planning [Act]; that audits are specified in an Urban Water Management Plan following the BMP practices established within them, so there is no reason to add them here. Commenter suggested that audits should not be included as part of a landscape model ordinance.

DWR Response: Reject. Irrigation audits, for new and rehabilitated landscapes and existing landscapes, are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (9). Significant modifications were made to the irrigation audit sections and renumbered as Section 492.12 (new and rehabilitated landscapes) and Section 493.1 (existing landscapes). The Model Ordinance does not require auditing or surveying in addition to such provisions as stated in the Urban Water Management Plan Act, 10631 (f) (1) (A) (C) (E) or (I). The implementation of surveys and/or audits is properly reported as part of the model ordinance and the Urban Water Management Plans, both of which have different areas of focus. *“Urban water suppliers that are members of the California Urban Water Conservation Council and submit annual reports to that council in accordance with the MOU dated September 1991, may submit the annual reports identifying water demand management measures currently being implemented, or scheduled for implementation, to satisfy the requirements of subdivisions (f) and (g).” from the UWMPA*

G334 Summary of Comment 93:

Commenter stated that the draft Model Ordinance duplicates audit requirements for local agencies or water utilities who are CUWCC signatories; DWR should allow California Urban Water Conservation Council (CUWCC) signatories to substitute current Large Landscape Audit and Budget Programs (BMP 5) and Residential Water Use Survey Program (BMP1) as "at least as Effective" for the ongoing audit requirements of the draft Model Ordinance.

DWR Response: Reject. Irrigation audits, for new and rehabilitated landscapes and existing landscapes, are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (9). Significant modifications were made to the irrigation audit sections and renumbered as Section 492.12 (new and rehabilitated landscapes) and Section 493.1 (existing landscapes). The language regarding ongoing audits by local agencies has been modified such that audits shall be offered, rather than required. In as much as the Council BMPs require irrigation surveys, the ordinance does not require a duplication of these surveys.

G335 Summary of Comments 85, 114:

Current language limits audit protocol to 2004 IA Training Manual. DWR should have some flexibility should it decide at some future date that other methods should become permissible as well. The language in the Model Ordinance referring to the Manual should identify the "most current" version of the Manual, or other manual approved by DWR for this purpose.

DWR Response: Reject.

The Rulemaking process, as defined by the Office of Administrative Law, requires that material being incorporated by reference into the Ordinance be specifically identified by date. Therefore, the 2004 IA Training Manual shall remain the reference in the Ordinance. DWR will update the Ordinance as new reference information replaces this. Section **492.12. 1. (a)** states *“At a minimum, all landscape irrigation audits shall be in accordance comply with the Irrigation Association Certified Landscape Irrigation Auditor Training Manual (2004 or most current edition).”*

G336 Summary of Comments 20, 25, 83:

Multiple commenters stated that certified irrigation auditor are not qualified to recommend irrigation changes; that the certification process requires very little knowledge or experience in the design or management of irrigation systems; that this is a definite disconnect that can only lead to questionable results. Commenters stated that the Model Ordinance should be revised to recognize and reflect the responsibilities of landscape professionals as outlined in Section 5615 of the Business and Professions Code.

DWR Response: Reject. Irrigation audits, for new and rehabilitated landscapes and existing landscapes, are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (9)). Significant modifications were made to the irrigation audit sections and renumbered as Section 492.12 (new and rehabilitated landscapes) and Section 493.1 (existing landscapes). Section 5615 of the Business and Professions code applies only to landscape architects. Irrigation audits routinely have recommendations accompanying the audit report. Irrigation surveys conducted by water purveyors also routinely have recommendations. This is also a requirement for signatories of the CUWCC MOU. The recommendations of the auditor are intended to improve the efficiency of the irrigation system and DWR finds the certification of auditors to be sufficient to qualify them to make these recommendations.

G337 Summary of Comments 58, 62, 85, 87:

Multiple commenters stated that a full audit requirement for the single family homeowner is an expensive and an onerous mandate; that audits should be offered as a tool to these customers instead. Commenters suggested providing an exception for single family residential users.

DWR Response: Accept and reject in parts. Significant modifications were made to the irrigation audit sections and renumbered as Section 492.12 (new and rehabilitated landscapes) and Section 493.1 (existing landscapes). In addition Section 490.1 has been modified for homeowner-provided and/or homeowner-hired landscaping in single-family and multi-family residential projects.

G338 Summary of Comments 110, 102, 168:

Multiple commenters stated that there are no remedies for non-compliance with audit recommendations; that if a property owner wants to improve an already developed property, it is unclear what threshold would have to be met to trigger reconstruction of a non-compliant landscape.

DWR Response: Reject. Irrigation audits, for new and rehabilitated landscapes and existing landscapes, are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (9)). Significant modifications were made to the irrigation audit sections and renumbered as Section 492.12 (new and rehabilitated landscapes) and Section 493.1 (existing landscapes).

In addition, the penalties section was modified and renumbered as Section 492.2 (a).

G339 Summary of Comment 44, 50, 58, 59, 82, 85, 87, 108:

Multiple commenters stated that requiring audits on properties with no dedicated irrigation meter will lead to inaccuracies; that the entire site's water use is combined within the water use information, resulting in skewed data, in which assumptions must be made to differentiate between irrigation water and water used for other purposes. Commenters recommended limiting audits to properties with dedicated irrigation meters.

DWR Response: Reject. Irrigation audits, for new and rehabilitated landscapes and existing landscapes, are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (9)). Significant modifications were made to the irrigation audit sections and renumbered as Section 492.12 (new and rehabilitated landscapes) and Section 493.1 (existing landscapes). A landscape irrigation audit does not require water use data from a water meter. An irrigation audit includes system inspection, system tune up, system test, including distribution uniformity, and verification of minimal overspray or runoff, irrigation schedule and recommendations. Staff finds that the type of meter on the property will have no bearing on the accuracy of an audit.

G340 Summary of Comment 54, 123:

Several commenters stated that there is no requirement to implement audit recommendations; that an audit alone is not sufficient; that many property owners will not voluntarily change their water intensive landscapes. Commenters suggested requiring property owners to implement water management and maintenance recommendations from the landscape irrigation audit report.

DWR Response: Reject. Irrigation audits, for new and rehabilitated landscapes and existing landscapes, are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (9)). Significant modifications were made to the irrigation audit sections and renumbered as Section 492.12 (new and rehabilitated landscapes) and Section 493.1 (existing landscapes).

Summary & Response: Section 492. 12 Irrigation Audit, Irrigation Survey and Irrigation Water Use Analysis for New Construction or Rehabilitated Landscapes

G341 Summary of Comment 115:

Commenter stated [we] currently do not issue landscape permits, therefore tracking required audits would be difficult.

DWR Response: Reject. Comments regarding irrigation audits are general objections to the proposed regulation. Irrigation audits for new and rehabilitated landscapes are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (9)). Significant modifications were made to the irrigation audit sections and renumbered as Section 492.12 (new and rehabilitated landscapes) and Section 493.1 (existing landscapes). A local agency may choose in their ordinance how to address the mechanisms to enforce Model Ordinance and its provisions on irrigation audits.

G342 Summary of Comments 58, 62, 77, 82, 87, 88, 90, 111, 115, 167:

Commenters asked "Who will track and monitor the receipt of large landscape audit reports every five years?" Commenters stated that tracking required audits would be difficult and it is unclear what is intended to be accomplished with the data collected.

DWR Response: Accept and reject in parts. Comments regarding irrigation audits are general objections to the proposed regulation. Irrigation audits for new and rehabilitated landscapes are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (9)). Significant modifications were made to the irrigation audit sections and renumbered as Section 492.12 (new and rehabilitated landscapes). The local agency may choose to specify in their ordinance how to utilize the documentation collected existing landscapes. The requirement to submit a landscape irrigation audit report every 5 years for landscape equal to or greater than one acre has been deleted

G343 Summary of Comments 20, 45, 67, 85, 102, 151, 158:

Commenters requested “providing an exemption if the landscape [project] stays within its MAWA, as determined in the [Water Efficient Landscape] Worksheet [section] C.”

DWR Response: Reject. Comments regarding irrigation audits are general objections to the proposed regulation. Irrigation audits for new and rehabilitated landscapes are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (9)). Significant modifications were made to the irrigation audit sections and renumbered as Section 492.12 (new and rehabilitated landscapes).

G344 Summary of Comments 55, 58, 59, 62, 164:

Commenters stated that the [Initial] Statement of Reasons failed to consider the expense of audits and surveys.

DWR Response: Reject. Comments regarding irrigation audits are general objections to the proposed regulation. Irrigation audits for new and rehabilitated landscapes are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (9)). Significant modifications were made to the irrigation audit sections and renumbered as Section 492.12 (new and rehabilitated landscapes). Costs are adequately addressed in the Initial Statement of Reasons, and later in the Final Statement of Reasons.

G345 Summary of Comments 55, 123, 167:

Multiple commenters stated that recovering cost for audits and surveys may not be realistic; it is unreasonable to expect recovery of costs for an audit from a property owner that did not request the audit; that raising fees in an amount sufficient to cover this cost would not be palatable to the public. Commenter stated that “since Proposition 218, assessing fees to property owners has become more difficult and cumbersome for public agencies. Some local agencies may not be able to provide "for payment" services based on their city charter.” Commenters recommended remove landscape auditing and surveying requirements.

DWR Response: Reject. Comments regarding irrigation audits are general objections to the proposed regulation. Irrigation audits for new and rehabilitated landscapes are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (9)). Significant modifications were made to the irrigation audit sections and renumbered as Section 492.12 (new and rehabilitated landscapes). Costs are adequately addressed in the Initial Statement of Reasons, and later in the Final Statement of Reasons.

G346 Summary of Comment 59:

Commenter stated that some local agencies may not be able to provide for-payment-services based on their city charter.

DWR Response: Reject. Comments regarding irrigation audits are general objections to the proposed regulation. Irrigation audits for new and rehabilitated landscapes including certified irrigation auditors are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (9)). Significant modifications were made to the irrigation audit sections and renumbered as Section 492.12 (new and rehabilitated landscapes). Costs are adequately addressed in the Initial Statement of Reasons, and later in the Final Statement of Reasons.

G347 Summary of Comments 20, 68, 73, 84, 88:

Commenters stated that there are not enough water auditors in California to carry out the number of audits required in the Model Ordinance and recommended striking the need for mandatory water audits.

DWR Response: Accept in Part Comments regarding irrigation audits are general objections to the proposed regulation. Irrigation audits for new and rehabilitated landscapes are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (9)). Significant modifications were made to the irrigation audit sections and renumbered as Section 492.12 (new and rehabilitated landscapes).

G348 Summary of Comment 74:

Commenters stated that the irrigation audit requirements are redundant in some areas; that many water agencies already offer both residential and large landscape audits; that it does not make sense to duplicate the process.

DWR Response: Reject. Comments regarding irrigation audits are general objections to the proposed regulation. Irrigation audits for new and rehabilitated landscapes are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (9)). Significant modifications were made to the irrigation audit sections and renumbered as Section 492.12 (new and rehabilitated landscapes).

G349 Summary of Comments 58, 59, 62, 82, 102, 111:

Commenters stated that audits and surveys should be the responsibility of water purveyors, not local agencies; that the Model Ordinance includes a requirement to compare water use against the MAWA; that this makes the requirements dependent on local water agencies. Prepare separate enforcement legislation directed to water purveyors. Direct these requirements to the water purveyor.

DWR Response: Reject. Comments regarding which entities are responsible for conducting water audits are general objections to the proposed regulation. Irrigation audits for new and rehabilitated landscapes are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (9)). Significant modifications were made to the irrigation audit sections and renumbered as Section 492.12 (new and rehabilitated landscapes). The Department's modifications are appropriate and reasonable because there is much opportunity for water conservation in new and rehabilitated landscapes. In addition, the ordinance was modified to *encourage local agencies to designate the necessary authority that implements and enforces the provisions of the Water Efficient Landscape Ordinance or its local landscape ordinance, Section 490 (b) (6).*

G350 Summary of comment 87:

Commenter stated that the twenty percent rule for mandatory audits seems arbitrary.

DWR Response: Accept. Accept in part. Irrigation audits for new and rehabilitated landscapes are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (9)). Significant modifications were made to the irrigation audit sections and renumbered as Section 492.12 (new and rehabilitated landscapes). The Department’s modifications on the existing landscape provisions are appropriate and reasonable because there is much opportunity for water conservation in existing landscapes.

G351 Summary of Comments 16, 18, 20, 33, 45, 50, 55, 58, 59, 62, 68, 73, 76, 77, 78, 81, 84, 87, 88, 91, 98, 102, 110, 111, 115, 123, 140, 152, 164, 167, 168:

Multiple commenters stated that the requirements for audits and surveys will create a significant cost to local agencies and water districts; that these requirements would place an untold burden on local agencies; that the logistics would be staggering; that many local agencies lack the resources to implement such on-going audits and to compile and analyze the resulting data.

DWR Response: Reject. Comments regarding irrigation audits are general objections to the proposed regulation. Irrigation audits for new and rehabilitated landscapes are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (9)). Significant modifications were made to the irrigation audit sections and renumbered as Section 492.12 (new and rehabilitated landscapes). The Department’s modifications on the existing landscape provisions are appropriate and reasonable because there is much opportunity for water conservation in existing landscapes. Costs are addressed in the Initial Statement of Reasons, and later in the Final Statement of Reasons.

G352 Summary of Comments 44, 87:

Commenters stated that requiring landscapes over 2,500 sq. ft. to be audited is too small a landscape area; that landscapes between 2,500 sq. ft. and 5,000 sq. ft. are not required to have dedicated meters making audits a challenge. Commenters recommended changing the requirement to landscapes over 5,000 square feet.

DWR Response: Accept in part. Comments regarding irrigation audits are general objections to the proposed regulation. Irrigation audits for new and rehabilitated landscapes are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (9)). Significant modifications were made to the irrigation audit sections and renumbered as Section 492.12 (new and rehabilitated landscapes).

G353 Summary of Comments 55, 58, 59, 62, 77, 88, 100, 151, 164:

Commenters stated that requiring routine or mandatory audits is excessive; recommended developing “criteria to trigger an audit, such as, requiring an audit for a third offense only, or only for those sites where there has been a violation of a water waste ordinance, or only if the property exceeds the stormwater provision, or only for the worst 20%.”

DWR Response: Reject. Comments regarding irrigation audits are general objections to the proposed regulation. Irrigation audits for new and rehabilitated landscapes are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (9)). Significant modifications were made to the irrigation audit sections and renumbered as Section 492.12 (new and rehabilitated landscapes).

G354 Summary of Comments 16, 50, 55, 59, 82, 84, 87, 90, 167, 168:

Commenters stated that it is unlikely that residents would grant permission to enter their property for a landscape irrigation audit that they will be required to pay for. Commenters asked “What do you think that the chances will be that they will give us permission if they know that it will result in a charge? Or does this propose that we shut off their water to meet the State mandate?”

Commenters recommended that the audit requirement should be removed and replaced with a more stringent water waste prohibition requirement.

DWR Response: Reject. Comments regarding irrigation audits are general objections to the proposed regulation. Irrigation audits for new and rehabilitated landscapes are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (9)). Significant modifications were made to the irrigation audit sections and renumbered as Section 492.12 (new and rehabilitated landscapes). A local agency may choose to specify in their ordinance how to address and develop a protocol for property access.

G355 Summary of Comments 59, 72:

Commenters stated that the requirement for landscape audits before and after system installation is redundant; that “for new construction, an audit upon completion of construction is not necessary when the plans were certified by a landscape architect or irrigation designer, when a complete irrigation schedule has been submitted and approved, and when the installation has been fully inspected.”

DWR Response: Reject. Comments regarding irrigation audits are general objections to the proposed regulation. Irrigation audits for new and rehabilitated landscapes are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (9)). Significant modifications were made to the irrigation audit sections and renumbered as Section 492.12 (new and rehabilitated landscapes) and Section 493.1 (existing landscapes). Irrigation audits are performed on systems at project completion to ensure that the irrigation system performed as designed and approved. There is no provision for an irrigation audit before the irrigation system is installed. Per Section 492.9 (b) (3), irrigation audit reports are submitted with the Certificate of Completion.

G356 Summary of Comment 14, 62, 111, 152:

Multiple commenters stated that audit requirements place the expense of the audit on the customer; that [property] owners should not have to pay for audit if no violation is found; that there needs to be a reimbursement to the [property] owner if the agency requires an extra audit and does not find a violation.

DWR Response: Reject. Comments regarding irrigation audits are general objections to the proposed regulation. Irrigation audits for new and rehabilitated landscapes are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (9)). Significant modifications were made to the irrigation audit sections and renumbered as Section 492.12 (new and rehabilitated landscapes). Costs are adequately addressed in the Initial Statement of Reasons, and later in the Final Statement of Reasons.

G357 Summary of Comment 99:

Commenter stated that an irrigation audit is appropriate for some landscapes, but a post installation review is adequate for others; that auditing should only be performed on large turf systems with over 43,560 sq. ft. [one acre] of irrigated turf. Commenter suggested requiring a post-inspection review or survey for all other [landscape project] installations.

DWR Response: Reject. Comments regarding irrigation audits are general objections to the proposed regulation. Irrigation audits for new and rehabilitated landscapes are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (9)). Significant modifications were made to the irrigation audit sections and renumbered as Section 492.12 (new and rehabilitated landscapes) and Section 493.1 (existing landscapes).

G358 Summary of Comment 85:

Commenter stated that the project applicant cannot be responsible for a landscape irrigation audit every five years; that the project applicant who installed the landscape and who is generally not the [property] owner should have no responsibility for an audit conducted five years later; that this responsibility for conducting and paying for an irrigation audit every five years should fall to the property owner.

DWR Response: Reject. Comments regarding irrigation audits are general objections to the proposed regulation. Irrigation audits for new and rehabilitated landscapes are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (9)). Significant modifications were made to the irrigation audit sections and renumbered as Section 492.12 (new and rehabilitated landscapes) and Section 493.1 (existing landscapes). The requirement to submit a landscape irrigation audit report every 5 years for landscape equal to or greater than one acre has been deleted

Summary & Response: Section 492.13 Irrigation Efficiency

G359 Summary of Comments 20, 90:

A commenter stated that there were no studies completed to document the change in irrigation efficiency from 0.625 to 0.71. Another commenter stated that with the current efficiency of 0.625 being hard to meet, an efficiency of 0.71 is not achievable.

DWR Response: Reject. The provision on irrigation efficiency is part of the existing regulation (California Code of Regulation, Title 23 Section 492 (c) (6) (A) (ii)). The Department of Water Resources also updated the Evapotranspiration Adjustment Factor White Paper (November 26, 2008) to further explain the irrigation efficiency of 0.71 and the evapotranspiration adjustment factor of 0.7 in the modified text of the regulation.

G360 Summary of Comment: 34:

A commenter stated that [the Department] introduced an irrigation management efficiency term of 0.9 that has no scientific basis and is likely too high.

DWR Response: Reject.. The Department of Water Resources also updated the Evapotranspiration Adjustment Factor White Paper (November 26, 2008) to further explain the irrigation efficiency of 0.71 and the evapotranspiration adjustment factor of 0.7 in the modified text of the regulation. After carefully reviewing the comments and evidence in the ETAF White paper, DWR has determined that 90% management factor is reasonable and appropriate.

G361 Summary of Comment 58:

A commenter asked if MAWA is achieved, does the landscape still have to meet the irrigation efficiency standard.

DWR Response: Reject. The provision on irrigation efficiency is part of the existing regulation (California Code of Regulation, Title 23 Section 492 (c) (6) (A) (ii). The Department of Water Resources also updated the Evapotranspiration Adjustment Factor White Paper (November 26, 2008) to further explain the irrigation efficiency of 0.71 and the evapotranspiration adjustment factor of 0.7 in the modified text of the regulation. Also, Section 492.13 states that irrigation systems shall be designed, maintained and managed to meet or exceed 0.71 efficiency. The irrigation efficiency of 0.71 is average irrigation efficiency.

G362 Summary of Comment 74:

A commenter stated that 0.71 efficiency is hard to achieve in shrub areas and recommends that 0.625 efficiency be retained for shrubs.

DWR Response: Reject. The provision on irrigation efficiency is part of the existing regulation (California Code of Regulation, Title 23 Section 492 (c) (6) (A) (ii). The Department of Water Resources also updated the Evapotranspiration Adjustment Factor White Paper (November 26, 2008) to further explain the irrigation efficiency of 0.71 and the evapotranspiration adjustment factor of 0.7 in the modified text of the regulation. The irrigation efficiency of 0.71 is average irrigation efficiency.

G363 Summary of Comment 112

Commenter stated “we oppose or suggest modification of Section 492.6 and 492.15 pertaining to the levels of irrigation efficiency; Section 492.6 states in [Hydrozone 1] high water use plant the irrigation efficiency is .65 while Section 492.15 states irrigation efficiency is .71.” Commenter requested clarification as both appear to be describing the same target value for cool season turf.”

DWR Response: Reject. The provision on irrigation efficiency is part of the existing regulation (California Code of Regulation, Title 23 Section 492 (c) (6) (A) (ii). The Department of Water Resources also updated the Evapotranspiration Adjustment Factor White Paper (November 26, 2008) to further explain the irrigation efficiency of 0.71 and the evapotranspiration adjustment factor of 0.7 in the modified text of the regulation. Also, irrigation efficiency is part of the ETAF calculation which is used to determine MAWA. The irrigation efficiency of 0.71 is average irrigation efficiency.

Summary & Response: Section 492.14 Recycled Water

G364 Summary of Comment 74:

Commenter stated that recycled water is already widely available in certain areas of the state; that the addition of burdensome permit and audit requirements will do nothing to enhance the use of recycled water.

DWR Response: Reject. The recycled water provisions are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (6) (B) and shall remain in the modified text of the proposed regulation but renumbered as Section 492.14 (a) (b) (c).

These provisions do not place any additional burden upon agencies subject to existing code, SB 2095 Johnston, 2000 Water Recycling in Landscaping Act and Water Code Division 7, Chapter 7, Article 7, Water Reuse Section 13551.

G365 Summary of Comment 99:

Commenter stated that there is a lack of long-term research on the affects of increased salts in recycled water on landscape plant material and soil problems.

DWR Response: Reject. The recycled water provisions are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (6) (B) and shall remain in the modified text of the proposed regulation but renumbered as Section 492.14 (a) (b) (c).

Salinity management is addressed in industry publications, including, The Salinity Management Guide, WateReuse Foundation (2007), and Landscape Plant Salt Tolerance Selection Guide for Recycled Water Irrigation (2005) UC ANR. Additionally, Recommendation 27 of the Landscape Task Force (AB 2717) is to “Promote the use of recycled water in urban landscapes”. Also, because of the need for leaching, the Model Ordinance has been revised to allow a higher ETAF for landscapes irrigated with recycled water. The use of recycled water will continue to be encouraged in the Model Ordinance.

G366 Summary of Comments 59, 74, 83, 89, 90, 104, 122, 149:

Multiple commenters stated that the Model Ordinance, as currently drafted, will discourage the use of recycled water; that one of the stated goals of [the statute] is to "promote the use of recycled water." Commenters suggest rewriting the language to recognize the importance of this resource, encourage its use and exempt landscapes that use recycled water from the ordinance.

DWR Response: Accept in part. The recycled water provisions are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (6) (B) and shall remain in the modified text of the proposed regulation but renumbered as Section 492.14 (a) (b) (c). The proposed regulation was modified so that landscapes using recycled water are considered Special Landscape Areas (SLA) where the ETAF shall not exceed 1.0 (see Section 492.4 (b) (4) and Section 491 (ggg) for the definition of SLA).

G367 Summary of Comment 90:

Commenter stated that active turf areas cannot comply with the Model Water Efficient Landscape Ordinance; that an exemption should be included in the Model Ordinance for these types of active use athletic fields (organized game and practice sports fields, and multi-use fields); that it the City of Roseville currently has its own ordinance in place requiring recycled water to be used in these types of areas where available.

DWR Response: Accept. The recycled water provisions are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (6) (B) and shall remain in the modified text of the proposed regulation but renumbered as Section 492.14 (a) (b) (c). The proposed regulation was modified so that landscapes using recycled water are considered Special Landscape Areas (SLA) where the ETAF shall not exceed 1.0 (see Section 492.4 (b) (4) and Section 491 (ggg) for the definition of SLA).

G368 Summary of Comments 45, 58, 64, 83, 104, 107:

Commenters stated that this section of the Model Ordinance is contrary to the recognized policy need to create incentives which will increase the use of recycled water; that the Model Ordinance puts users of recycled water at a disadvantage to users of potable water for irrigation; that offering a higher ET adjustment factor can be an incentive for using recycled water.

DWR Response: Accept. The recycled water provisions are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (6) (B) and shall remain in the modified text of the proposed regulation but renumbered as Section 492.14 (a) (b) (c). The proposed regulation was modified so that landscapes using recycled water are considered Special Landscape Areas (SLA) where the ETAF shall not exceed 1.0 (see Section 492.4 (b) (4) and Section 491 (ggg) for the definition of SLA).

G369 Summary of Comments 59, 74, 83, 89, 104, 122, 149:

Commenters stated that it is counterproductive to punish those using recycled water by imposing a water budget. Commenters suggested removing any and all restrictions on the use of recycled water in the model landscape ordinance and exempt recycled water from a MAWA.

DWR Response: Reject. The recycled water provisions are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (6) (B) and shall remain in the modified text of the proposed regulation but renumbered as Section 492.14 (a) (b) (c). The proposed regulation was modified so that landscapes using recycled water are considered Special Landscape Areas (SLA) where the ETAF shall not exceed 1.0 (see Section 492.4 (b) (4) and Section 491 (ggg) for the definition of SLA).

G370 Summary of Comment 99:

A commenter recommended making recycled water for irrigation mandatory.

DWR Response: Accept in part. The recycled water provisions are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (6) (B) and shall remain in the modified text of the proposed regulation but renumbered as Section 492.14 (a) (b) (c).

The Model Ordinance states in Section 492.14 (b) *“Irrigation systems shall make use of recycled water unless a written exemption has been granted by the local water agency...”* The requirements for installation and use of recycled water are already in existing code. SB 2095 Johnston, 2000 Water Recycling in Landscaping Act and Water Code Division 7, Chapter 7, Article 7, Water Reuse Section 13551.

G371 Summary of Comment 149:

Commenters stated that limiting high water plants to recycled irrigation water would encourage more customers to use recycled water, while still allowing officials to plan and build the types of parks that their communities demand. Commenter recommended restricting high water using plant areas, such as large turf grass areas, to irrigation by recycled water only.

DWR Response: Reject. The recycled water provisions are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (6) (B) and shall remain in the modified text of the proposed regulation but renumbered as Section 492.14 (a) (b) (c).

G372 Summary of Comments 59, 104:

Commenters recommended that this section of the Model Ordinance be consistent with policy objectives of the State Water Board, Department of Public Health and the Water Code.

DWR Response: Reject. The recycled water provisions are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (6) (B) and shall remain in the modified text of the proposed regulation but renumbered as Section 492.14 (a) (b) (c).

A review of regulations related to recycled water by the State Water Resources Control Board, the Department of Public Health and the California Water Code reveals no inconsistencies with the Recycled Water section of the Model Ordinance.

G373 Summary of Comments 59, 74, 89, 104:

Commenters stated that the use of recycled water is highly regulated and requires no further regulation by the Model Ordinance; that the use of recycled water for landscaping is already subject to regulation as outlined in Water Code Section 13500 et seq. and California Code of Regulations, Title 22 Section 60301 et seq.; that both the regional water quality control boards and the California Department of Public Health have a role in permitting and overseeing the use of recycled water for landscape irrigation. Commenters recommended exempting landscapes using recycled water from the provisions of 492.1 through 492.15 and 492.18, as long as the design and management of that landscape is covered in an approved Engineering Report developed in accordance with provisions of the Water Code and Title 22 of the California Code of Regulations.

DWR Response: Reject. The recycled water provisions are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (6) (B) and shall remain in the modified text of the proposed regulation but renumbered as Section 492.14 (a) (b) (c).

The Model Ordinance imposes no regulation of recycled water above that already required in existing code. The requirements for installation and use of recycled water are already in existing code. SB 2095 Johnston, 2000 Water Recycling in Landscaping Act and Water Code Division 7, Chapter 7, Article 7, Water Reuse Section 13551. A review of regulations related to recycled water by the State Water Resources Control Board, the Department of Public Health and the California Water Code reveals no inconsistencies with the Recycled Water section of the Model Ordinance. Because recycled water is a valuable source of water, the Model Ordinance will remain applicable to recycled water systems to ensure that it is used efficiently in the landscape.

G374 Summary of Comments 44, 85:

Commenters recommended deleting Section 492.6 (1) (c) (2) in the Landscape Design Plan related to recycled water; that recycled water normally should not be used as a source of water for water features.

DWR Response: Accept in part. The recycled water provisions are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (6) (B) and shall remain in the modified text of the proposed regulation but renumbered as Section 492.14 (a) (b) (c). The proposed regulation was modified to require the use of recycled water for decorative water features only.

G375 Summary of Comment 20:

Commenter stated that most water features use recycled water and should not be subject to the MAWA calculation.

DWR Response: Reject. The recycled water provisions are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (6) (B) and shall remain in the modified text of the proposed regulation but renumbered as Section 492.14 (a) (b) (c). Water features use water through evaporation at the rate of (at least) a high water use plant for the same surface area and must be replenished. The water used by water features must be

accounted as part of MAWA. Water Features that use recycled water may have an ET adjustment factor up 1.0.

G376 Summary of Comment 44:

Commenter stated that recycled water may not be allowed in landscape or structures where direct discharge would occur into piped storm drain systems.

DWR Response: Reject. The recycled water provisions are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (6) (B) and shall remain in the modified text of the proposed regulation but renumbered as Section 492.14 (a) (b) (c).

In the modified text of the regulation Section 492.7 Irrigation Design Plan (a) (1) (H) requires the prevention of irrigation water flow onto non-targeted areas. Therefore, a landscape project in compliance with the Model Ordinance will not have direct discharge into piped storm drain systems.

G377 Summary of Comments 44:

Commenter recommended revising Section 429.8 (c) (2), which is related to recycled water, to read:

“Where available and where reviewed and pre-approved for use in the design by the local county health department, recycled water shall be used as the source for decorative water features.”

DWR Response: Reject. The recycled water provisions are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (6) (B) and shall remain in the modified text of the proposed regulation but renumbered as Section 492.14 (a) (b) (c).

Recycled water delivered to urban areas for non-potable use is adequately regulated by the California Code of Regulations, Title 22 Chapter 3 Article 3 Section 60304 to ensure the safety of public health. Tertiary treated recycled water is filtered and disinfected. Once exposed to the environment, any water source can become contaminated and have organisms living in it as will any natural body of water. No additional regulations regarding public health and recycled water shall be added to the Model Ordinance.

G378 Summary of Comment 58:

Commenter stated that the installation of a dual distribution system is not required; that there be a system installed for recycled water only.

DWR Response: Accept. The recycled water provisions are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (6) (B)) and shall remain in the modified text of the proposed regulation but renumbered as Section (a) (b) (c). The language referring to dual distribution systems was deleted.

G379 Summary of Comments 59, 82, 91, 100:

Commenters stated that there is no sense to require dual distribution systems to make provisions for recycled water that will never be provided; that there are some areas where recycled water will never be cost effective to install, requiring pump stations and reservoirs, and therefore will not be affordable; that the water supplier should be allowed the flexibility to exempt projects from recycled water use if applicable.

DWR Response: Accept and reject in parts. The recycled water provisions are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (6) (B)) including written exemptions and shall remain in the modified text of the proposed regulation but

renumbered as Section 492.14 (a) (b) (c). The language referring to dual distribution systems was deleted.

G380 Summary of Comment 85:

Commenter stated that requiring all new construction to be plumbed for current and future use of recycled water is not appropriate in the Model Ordinance; that this should be mandated in statute or by the Building Standard Commission.

DWR Response: Accept and reject in parts. The recycled water provisions are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (6) (B)) including written exemptions and shall remain in the modified text of the proposed regulation but renumbered as Section 492.14 (a) (b) (c). The language referring to dual distribution systems was deleted.

G381 Summary of Comment 85:

Commenter stated that requiring recycled irrigation systems for residential properties with landscapes of 2,500 square feet or more is not appropriate in an ordinance applying to homeowner provided landscaping. Commenter recommended exempting homeowner provided landscaping from this provision.

DWR Response: Accept in part. The recycled water provisions are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (6) (B)) and shall remain in the modified text of the proposed regulation but renumbered as Section 492.14 (a) (b) (c). Section 490.1 (a) (3) was modified to increase the square footage for homeowner provided or hired landscaping as equal to or greater than 5,000 square foot.

G382 Summary of Comments 104, 113:

Commenters stated that the requirement to provide written exceptions is onerous and duplicative of regional recycled water master planning processes; that distributors of recycled water are required by state law and local ordinances to designate recycled water use areas, and then to identify potential recycled water customers within those use areas, as part of a local and regional recycled water master planning process; that requiring a written exemption for every irrigation system outside of a designated recycled water use area is unnecessary and creates an undue burden on water agencies that distribute recycled water. Commenters suggested revising section to read: "All recycled water irrigation systems shall be designed and operated in accordance with all local agency, local retail recycled water purveyor, and state applicable codes and ordinances or in some other way incorporate reference to local codes and ordinances governing local recycled water usage."

DWR Response: Accept in Part. The recycled water provisions are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (6) (B)) including written exemptions and shall remain in the modified text of the proposed regulation but renumbered as Section 492.14 (a) (b) (c).

A written exemption requirement for recycled water irrigation systems may be a simple statement; "*Recycled water, meeting all public health codes and standards, is not available (for this project) and will not be available in the foreseeable future.*" The fact that a project is, or is not, in a designated recycled water use area should be known to the water agency and communicated to the local agencies, as per SB 2095 Johnston, 2000 Water Recycling in Landscaping Act. Therefore, this places no additional burden on the water agencies and shall

remain in the Model Ordinance. The Model Ordinance sufficiently references local codes and ordinances in (c) “*all recycled water irrigation systems shall be designed and operated in accordance with all local agency and State codes.*”

G383 Summary of Comments 8, 59, 89, 104:

Commenters stated that not allowing a leaching fraction until the irrigation source equals or exceeds 3.0 deciSiemens per meter (dS/m) will jeopardize landscapes using recycled water; that most recycled water purveyors deliver recycled water with a TDS under 2,000 mg/l in order to meet customer needs; that even at this TDS level, landscape managers often adjust their irrigation practices for irrigation water quality and the specific needs of plant materials; that irrigating with no leaching fraction will place landscapes using recycled water at a disadvantage over sites irrigating with potable water. Commenters suggested incorporating the work of the United States Department of Agriculture’s Salinity Laboratory in requirements for leaching fraction and consider a more flexible formula for calculating a leaching fraction that includes the plant material salinity threshold as well as the recycled water quality.

DWR Response: Accept in part. The recycled water provisions are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (6) (B)) and shall remain in the modified text of the proposed regulation but renumbered as Section 492.14 (a) (b) (c). The provision stating a specific salinity threshold to allow extra water for a leaching fraction was deleted.

G384 Summary of Comment 34:

Commenter stated that there is no allowance for periodic maintenance leaching cycles; that in many part of California it is necessary to conduct periodic leaching cycles to manage the salinity levels in the soil in a way that reduces the effect of salts on plants.

DWR Response: Accept in part. The recycled water provisions are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (6) (B)) and shall remain in the modified text of the proposed regulation but renumbered as Section 492.14 (a) (b) (c). The provision stating a specific salinity threshold to allow extra water for a leaching fraction was deleted.

Summary and Response: Section 492.17 Stormwater Management

G385 Summary of Comment 20:

Commenter stated that “water quality/run-off management documentation is based on federal legislation and is governed by a myriad of existing ordinances and codes; that these documents require separate submittal and permits.” Commenter recommended striking this submittal requirement which is legislated otherwise.

DWR Response: Reject. Comments on this issue are a general objection directed at the proposed regulation. The Model Water Efficient Landscape Ordinance does not duplicate existing federal or state regulations; it simply recognizes the importance of stormwater management per the statutes (Statutes of 2006, Chapter 559, Section 65996 (d)) and the AB 2717 Landscape Task Force recommendations. Section 492.15 was coordinated by the State Water Resources Control Board (Water Board) Stormwater Program. Also, the Model Water Efficient Landscape Ordinance only recommends stormwater management and best management practices because the DWR does not regulate water quality. In addition, landscape irrigation runoff (or

lawn watering) is a "non-stormwater discharge" recognized as an exempt discharge by the federal regulations such as the MS4 Permit (Section B. Prohibitions). The federal regulations consider landscape irrigation runoff is an incidental or nuisance discharge that can be allowed if properly managed and landscape irrigation runoff may or may not actually contribute to stormwater pollution. Many local agencies also exempt these types of non-stormwater discharges but others provide good faith effort provisions in their stormwater ordinances to further discourage landscape irrigation runoff. Department of Water Resources does not regulate water quality. Therefore, the Model Water Efficient Landscape Ordinance refers project applicants to their local agency or Regional Water Quality Control Board for information on stormwater management. The State Water Resources Control Board is entrusted with the responsibility to ensure beneficial use of water in California and prevent waste and unreasonable use.

G386 Summary of Comments 109, 158:

Commenters stated "Compliance with stormwater and runoff is currently mandated with ordinances in place within local agencies and has been show to be an effective way to reduce landscape water use. While we support the integration of those ordinances with the State's MO, we oppose duplicating efforts." Commenter stated "they oppose duplicating efforts where compliance with stormwater and runoff is currently regulated and suggest removing this section from the proposed Model Ordinance." Commenter stated: "And we're worried that these efforts might be duplicated the way that the Model Ordinance currently states it and we would prefer that they corroborate, rather than duplicate effort. Likewise with the stormwater runoff requirements in the ordinance, those are already mandated and we would ask that they be integrated, not duplicated."

DWR Response: Reject. Comments on this issue are a general objection directed at the proposed regulation. The Model Water Efficient Landscape Ordinance does not duplicate existing federal or state regulations; it simply recognizes the importance of stormwater management per the statutes (Statutes of 2006, Chapter 559, Section 65996 (d)) and the AB 2717 Landscape Task Force recommendations. Section 492.15 was coordinated by the State Water Resources Control Board (Water Board) Stormwater Program. Also, the Model Water Efficient Landscape Ordinance only recommends stormwater management and best management practices because the DWR does not regulate water quality. In addition, landscape irrigation runoff (or lawn watering) is a "non-stormwater discharge" recognized as an exempt discharge by the federal regulations such as the MS4 Permit (Section B. Prohibitions). The federal regulations consider landscape irrigation runoff is an incidental or nuisance discharge that can be allowed if properly managed and landscape irrigation runoff may or may not actually contribute to stormwater pollution. Many local agencies also exempt these types of non-stormwater discharges but others provide good faith effort provisions in their stormwater ordinances to further discourage landscape irrigation runoff. Department of Water Resources does not regulate water quality. Therefore, the Model Water Efficient Landscape Ordinance refers project applicants to their local agency or Regional Water Quality Control Board for information on stormwater management. The State Water Resources Control Board is entrusted with the responsibility to ensure beneficial use of water in California and prevent waste and unreasonable use.

G387 Summary of Comments 63, 102, 114, 170:

Multiple commenters stated that “there was no effort made to coordinate the proposed Model Ordinance [stormwater] provisions with the municipal NPDES permits issued by the Regional Water Quality Control Boards who encourage Low-Impact Design (LID) strategies to reduce urban runoff and water pollution. NPDES permits in Southern California generally require that priority projects meeting certain land use and size thresholds (generally 5,000 square feet) are already subject to post-construction water quality management plans and are inventoried and inspected regularly for best management practice maintenance.” Commenters asserted “the NPDES [process] has enforcement provisions. Under NPDES, most cities have the citation authority to give penalties to people who are wasting water into gutters. It also requires reporting by cities to the regional water board and it is a mechanism to ensure that local agencies and water purveyors follow through on their program commitments. Water purveyors may not be able to provide individual use water data. They can, however, provide statistics on water use and water savings, and that could be part of reporting already required.” Several other commenters stated that “stormwater permits for cities and counties already have, or will have soon, requirements for new and renovated sites that could be used to complement AB 1881 requirements.” Similarly, a commenter, MWDOC, “requested that the Department of Water Resources, State Water Resources Control Board and Regional Water Quality Control Boards collaborate to make sure that the respective regulations complement one another and avoid duplication of requirements.”

DWR Response: Reject. Comments on this issue are a general objection directed at the proposed regulation. The Model Water Efficient Landscape Ordinance does not duplicate existing federal or state regulations; it simply recognizes the importance of stormwater management per the statutes (Statutes of 2006, Chapter 559, Section 65996 (d)) and the AB 2717 Landscape Task Force recommendations. Section 492.15 was coordinated by the State Water Resources Control Board (Water Board) Stormwater Program. Also, the Model Water Efficient Landscape Ordinance only recommends stormwater management and best management practices because the DWR does not regulate water quality. In addition, landscape irrigation runoff (or lawn watering) is a "non-stormwater discharge" recognized as an exempt discharge by the federal regulations such as the MS4 Permit (Section B. Prohibitions). The federal regulations consider landscape irrigation runoff is an incidental or nuisance discharge that can be allowed if properly managed and landscape irrigation runoff may or may not actually contribute to stormwater pollution. Many local agencies also exempt these types of non-stormwater discharges but others provide good faith effort provisions in their stormwater ordinances to further discourage landscape irrigation runoff. Department of Water Resources does not regulate water quality. Therefore, the Model Water Efficient Landscape Ordinance refers project applicants to their local agency or Regional Water Quality Control Board for information on stormwater management. The State Water Resources Control Board is entrusted with the responsibility to ensure beneficial use of water in California and prevent waste and unreasonable use.

G388 Summary of Comment 50:

A commenter, a city, stated that “a vegetated swale and similar types of BMPs in the proposed Model Ordinance are commonly used in new development projects to comply with NPDES regulations; these BMPs include the installation of grasses (e.g., red fescue) that are considered high water consuming plants.” Commenter stated “there is a potential for projects to exceed MAWA if these BMPs are incorporated into the landscape design and suggests that the proposed

Model Ordinance contain an exemption to the MAWA when projects cannot meet MAWA without removing these types of BMPs from the landscape.”

DWR Response: Reject. Comments this issue are a general objection directed at the proposed regulation. The Model Water Efficient Landscape Ordinance does not duplicate existing federal or state regulations; it simply recognizes the importance of stormwater management per the statute (Statutes of 2006, Chapter 559, Section 65996 (d)) and the AB 2717 Landscape Task Force recommendations. These BMPs may be considered Special Landscape Areas for calculating MAWA.

G389 Summary of Comment 74:

A commenter requested that the “requirements” replace [stormwater management] “plans” in Section 492.17.2.

DWR Response: Reject. Comments this issue are a general objection directed at the proposed regulation. The Model Water Efficient Landscape Ordinance does not duplicate existing federal or state regulations; it simply recognizes the importance of stormwater management per the statute (Statutes of 2006, Chapter 559, Section 65996 (d)) and the AB 2717 Landscape Task Force recommendations.

G390 Summary of Comment 102:

Commenter supported Section 492.15: “We believe there are strong synergies between the goals of AB 1881 and the objective of local stormwater programs to reduce landscape runoff. This is supported by the inclusion of Stormwater Management and Water Waste Prevention sections in the [proposed Model Ordinance].”

DWR Response: Accept.

Summary and Response: Section 492.16 Public Education

G391 Summary of Comment 20:

Commenter stated that “the provision requiring all model homes to include signs and other educational information regarding water efficient landscapes is vague, ineffective and intrusive upon creating an attractive residential sales setting.”

DWR Response: Reject. The public education provision is part of the existing regulation under California Code of Regulations, Title 23 Section 492 (d). Minor modifications were made to this and renumbered Section 492.16. This provision as an opportunity to save water and showcase water efficient landscapes directly to homeowners whose outdoor landscape water use is generally 30-50% of their total residential water.

G392 Summary of Comment 44:

A commenter asked: “Why just include educating those owners of NEW single family residences?” Commenter stated that education should include owners and managers of all properties, existing, and all other properties not only single family residences. Commenter asked: “How is this going to be carried out effectively?”

DWR Response: Reject. The public education provision is part of the existing regulation under California Code of Regulations, Title 23 Section 492 (d). Minor modifications were made to this and renumbered Section 492.16. This provision as an opportunity to save water and showcase

water efficient landscapes directly to homeowners whose outdoor landscape water use is generally 30-50% of their total residential water.

G393 Summary of Comments 59, 100:

Commenters stated “it is not clear in the proposed Model Ordinance if the public education requirement applies only to homeowners of new homes with over 2,500 square feet of landscape area or to all new homeowners.” Commenters suggest this provision should be revised accordingly: “A local agency shall provide public education to all new owners of new, single family residential homes regarding the design, installation, management and maintenance of water efficient landscapes.” Also, commenters “another provision allowing the local agency to require the developer to provide the mandatory educational materials to the homeowner.”

DWR Response: Reject. The public education provision is part of the existing regulation under California Code of Regulations, Title 23 Section 492 (d). Minor modifications were made to this and renumbered Section 492.16. This provision as an opportunity to save water and showcase water efficient landscapes directly to homeowners whose outdoor landscape water use is generally 30-50% of their total residential water.

G394 Summary of Comment 111:

A commenter, a county, stated “through its own Conditions of Approval process, it [county] requires that certain water-efficient landscaping materials be provided to homeowners and property maintenance firms. Because the county deals largely with developers and builders in the project entitlement process rather than the end-user,” commenter suggests “the directives to the local agency in Section 492.18 (a) may be better served by water purveyors, or collaborative partnerships between local agencies and water purveyors, who have relationships with the end user through meters and water bills.” Commenter stated” that many local water purveyors already have public outreach materials, web sites, and public demonstration gardens that address water-efficient landscaping.”

DWR Response: Reject. The public education provision is part of the existing regulation under California Code of Regulations, Title 23 Section 492 (d). Minor modifications were made to this and renumbered Section 492.16. This provision as an opportunity to save water and showcase water efficient landscapes directly to homeowners whose outdoor landscape water use is generally 30-50% of their total residential water. In addition, the ordinance was modified to *encourage local agencies to designate the necessary authority that implements and enforces the provisions of the Water Efficient Landscape Ordinance or its local landscape ordinance, Section 490 (b) (6).*

G395 Summary of Comment 74:

A commenter stated “that model homes all need to be water efficient. Additional staff time costs [should be considered] for the Planning Department personnel who are responsible for plan checking model homes submittals.”

DWR Response: Reject. The public education provision is part of the existing regulation under California Code of Regulations, Title 23 Section 492 (d). Minor modifications were made to this and renumbered Section 492.16.–Modifications were made to simplify the specifications or requirements for landscape design plans, irrigation design plans and grading design plans to ease cost and burden to local agencies.

G396 Summary of Comment 81:

A commenter suggested “the promotion of technologies through massive and ongoing public awareness campaigns, training and licensing requirements of landscape professionals (and quasi professionals), training of retailers, and creation of TV shows (e.g. HGTV).”

DWR Response: Reject. The public education provision is part of the existing regulation under California Code of Regulations, Title 23 Section 492 (d). Minor modifications were made to this and renumbered Section 492.16. The Department supports and recognizes the special training and licensing requirements of landscape professionals. However, there are many organizations who are better equipped to provide training, certification, and licensing programs for professionals in the landscape industry.

Summary and Comment: Section 493.1**Provisions for Existing Landscapes – Irrigation Audit, Irrigation Survey and Irrigation Water Use Analysis****G397 Summary of Comment 74:**

Commenter stated that irrigation audit requirements are redundant in some areas; that many water agencies already offer both residential and large landscape audits; that it does not make sense to duplicate the process.

DWR Response: Reject. Comments regarding irrigation audits are general objections to the proposed regulation. Irrigation audits for existing landscapes are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (9)). Significant modifications were made to the irrigation audit sections and renumbered as Section 493.1 (existing landscapes).

G398 Summary of comment 78:

Commenter recommended addressing existing landscapes only if they exceed one acre.

DWR Response: Reject. Comments regarding irrigation audits are general objections to the proposed regulation. Irrigation audits for existing landscapes are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (9)). Significant modifications were made to the irrigation audit sections and renumbered as Section 493.1 (existing landscapes).

G399 Summary of Comments 62, 78:

Commenters state the draft Model Ordinance provisions extend beyond the language in the [statute] addressing existing landscapes; that the draft Model Ordinance requires monitoring of existing landscapes which was not addressed in the previous landscape ordinance or directed in the language of [the statute].

DWR Response: Reject. Comments regarding irrigation audits are general objections to the proposed regulation. Irrigation audits for existing landscapes are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (9)). Significant modifications were made to the irrigation audit sections and renumbered as Section 493.1 (existing landscapes). The Department’s modifications on the existing landscape provisions are appropriate and reasonable.

G400 Summary of Comment 140:

Commenter stated that the provisions for existing landscapes do not belong in the Model Ordinance; that the ordinance is an irrigation and landscape design guide; that provisions for

existing landscapes is more related to ongoing maintenance and operation and should not be contained herein. Commenter suggested removing provisions for existing landscapes.

DWR Response: Reject. Comments regarding irrigation audits are general objections to the proposed regulation. Irrigation audits for existing landscapes are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (9)). Significant modifications were made to the irrigation audit sections and renumbered as Section 493.1 (existing landscapes). The Department’s modifications on the existing landscape provisions are appropriate and reasonable because there is much opportunity for water conservation in existing landscapes. Maintenance is a provisions of AB 1881.

G401 Summary of Comment 45:

Commenter stated that audits and surveys are being required for landscapes not subject to the Model Ordinance; that this section requires surveys and audits to be conducted on existing landscapes installed prior to January 1, 2010. Commenter asked: “Why would audits and surveys be necessary on landscapes not subject to the Model Ordinance?”

DWR Response: Reject. Comments regarding irrigation audits are general objections to the proposed regulation. Irrigation audits for existing landscapes are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (9)). Significant modifications were made to the irrigation audit sections and renumbered as Section 493.1 (existing landscapes). The Department’s modifications on the existing landscape provisions are appropriate and reasonable because there is much opportunity for water conservation in existing landscapes.

G402 Summary of Comment 87:

Commenter stated that if [the Department] “insists upon requiring mandatory irrigation audits for existing landscaped areas, it would seem more appropriate to phase-in audits to allow for water agencies and local jurisdictions to develop and implement retrofit or rehabilitation programs.”

DWR Response: Reject. Comments regarding irrigation audits are general objections to the proposed regulation. Irrigation audits for existing landscapes are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (9)). Significant modifications were made to the irrigation audit sections and renumbered as Section 493.1 (existing landscapes). The Department’s modifications on the existing landscape provisions are appropriate and reasonable because there is much opportunity for water conservation in existing landscapes.

G403 Summary of Comment 77:

Commenter stated that [the provisions] could mean that all existing irrigation systems would have to be renovated and that homeowners would have to install expensive underground irrigation systems; that this is excessive and a huge impact on property owners.

DWR Response: Reject. Comments regarding irrigation audits are general objections to the proposed regulation. Irrigation audits for existing landscapes are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (9)). Significant modifications were made to the irrigation audit sections and renumbered as Section 493.1 (existing landscapes). The Department’s modifications on the existing landscape provisions are appropriate and reasonable because there is much opportunity for water conservation in existing landscapes. The modified text of the proposed regulation does not require that existing irrigation systems be renovated.

G404 Summary of Comments 33, 66, 82, 85, 108:

Multiple commenters stated that the landscape area on existing properties is generally unknown so there is no way to compare water use against local ET without knowing area; that [we] do not have information on the square footage of existing landscape areas on any properties and will have to conduct an inventory of ALL properties to determine which ones exceed 2,500 sq. ft.

DWR Response: Accept and reject in parts. Comments regarding irrigation audits are general objections to the proposed regulation. Irrigation audits for existing landscapes are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (9)). Significant modifications were made to the irrigation audit sections and renumbered as Section 493.1 (existing landscapes). More specifically, the minimum landscape size for existing landscapes requiring audits has been increased from 2,500 square foot to one acre (see Section 493.1 (a)). The Department's modifications on the existing landscape provisions are appropriate and reasonable because there is much opportunity for water conservation in existing landscapes. The local agency may choose to specify in their ordinance how to identify and classify existing landscapes so long as it meets Section 490.1 (a) (4).

G405 Summary of Comments 58, 62, 77, 82, 87, 88, 90, 111, 115,167:

Multiple commenters asked "Who will track and monitor the receipt of large landscape audit reports every five years?" Commenters stated that it is unclear what is intended to be accomplished with the data collected.

DWR Response: Reject. Comments regarding irrigation audits are general objections to the proposed regulation. Irrigation audits for existing landscapes are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (9)). Significant modifications were made to the irrigation audit sections and renumbered as Section 493.1 (existing landscapes). The Department's modifications on the existing landscape provisions are appropriate and reasonable because there is much opportunity for water conservation in existing landscapes. The local agency may choose to specify in their ordinance how to utilize the documentation collected existing landscapes.

G406 Summary of Comments 16, 18, 20, 33, 42, 45, 50, 55, 58, 59, 62, 68, 73, 76, 77, 78, 81, 84, 87, 88, 91, 98, 102, 110, 111, 115, 123, 140, 152, 164, 167, 168:

Multiple commenters stated that the requirements for audits and surveys on existing landscapes will create a significant cost to local agencies and water districts; that these requirements would place an untold burden on local agencies; that the logistics would be staggering; that the requirements are not enforceable; that many local agencies lack the resources to implement such on-going audits and to compile and analyze the resulting data.

DWR Response: Reject. Comments regarding irrigation audits are general objections to the proposed regulation. Irrigation audits for existing landscapes are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (9)). Significant modifications were made to the irrigation audit sections and renumbered as Section 493.1 (existing landscapes). The Department's modifications on the existing landscape provisions are appropriate and reasonable because there is much opportunity for water conservation in existing landscapes. Costs are addressed in the Initial Statement of Reasons, and later in the Final Statement of Reasons.

G407 Summary of Comments 55, 58, 59, 62, 164:

Multiple commenters stated that the [Initial] Statement of Reasons failed to consider the expense of audits and surveys.

DWR Response: Reject. Comments regarding irrigation audits are general objections to the proposed regulation. Irrigation audits for existing landscapes are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (9)). Significant modifications were made to the irrigation audit sections and renumbered as Section 493.1 (existing landscapes). The Department's modifications on the existing landscape provisions are appropriate and reasonable because there is much opportunity for water conservation in existing landscapes. Costs are adequately addressed in the Initial Statement of Reasons, and later in the Final Statement of Reasons.

G408 Summary of Comments 20, 68, 73, 84, 88:

Commenters stated that there are not enough auditors in California to carry out the number of irrigation audits required in the Model Ordinance and recommended striking the need for mandatory water audits.

DWR Response: Reject. Comments regarding irrigation audits are general objections to the proposed regulation. Irrigation audits for existing landscapes including certified irrigation auditors are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (9)). Significant modifications were made to the irrigation audit sections and renumbered as Section 493.1 (existing landscapes). The Department's modifications on the existing landscape provisions are appropriate and reasonable because there is much opportunity for water conservation in existing landscapes. Costs are adequately addressed in the Initial Statement of Reasons, and later in the Final Statement of Reasons.

G409 Summary of Comment 58, 59, 62, 82, 102, 111:

Commenters stated that audits and surveys should be the responsibility of water purveyors not local agencies; that the Model Ordinance includes a requirement to compare water use against the MAWA; that this makes the requirements dependent on local water agencies. Commenters suggested preparing separate enforcement legislation directed to water purveyors and directing these requirements to the water purveyor.

DWR Response: Reject. Comments regarding which entities are responsible for conducting water audits are general objections to the proposed regulation. Irrigation audits for existing landscapes are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (9)). Significant modifications were made to the irrigation audit sections and renumbered as Section 493.1 (existing landscapes). The Department's modifications on the existing landscape provisions are appropriate and reasonable because there is much opportunity for water conservation in existing landscapes. In addition, the ordinance was modified to *encourage local agencies to designate the necessary authority that implements and enforces the provisions of the Water Efficient Landscape Ordinance or its local landscape ordinance, Section 490 (b) (6).*

G410 Summary of Comment 14, 62, 111, 152:

Multiple commenters stated that [property] owners should not have to pay for audit if no violation is found; that there needs to be a reimbursement to the owner if the agency requires an extra audit, and does not find a violation; that the audit requirements place the expense of the audit on the customer.

DWR Response: Reject. Comments regarding irrigation audits are general objections to the proposed regulation. Irrigation audits for existing landscapes including certified irrigation

auditors are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (9)). Significant modifications were made to the irrigation audit sections and renumbered as Section 493.1 (existing landscapes). The Department's modifications on the existing landscape provisions are appropriate and reasonable because there is much opportunity for water conservation in existing landscapes. Costs are adequately addressed in the Initial Statement of Reasons, and later in the Final Statement of Reasons.

G411 Summary of comment 87:

Commenter stated that the twenty percent rule for mandatory audits seems arbitrary.

DWR Response: Accept in part. Irrigation audits for existing landscapes including certified irrigation auditors are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (9)). Significant modifications were made to the irrigation audit sections and renumbered as Section 493.1 (existing landscapes). The Department's modifications on the existing landscape provisions are appropriate and reasonable because there is much opportunity for water conservation in existing landscapes.

G412 Summary of Comments 44, 87:

Commenters stated that requiring landscapes over 2,500 sq. ft. to be audited is too small a landscape area; that landscapes between 2,500 sq. ft. and 5,000 sq. ft. are not required to have dedicated meters making audits a challenge. Commenters recommended changing the requirement to landscapes over 5,000 square feet.

DWR Response: Accept in part. Irrigation audits for existing landscapes including certified irrigation auditors are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (9)). Significant modifications were made to the irrigation audit sections and renumbered as Section 493.1 (existing landscapes). The Department's modifications on the existing landscape provisions are appropriate and reasonable because there is much opportunity for water conservation in existing landscapes. More specifically, the minimum landscape size for existing landscapes requiring audits has been increased from 2,500 square foot to one acre (see Section 493.1 (a)).

G413 Summary of Comments 55, 58, 59, 62, 77, 88, 100, 151, 164:

Commenters stated that requiring routine or mandatory audits is excessive; recommended developing "criteria to trigger an audit, such as, requiring an audit for a third offense only, or only for those sites where there has been a violation of a water waste ordinance, or only if the property exceeds the stormwater provision, or only for the worst 20%."

DWR Response: Reject. Irrigation audits for existing landscapes including certified irrigation auditors are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (9)). Significant modifications were made to the irrigation audit sections and renumbered as Section 493.1 (existing landscapes). The Department's modifications on the existing landscape provisions are appropriate and reasonable because there is much opportunity for water conservation in existing landscapes.

G414 Summary of Comments 16, 50, 55, 59, 82, 84, 87, 90, 167, 168:

Commenters stated that it is unlikely that residents would grant permission to enter their property for a landscape irrigation audit that they will be required to pay for. Commenters asked "What do you think that the chances will be that they will give us permission if they know that it will result

in a charge? Or does this propose that we shut off their water to meet the State mandate?” Commenters recommended that the audit requirement should be removed and replaced with a more stringent water waste prohibition requirement.

DWR Response: Reject. Irrigation audits for existing landscapes including certified irrigation auditors are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (9)). Significant modifications were made to the irrigation audit sections and renumbered as Section 493.1 (existing landscapes). The Department’s modifications on the existing landscape provisions are appropriate and reasonable because there is much opportunity for water conservation in existing landscapes. A local agency may choose to specify in their ordinance how to address and develop a protocol for property access.

G415 Summary of Comments 55, 123, 167:

Commenters stated that recovering cost for audits and surveys may not be realistic; that it is unreasonable to expect recovery of costs for an audit from a property owner that did not request the audit; that raising fees in an amount sufficient to cover this cost would not be palatable to the public. Commenter stated that “since Proposition 218, assessing fees to property owners has become more difficult and cumbersome for public agencies. Some local agencies may not be able to provide for-payment-services based on their city charter.” Commenters recommended removing landscape auditing and surveying requirements from the Model Ordinance. Commenters also recommended reducing the burden by exempting landscapes subject to tiered rates.

DWR Response: Reject. Irrigation audits for existing landscapes including certified irrigation auditors are part of the existing regulation (California Code of Regulations, Title 23 Section 492 (c) (9)). Significant modifications were made to the irrigation audit sections and renumbered as Section 493.1 (existing landscapes). The Department’s modifications on the existing landscape provisions are appropriate and reasonable because there is much opportunity for water conservation in existing landscapes. Costs are adequately addressed in the Initial Statement of Reasons, and later in the Final Statement of Reasons.

Summary and Response: Section 493.2 Water Waste Prohibitions

G416 Summary of Comment 74:

A commenter, a city, stated “they already impose penalties for wasted water, over spray, etc. and suggests instead of penalizing minor infractions such as low head drainage to concentrate on the satisfaction of the water budget for a project.”

DWR Response: Reject. The provision for water waste prohibitions is an existing regulation (California Code of Regulation, Title 23 Section 493 (b)) and does not duplicate existing local agency water waste prohibitions. The existing language (1992) for this provision was restored and the noticed language (February 2008) was deleted. Also, this section was renumbered Section 493.2.

G417 Summary of Comment 90:

A commenter stated “the water waste requirements in the proposed Model Ordinance are already required as part of Urban Water Management Plan BMP implementation and they should not be contained in a landscape ordinance.”

DWR Response: Reject. The provision for water waste prohibitions is an existing regulation (California Code of Regulation, Title 23 Section 493 (b)) and does not duplicate existing local agency water waste prohibitions or any demand management measure. The existing language (1992) for this provision was restored and the noticed language (February 2008) was deleted. Also, this section was renumbered Section 493.2.

G418 Summary of Comments 59, 100:

Commenter stated that the proposed Model Ordinance should include stronger water waste prohibitions in lieu of the audit requirement and provided the following language: “Water waste resulting from inefficient landscape irrigation, such as runoff, low head drainage, overspray, over-irrigation above a maximum applied water allowance, etc. is prohibited. Conditions where water flows onto non-targeted areas, such as adjacent property, non-irrigated areas, hardscapes, pathways, or structures are also prohibited. Penalties for violations may include warning letters, citations, monetary penalties, fines. First time violators may receive an audit and technical assistance in lieu of paying a fine. Persistent violators shall be mandated to obtain an audit to assess irrigation efficiency and make recommendations for improvements and repairs.”

DWR Response: Reject. The provision for water waste prohibitions is an existing regulation (California Code of Regulation, Title 23 Section 493 (b)) and does not duplicate existing local agency water waste prohibitions or any demand management measure. The existing language (1992) for this provision was restored and the noticed language (February 2008) was deleted. Also, this section was renumbered Section 493.2.

G419 Summary of Comment 62:

A commenter stated that the proposed Model Ordinance “requires monitoring of existing landscapes, which was not addressed in the previous model ordinance [AB 325] or directed in the language of AB 1881.”

DWR Response: Reject. The provision for water management of existing landscapes is part of the existing regulation (California Code of Regulation, Title 23 Section 493 (a)).

G420 Summary of Comment 102:

A commenter stated: “We believe there are strong synergies between the goals of AB 1881 and the objective of local stormwater programs to reduce landscape runoff. This is supported by the inclusion of Section 492.17 Stormwater management and Section 493.2 Water Waste Prevention in the [proposed Model Ordinance].”

DWR Response: Accept. The provision for water waste prohibitions is an existing regulation (California Code of Regulation, Title 23 Section 493 (b)) and does not duplicate existing local agency water waste prohibitions or any demand management measure. The existing language (1992) for this provision was restored and the noticed language (February 2008) was deleted. Also, this section was renumbered Section 493.2.

Summary and Responses: Section 494 and Section 495.4 Effective Precipitation

G421 Summary of Comment 4:

A commenter asked what background material was used to justify the effective precipitation rate of 25%: “We are currently in the process of deciding on how much rainfall to allow to be used in the calculation. I see in your [Model] Ordinance, you allow 25% of rainfall to be included in

your budget. We'd like to use something similar, so I wondered if you had a reasoning or citation to backup why you used this. I'm not finding anything in the literature about what percentage should be used because it depends on many, many variables. The Irrigation Association BMPs cite that no more than 50% should be used, but I'd like justification to go lower than that.”

DWR Response: Reject. Effective precipitation rate (25%) is part of the existing regulation (California Code of Regulations, Title 23 Section 494). The rulemaking record for AB 325 contained a document relied upon entitled “Technical Analysis for 25% Precipitation Limit, February 1989” prepared by the Department of Water Resources, Sacramento, which was noticed to the public in December 1991 during the rulemaking process for the original regulation.

G422 Summary of Comments 14:

Commenter requested “that a historical record of precipitation be included in the [Model Ordinance].”

DWR Response: Reject. The use of effective precipitation is optional. The local agency must determine the historical precipitation and decide if it is significant to be used in the water budget calculation. For more information, refer to the modified text of proposed regulations Section 492.4 (c) and Section 494. Though the Effective Precipitation Disclosure Statement Section was part of the existing regulation, the disclosure statement as Appendix D (Section 495.3) has been deleted from the proposed regulation.

G423 Summary of Comments 59: Commenter requested that the Model Ordinance explicitly state “that the use of effective precipitation is optional.”

DWR Response: Accept. Modifications were made to the provisions related to effective precipitation. First, the modified text of the regulation now states in Section 492.4 (c): “*If a local agency considers Effective Precipitation...*” Second, Section 494 states “*A local agency may consider Effective Precipitation...*”

G424 Summary of Comment 58: A commenter person asked “why is a separate statement required for effective precipitation? Why is the calculation not required in the MAWA calculations?”

DWR Response: Reject. The use of effective precipitation is optional. For more information, refer to the modified text of proposed regulations Section 492.4 (c) and Section 494. Though the Effective Precipitation Disclosure Statement Section was part of the existing regulation, the disclosure statement as Appendix D (Section 495.3) has been deleted from the proposed regulation.

Summary & Response: Section 495.1 Appendix A-ETo Tables

G425 Summary of Comment 58:

Commenter indicated that because weather changes occur in the future, this data [ETo tables] should be updated.

DWR Response: Accept parts. Appendix A is part of the existing regulation (California Code of Regulations, Title 23 Section 495). CIMIS data is regularly updated with current weather information. In the future, CIMIS data will be expanding to cover all areas of the State.

G426 Summary of Comment 3:

Commenter stated that the City of Lincoln is incorrectly listed in Sonoma County and asked for correction.

DWR Response: Accept. The ETo table has been corrected. The City of Lincoln is now listed in Solano County.

G427 Summary of Comment 56, 42:

Commenter stated that the City of Benicia is incorrectly listed in Contra Costa County and asked for a correction.

DWR Response: Accept. The ETo table has been corrected. The City of Benicia is now listed in Solano County.

G428 Summary of Comment 48:

Commenter stated that the two represented areas [in ETo table] for Yuba County, Browns Valley and Brownsville, do not accurately represent the County; that these two areas are located in the foothill community and the overwhelming majority of growth in the County is located in the valley region, south of the City of Marysville. Commenter requested that more relevant communities be represented in the ETo table.

DWR Response: Reject. Appendix A is part of the existing regulation (California Code of Regulations, Title 23 Section 495). The Department recognizes that there are deficits in geographical areas represented in ETo table and CIMIS data. At present, the Department is not able to provide data for all communities throughout the state. The ETo tables and CIMIS data are the best available data. In the future, CIMIS data will be expanding to cover all areas of the State. For areas not specifically covered in the tables or by CIMIS, those seeking relevant data may refer to data from other cities located nearby in the same Evapotranspiration Zone, as provided on the Department's Evapotranspiration Zone Map.

G429 Summary of Comment 14:

Commenter indicated that there is no website available to access the ETo Table information and requested that a website address be provided to get the information.

DWR Response: Accept. The Department will consider posting the ETo Table on the internet.

G430 Summary of Comments 99, 48:

Commenter requested that more CIMIS stations should be added throughout the State; that more modified station locations should be provided to get the increased amount of micro-climates within developed areas within cities and counties.

DWR Response: Accept and reject in parts. The Department recognizes that there are deficits in geographical areas represented in ETo table and CIMIS data. At present, DWR is not able to provide data for all communities throughout the state. The ETo tables and CIMIS data are the best available data. In the future, CIMIS data will be expanding to cover all areas of the State. For areas not specifically covered in the tables or by CIMIS, those seeking relevant data may refer to data from other cities located nearby in the same Evapotranspiration Zone, as provided on the Department's Evapotranspiration Zone Map

G431 Summary of Comments 58, 59:

Commenter stated that the data in the reference tables do not correspond to the data from the CIMIS system. Commenter requested clarification on where the information comes from.

DWR Response: Reject. Appendix A is part of the existing regulation (California Code of Regulations, Title 23 Section 495). The data in the ETo Tables is derived from : 1) California Irrigation Management Information Systems (CIMIS) 2) Reference EvapoTranspiration Zone Map, UC Dept. of Land, Air & Water Resources and California Department of Water Resources 1999, 3) Reference Evapotranspiration for California, University of California, Department of Agriculture and Natural Resources (1987) Bulletin 1922 4) Determining Daily Reference Evapotranspiration, Cooperative Extension UC Division of Agriculture and Natural Resources (1987) Publication Leaflet 21426. This information is stated in Appendix A, at the bottom of the ETo Tables.

G432 Summary of Comments 58, 59:

Commenter stated that actual CIMIS data should be used for irrigation purposes; that these should be listed for reference only. Commenter requested that the [ETo table] should state “this table should be used for design purposes only.”

DWR Response: Reject. Appendix A is part of the existing regulation (California Code of Regulations, Title 23 Section 495). In the Model Ordinance, Section 492.4 Water Efficient Landscape Worksheet, (c) last paragraph, states, “The ETo values used in these calculations are from the reference ETo Table in Appendix A for planning purposes only. For actual irrigation scheduling a project applicant shall use current reference evapotranspiration (ETo) data, such as from the California Irrigation Management Information System (CIMIS) or other self-adjusting device (e.g., soil moisture sensor).”

G433 Summary of Comment 44:

Commenter asked if the [ETo] “table agrees with the most current recorded weather data? The footnote at the end of the table states the data is taken during the 1980’s and 1990’s. Is this correct and applicable to year 2010 when the ordinance is proposed to be in effect?”

DWR Response: Reject. Appendix A is part of the existing regulation (California Code of Regulations, Title 23 Section 495). Data from the ETo table is a compilation of data from four sources - 1) California Irrigation Management Information Systems (CIMIS) 2) Reference EvapoTranspiration Zone Map, UC Dept. of Land, Air & Water Resources and California Department of Water Resources 1999, 3) Reference Evapotranspiration for California, University of California, Department of Agriculture and Natural Resources (1987) *Bulletin 1922* 4) Determining Daily Reference Evapotranspiration, Cooperative Extension UC Division of Agriculture and Natural Resources (1987) *Publication Leaflet 21426*.

CIMIS data is the current weather data, other sources are based on historical data. This table provides the best available data for the most cities and is to be used for planning purposes. Actual irrigation scheduling shall be based on current ETo data, such as CIMIS or soil moisture sensors, which are current data.

G434 Summary of Comments 163, 150:

Several commenters stated that ET rates are not stable and uniform.

DWR Response: Reject. Appendix A is part of the existing regulation (California Code of Regulations, Title 23 Section 495). The Department recognizes that there are deficits in geographical areas represented in ETo table and CIMIS data. At present, the Department is not able to provide data for all communities throughout the state. The ETo tables and CIMIS data are the best available data. In the future, CIMIS data will be expanding to cover all areas of the State.

G435 Summary of Comment 163:

Commenter stated that ETo numbers can not be directly applied to a wide array of landscapes; that nearly all the CIMIS numbers are based on turf - not landscapes or gardens, which are much more complex systems. Commenter also stated that this is a difficult problem to solve, and a number of people (particularly at UC) are trying to solve it.

DWR Response: Reject. Appendix A is part of the existing regulation (California Code of Regulations, Title 23 Section 495). The ETo data provided by CIMIS is the best available data to be used for all landscapes and crops in the State. Should better data become available in the future, the Department will consider methods for incorporating the new data into current ETo calculations.

H. SUMMARY AND RESPONSES FROM THE NOTICED AND EXTENDED 15-DAY PUBLIC COMMENT PERIOD (NOVEMBER 26, 2008 THROUGH DECEMBER 30, 2008)

General Comments

H1 Summary of Comments: 55.1, 58.3, 38.3, 34.12, 52.2, 51.2, 43.1, 14.1, 24.9, 15.1, 46.1, 67.4, 46.3, 24.8

The requirements of this Model Ordinance constitute an unfunded state mandate on local agencies.

DWR Response: Reject

The Model Ordinance has been modified and requirements streamlined. The new requirements may have some cost for the applicants to design and install the system and for completing an audit, but the cost to local agency is negligible or none. The Model Water Efficient Landscape Ordinance is an existing regulation in effect since 1992 (California Code of Regulations, Title 23 Section 490-495) Most of the requirements are already in existing regulations so the Model Ordinance is not adding any additional significant costs. Furthermore, the local agencies charge for reviewing the plans and therefore will be able to recover their costs. The applicant(s) will have some initial costs but because of water conservation, they will also recover the additional costs through reduced water charges.

H2 Summary of Comments: 38.3, 58.3, 51.2, 20.1, 14.1, 55.3, 24.8

The requirements of this Model Ordinance increase costs to local and small businesses and/or applicants.

DWR Response: Reject

The Model Ordinance has been modified and requirements streamlined. The new requirements may have some cost for the applicants to design and install the system and for completing an audit, but the cost to local agency is negligible or none. The Model Water Efficient Landscape

Ordinance is an existing regulation in effect since 1992 (California Code of Regulations, Title 23 Section 490-495) Most of the requirements are already in existing regulations so the Model Ordinance is not adding any additional significant costs. Furthermore, the local agencies charge for reviewing the plans and therefore will be able to recover their costs. The applicant(s) will have some initial costs but because of water conservation, they will also recover the additional costs through reduced water charges.

H3 Summary of Comments: 49.98

Where is section on grey water? Perhaps something like: "Nothing in this Model Ordinance shall be construed to limit or prevent the use of grey water or grey water systems for landscape irrigation. Grey water use is encouraged. "

DWR Response: Reject

There are no provisions in the Model Ordinance that prohibit or discourage the use of grey water. Addition of new language explicitly stating this is not necessary.

H4 Summary of Comments: 36.4, 38.4

Synthetic turf is heavily promoted as a water-conserving design solution, yet it doesn't appear to be addressed in the Model Ordinance. We suggest that synthetic turf be defined as a pervious hardscape, not be included in the MAWA calculation.

DWR Response: Reject

DWR intends to avoid being overly prescriptive and, therefore, does not delineate what is included as a pervious hardscape. Synthetic turf will not be specified in the Model Ordinance.

H5 Summary of Comments: 43.1, 36.12, 39.1, 46.1, 46.2, 55.2

Request clarification on determining "At Least As Effective As"

DWR Response: Reject

Local agencies which choose to adopt their own ordinances must adopt an ordinance that is at least as effective in meeting the requirements of the statute (Statute of 2006, Chapter 559 [AB 1881]) as the Model Ordinance.

H6 Summary of Comments: 18.2

As designers we have a concern with increased liability this Model Ordinance may cause. There are so many factors beyond our control that can affect the outcome of a landscape project even though we may have designed it to meet the strict requirements and regulations. Water budgets and total water use are at best estimates. Who gets penalized when the future water analyses and water audits fail to meet the design's original figures?

DWR Response: Reject

Beyond scope of the statues (Statues of 2006, Chapter 559)

H7 Summary of Comments: 32.1

No where do we see that you have addressed landscaping needs in hillside areas that are still open to wildlife and aviary inhabitation. There is no planning for these wildlife corridors to remain somewhat intact. The wildlife depends on the natural plants and trees with some modification of those trees planted 100 years or so ago. Water needs for wildlife need proper analysis and consideration which is not a part of this document. The local agencies tend to

bypass the natural landscape because of tax increases of building. The loss of a natural habitat does affect water. Some type of requirement is needed to address natural watersheds and the retention. You have not addressed agriculturally zoned land in city boundaries. Water conservation needs to also be tied into Flood Management. What analysis is required to retain runoff on undeveloped hillsides or partially developed hillsides in a liquefaction, methane or landslide zone?

DWR Response: Reject/Accept/Accept in Part

Beyond scope of the statute (Statutes of 2006, Chapter 559).

H8 Summary of Comments: 64.1

We do not believe that the modified MWELo sufficiently addresses all concerns raised by other parties and by the City in our March 27, 2008 correspondence. Such concerns pertain to stringent landscaping review criteria and auditing requirements proposed by the California Department of Water Resources (DWR).

DWR Response: Reject

All comments received were considered and responded to. These comments and responses will be available in the Rulemaking Record. See responses to 45-Day Public Comments: comment G70, commenter 84. Procedures for rulemaking are established by the Administrative Procedures Act and have been adhered to in this rulemaking process.

H9 Summary of Comments: 52.1

We feel that the major concerns that we pointed out in our previous letter were rejected without in our opinion adequate explanation. Furthermore, to allow us to only comment on those areas that have been changed without allowing for rebuttal comments of the DWR responses isn't in the best interest of the people of California and would suggest that there is a perceived 'rush to judgment' on behalf of those who are reviewing the public comments.

DWR Response: Reject

All comments received were considered and responded to. All comments and responses will be available in the Rulemaking Record. See responses to 45-Day Public Comments: G1, G36, G54, G110, G328, G330, G336, G171, G174. Procedures for rulemaking are established by the Administrative Procedures Act and have been adhered to in this rulemaking process.

H10 Summary of Comments: 67.1

If this is truly a "model" ordinance for potential, local adoption and implementation we can live with it and modify the objectionable portions at that time. IF, however, this is a State mandated ordinance I have serious questions, both legal and practical, regarding it. I didn't even hear of this until about a month ago. That may be my own fault or it may be because the bulk of this work, committees, etc. were done in house. I suspect that the vast majority of this document was generated, developed and modified by departmental staff. It appears that "professionals" in the private sector have had some influence to insure their own future affluence from the work to be generated.

DWR Response: Reject

This is a Model Ordinance. This is a general objection to the proposed regulation and does not address a specific provision.

H11 Summary of Comments: 6.1

I oppose any and all attempts to regulate current water use by anyone until there is a moratorium on new construction of all types of housing. It will be very hard to believe that you are serious about water conservation until this happens.

DWR Response: Reject

This is a general objection to the proposed regulation and does not address a specific provision.

H12 Summary of Comments: 24.10

The cost/benefit ratio of implementing the Model Ordinance as written equates to a minimal overall water savings.

DWR Response: Reject

This is a general objection to the proposed regulation and does not address a specific provision.

H13 Summary of Comments: 43.1, 67.6

From the viewpoint of industry, local agencies and prospective applicants, the regulation is hyper-technical and has little meaning for the non-landscape professional.

DWR Response: Reject

This is a general objection to the proposed regulation and does not address a specific provision.

H14 Summary of Comments: 35.1

While we all agree that there is a need to conserve water use in the landscape, I feel that the updated Model Ordinance has not changed very much and has been word-smithed around to look different but say the same thing as the original draft and is doomed to crash under its own weight. Nobody wants to see this happen. It is disappointing to know that in the last 9 months DWR has only found time to reply to a handful of comments. If I understand the rule making process, DWR must respond to all of the comments to the Model Ordinance. Why has DWR not responded to all of the public comments? It was obvious that DWR paid little attention to the professionals of the landscape industry and what they had to say. It is as if DWR believes that the industry professionals who commented had something to gain by requesting changes in the Model Ordinance. In reality this is far from the truth. Professionals like myself in the landscape industry will be able to double or triple their design fees and contractors construction costs and fees will be increased. The comments by the professionals from the landscape industry chose to comment for the betterment of the industry. DWR chose to counter the constructive comments of industry professionals by citing 500 plus identical comments from non-industry individuals. These non-industry individuals supported the 0.7 ET adjustment factor, the 24" setback requirement and the increased compliance and enforcement mechanisms. These scripted letters stated that a 24 setback requirement will help to reduce wasteful and polluted runoff water and that water agencies like Coachella already require drip irrigation or low volume flow on this 24" setback. It is clear that these non-industry individuals who support the changes do not fully understand the impact of such changes.

DWR Response: Reject

All comments received were considered and responded to. These comments and responses will be available in the Rulemaking Record. See responses to 45-Day Public Comments: G6, G16, G176, G181, G368. Procedures for rulemaking are established by the Administrative Procedures

Act and have been adhered to in this rulemaking process. Other comments are general objections to the proposed regulation and do not address a specific provision.

Section 490 Purpose

H15 Summary of Comments: 49.1

(a) (4) can "active and passive" be dropped? Also, "passive" is not included in definition of recreation area or special landscape area. Please clarify and make consistent.

DWR Response: Reject

DWR's intent is that areas used for most recreation are considered active recreation areas. Local agencies may adopt their own Model Ordinance that modifies language to accommodate local conditions, as long as the local ordinance is at least as effective as the Model Ordinance in meeting the requirements of the statute (Statute of 2006, Chapter 559 [AB 1881]).

H16 Summary of Comments: 66.1

Add "reducing storm-water runoff". Stormwater runoff best management practices are supported throughout the document.

DWR Response: Reject

This purpose can be understood as part of Section 490(a) (3) states... "to prevent the waste of this valuable resource (water)." It is not necessary to state this explicitly.

H17 Summary of Comments: 49.2

(b)(2) establish a structure for planning, designing, installing, maintaining and managing...ADD "and rehabilitating and renewing"

DWR Response: Reject

The current language in (b) (2) adequately addresses rehabilitation with "...in new construction and rehabilitated projects."

H18 Summary of Comments: 49.3

(b) (4) strike "use water efficiently without waste by setting" and replace with "create and set"

DWR Response: Reject

Such a change is unnecessary and does not alter the purpose or goals of the Model Ordinance.

H19 Summary of Comments: 67.3

490 (b) (4) should say "to a practical" rather than "to the lowest practical" ... the latter is too open to interpretation.

DWR Response: Reject

Current language adequately conveys the intent of the Model Ordinance to conserve water by specifically stating "lowest".

H20 Summary of Comments: 49.4

(b) (4) strike "...and reduce" and replace with "encourage the reduction of" or some consistent grammar.

DWR Response: Reject

Such a change is unnecessary and does not alter the purpose or goals of the Model Ordinance.

H21 Summary of Comments: 49.6

(b) (6) and (7) Replace "encourage" with "authorize"

DWR Response: Reject

The statute (Statue of 2006, Chapter 559) does not allow this.

H22 Summary of Comments: 43.2, 64.1, 55.4, 43.3, 24.7

The Model Ordinance is applicable to local agencies only. The water purveyor is not subject to the Model Ordinance, although the Model Ordinance would allow the City to ask the water purveyor "to implement some, or all of the requirements contained in this Model Ordinance." "There is no obligation on the part of the water purveyor to accept any implementation responsibility, and, as such, this Section should be deleted.

DWR Response: Accept in Part

The statute (Statue of 2006, Chapter 559) does not allow for language that obligates water purveyors. Local agencies are encouraged to designate the necessary authority that implements and enforces the provisions of the Model Water Efficient Landscape Ordinance or its local landscape ordinance.

H23 Summary of Comments: 22.1, 37.5

It appears that all reference to a local agencies ability to develop and adopt an "as good or better" ordinance separate from the proposed State Model Ordinance has been deleted. Does the option for local jurisdictions to prepare an ordinance that is comparable to the State's Model still exist? In deleting this item, does it now mean that the only option is to adopt the State Model Ordinance?

DWR Response: Reject

The obligation to adopt such a Model Ordinance, or one as least as effective, is still in place. This language was removed because it exists in the statute and should not be repeated in the proposed regulation.

H24 Summary of Comments: 44.1

Please include language that would allow the adoption of an ordinance that would result in equivalent or greater water efficiency when compared to the State Model Ordinance.

DWR Response: Reject

The allowance to adopt an ordinance "at least as effective" is still in place. This language was removed because it exists in the statute and should not be repeated in the proposed regulation.

H25 Summary of Comments: 34.13, 43.41

Since DWR will be finalizing its update later than anticipated, it is requested that local jurisdictions also receive a proportional extension for their adoption.

DWR Response: Reject

The statute (Statute of 2006, Chapter 559 [AB 1881]) does not authorize the Department to offer such an extension, however, it is anticipated that one will be permitted. .

Section 490.1 Applicability

H26 Summary of Comments: 43.1, 43.6, 64.14, 43.5, 38.6, 18.3, 27.1, 46.1

Few jurisdictions have an independent “landscape permit.” This Model Ordinance does not create a requirement for a landscape permit and most cities do not have such a requirement. The Model Ordinance is unclear as to whether cities must establish this new permit.

DWR Response: Reject

The statute (Statute of 2006, Chapter 559 [AB 1881]) did not authorize the Department to include such a requirement in the Model Ordinance.

H27 Summary of Comments: 43.6

A building permit is required to install a hot water heater or a new window in a building. Is such a permit application really intended to trigger the provisions of the Model Ordinance?

DWR Response: Reject

The full language of these requirements 490.1 (a) (1) (2) and (3) clearly states that this Model Ordinance applies to landscape projects.

H28 Summary of Comments 55.5, 34.10

The Model Ordinance does not exempt landscape projects that rely on groundwater. Groundwater projects do not require an enforcement mechanism, such as a water meter, to determine compliance with a Maximum Applied Water Allowance (MAWA). Without effective enforcement, groundwater projects should be exempt from the Model Ordinance. Properties that exclusively used groundwater should be exempt from the Model Ordinance. As a local water agency, the City of Poway would have no way of monitoring actual water consumption for customers who rely on well water.

DWR Response: Reject/Accept/Accept in Part

The statute (Statute of 2006, Chapter 559 [AB 1881]) does not address water source. Tracking of water use in non-adjudicated groundwater basins is difficult. Local agencies may choose to address this issue. However, the provisions for the design, installation and maintenance in the Model Ordinance are effective for water conservation, regardless of the water source.

H29 Summary of Comments: 47.1, 57.1, 20.1, 65.4

The sites subject to this section are not likely to be technically capable of completely and accurately documenting all the components of the Landscape Documentation Package. As such, recommend a more streamlined documentation package be defined for these sites. (a)(3) is inappropriate for all but the very largest residential landscapes (what we sometimes call residential estates) and simply will not work in practice. CLCA suggests that the Department replace the 5000-square-foot trigger with a 10,000- square-foot trigger. Consider the use of a simplified compliance process for homeowner-hired or homeowner-provided landscapes less than 10,000 square feet.

DWR Response: Reject

Modifications were made as a result of the 45 day comment period. The Department finds the remaining requirements necessary to ensure water conservation. All comments received were

considered and responded to. All comments and responses will be available in the Rulemaking Record. See responses to 45-Day Public Comments G62, G67, G72, G117.

H30 Summary of Comments: 49.8, 66.4

(a)(3) Return to 2500 sq ft. The great majority of properties developed in California have landscape areas far less than 5,000 square feet. Requiring water efficiency only in landscapes above 5,000 square feet will do little to change water use patterns.

DWR Response: Reject

The change from 2500 sq ft to 5000 sq ft is limited to home-owner installed only. This change is in response to public comments that 2500 square feet would have imposed a significant burden to property owners and businesses.

H31 Summary of Comments 43.7

490.1 is triggered by minimum square footage and other factors differentiating between developer installed and homeowner installed landscaping. The Model Ordinance should base application on a more neutral trigger, such as the submission of permit application. It would be easy to avoid the application of the Model Ordinance by simply splitting up the projects especially as they apply to rehabilitation projects.

DWR Response: Reject

All comments received were considered and responded to. All comments and responses will be available in the Rulemaking Record. See responses to 45-Day Public Comments: G381, G393.

H32 Summary of Comments 43.4

Model Ordinance states it applies to new construction, rehabilitated landscapes for public agency projects and private development with a total project landscaped area equal to or greater than 2500 sq. ft. requiring a “building or landscape permit, plan check or design review.” Later, the requirement is for rehabilitated landscapes, not just rehabilitated landscapes for public agency projects. What is the distinction between Section 490.1(a) (1) and (2). Wouldn’t subsection (2) always fall within the definition of subsection (1) because “developer-installed” is included within “private development projects”?

DWR Response: Reject

The Model Water Efficient Landscape Ordinance is an existing regulation in effect since 1992 (California Code of Regulations, Title 23 Section 490-495) Developer installed landscape projects are private development projects, but this separation of applicability clarifies that developer installed single family home (eg. tract homes) landscaping has a smaller threshold (2500 sq. ft.) than homeowner provided landscaping at individual single family homes (5000 sq. ft.) 490.1 (a) (3).

H33 Summary of Comments 49.7, 66.3

(a) (3) Retain "...and rehabilitated landscapes". The great majority of water is used in existing landscapes. An ordinance that does not pertain to rehabilitated landscapes will do little to change water use patterns in the state.

DWR Response: Reject

In section (a) (1) and (2) rehabilitated landscapes are included. Removing rehabilitated landscapes from (a) (3) exempts only the rehabilitated homeowner-provided or homeowner-hired

landscaping projects less than 5000 square feet. The Department's intent is to lessen the burden on such projects.

H34 Summary of Comments: 65.4

If a property owner develops a single-family residence on a single lot which has a landscape area between 2,500 and 5,000 square feet and the property owner has intent to sell the property, ambiguity exists as to whether this property owner be considered a homeowner or developer for the purposes of implementing the MWELo. The City recommends that the term "homeowner" be defined by the MWELo.

DWR Response: Reject

Local agencies will make such determinations.

H35 Summary of Comments: 43.1, 43.8

Close loopholes to ensure broad applicability (e.g., eliminate exemption for cemeteries) Cemeteries should not be given special exemptions except as special landscape areas. Like public parks they should be required to stay within the 1.0 ETAF.

DWR Response: Reject

The exemption for cemeteries is within the statute (Statute of 2006, Chapter 559 [AB 1881]).

H36 Summary of Comments: 37.6

490.1(b).4 Add water conservation gardens to the list of exempted sites.

DWR Response: Reject

Water conservation gardens will comply with the Model Ordinance and serve as demonstrations of its implementation.

Section 491 Definitions

Applied Water

H37 Summary of Comments: 49.11

A commenter states that the following definition may have possible loophole: "applied water" means the portion of water supplied by the irrigation systems to the landscape

DWR Response: Reject.

Applied water means water applied to the landscape area through irrigation or other means. Not rain.

“At Least as Effective”

H38 Summary of Comments: 36.12, 39.1, 46.1, 46.2, 55.2, 43.1

“We would appreciate some clear direction of how each public agency can determine whether their ordinance is “at least as effective” as the State Model Ordinance.” “We would recommend a SMO that retains the specifics for agencies that choose to follow the SMO, but also sets performance levels as an alternative to the specific requirements outlined in the ordinance.

DWR Response: Reject

Because the statute does not stipulate that the Department will make this determination, nor give any direction on how to do so, the locally adopted ordinance must meet the standard of at least as effective as the Model Ordinance in meeting the requirements of the statute (Statute of 2006, Chapter 559 [AB 1881]).

Certified Irrigation Auditor

H39 Summary of Comments: 37.7, 37.8, 38.8, 44.2, 44.3, 59.1, 26.2, 61.1, 61.2, 17.4, 19.1

Definition of certified landscape irrigation auditor and designer Certification should be provided by an EPA WaterSense partner, which would encompass education institutions and professional organizations. However, it is critical that “low volume irrigation” audit training become a mandatory part and greater focus of any landscape irrigation auditing curriculum or certification. IA suggests the Department develop a process by which certification programs would be recognized by state and local governments, complimented by a renewal process that would ensure the program maintains pace with industry advancements and new technologies. This would also provide for new auditing methodologies that may arise due to advances in technology. The definition for "certified landscape irrigation auditor" uses the term accredited education institution, while the definition for "certified irrigation designer" uses the term academic institution.

DWR Response: Accept in Part

The definitions have been clarified and made consistent. EPA Watersense has been added as a qualified certifying organization.

Certified Irrigation Designer

H40 Summary of Comments: 26.3, 49.12

The applicant that initially hires the designer will not realize that the designer may not be certified from a recognized institution. Same comment above for the certified landscape irrigation auditor who needs proof of their credentials. Accredited academic institution is preferred.

DWR Response: Accept.

The definition has been changed to “accredited academic institution.” As way to promote their business, a Certified Auditor and Designers will advertise that fact.

Controller

H41 Summary of Comments: 49.13, 49.14

Remove the word "timing" from '...an automatic timing device...'. "A weather-based controller is a controller that uses (INCLUDE THE WORD ACTUAL) evapotranspiration..."

DWR Response: Reject.

The "timing" component of this definition refers to the time of day and the length of time that the controller opens the valve to allow irrigation. The evapotranspiration data sources may include real time, historical or a combination of both. The evapotranspiration data sources used by self adjusting irrigation controllers may include real time, historical or a combination of both.

Ecological Restoration Projects

H42 Summary of Comments: 49.15, 66.7

"...a project where (strike “THE” and replace with “A PREVIOUSLY DISTURBED”) site is...." k): Delete “indigenous, historic”. Replace with “local watershed-appropriate”. After “ecosystem” add “suitable to current local climate and soil conditions”. Any “restoration” should become self-sustaining, so the ecosystem design must fit current conditions.

DWR Response: Reject.

This definition is from the existing regulation and is still relevant. "Indigenous and historic" imply climate and ecosystem appropriate plant selection. Ecological restoration projects are exempt because they are self sustaining and need no permanent irrigation system.

Effective Precipitation

H43 Summary of Comments: 49.16

"the portion of total precipitation that (strike IS and replace with COULD BE) used by ..."

DWR Response: Reject.

Such a change is not necessary and does not clarify any requirement of the Model Ordinance.

Established Landscapes

H44 Summary of Comments: 66.8 (Late)

(n) Change "or two" to "or three" in last sentence. Justification: Most deep-rooted water-conserving plants need at least 3 years to establish deep enough roots to survive without additional water. The depth of the roots, not just the size of the root ball, is a very important factor in water conservation.

DWR Response: Reject

If the landscape designer believes the plants chosen need additional time to establish, the irrigation scheduling parameters will reflect that.

Establishment Period

H45 Summary of Comments: 49.18

"...or the first two years if irrigation will be (add REDUCED UNTIL) terminated after establishment."

DWR Response: Reject

If the landscape designer believes the plants chosen need a tapering-off of irrigation, the irrigation scheduling parameters will reflect that.

Estimated Total Water Use

H46 Summary of Comments: 44.4

Page 6, Section 491 (p) Estimated Total Water Use - Please replace "the total water used for the landscape as described in Section 492.4 " with "the sum of the Estimated Total Water Use calculations for all hydrozones within a landscape project shall not exceed the Maximum Applied Water Allowance as described in"

DWR Response: Reject.

The statement "ETWU shall not exceed MAWA" is located in 492.4 (d).

ET Adjustment Factor

H47 Summary of Comments: 12.1

q) The fact that MAWA for existing landscapes is calculated with an adjustment factor of 0.8 is very important and in sharp contrast to the 0.7 factor for new or modified sites. This should be stated here and not buried only in 491 (q).

DWR Response: Accept.

This has been clarified.

Evapotranspiration Rate

H48 Summary of Comments: 49.19, 66.10 (Late)

(r) Add “period of” after “...specified”. The definition should also require the season and general time of day (morning, noon, dusk, night, midnight). Justification: The definition is not specific enough. "...from adjacent soil and other surfaces..." what does this mean?

DWR Response: Reject.

Such a change is not necessary and does not clarify any requirement of the Model Ordinance. This definition needs no further clarification.

Graywater

H49 Summary of Comments: 66.13(Late)

(aaa) Question: Where does “gray water” fit in these definitions? Many residents in the mountains, at least, use gray water for landscaping or send it down the storm drains.

DWR Response: Reject

Graywater is not addressed in this Model Ordinance. The use of Graywater is legal as a source of subsurface irrigation. It is not legal to dispose of graywater in storm systems. Graywater that is not used for subsurface irrigation should be disposed of in sanitary systems.

Hardscapes

H50 Summary of Comments: 43.9

“hardscapes” includes any durable surface material, both pervious and non-pervious. To promote the use of pervious materials in order to permit rainwater or other water on hardscapes to reach the underlying soil and provide for potential groundwater recharge, we believe that the definitions should differentiate between pervious and non-pervious hardscapes, thereby encouraging the use of pervious hardscapes where appropriate.

DWR Response: Reject

Hardscapes are defined as durable surface materials that are pervious or non-pervious, additional definition is not required. Practices that encourage groundwater recharge exist throughout the Model Ordinance.

Irrigation Efficiency

H51 Summary of Comments: 64.10(Late)

Irrigation Efficiency: under the definition of "irrigation efficiency," is the minimum efficiency of 0.71 an overall standard that applies to all types of development (e.g. 'residential, industrial, commercial, recreational, etc.)?

DWR Response: Accept in parts.

The minimum *average* irrigation efficiency is 0.71 and applies to all new and rehabilitated irrigation systems. The definition has been clarified.

Irrigation

H52 Summary of Comments: 8.1

Providing a definition for the similar terms “Irrigation Audit” and “Irrigation Survey” could cause confusion. An irrigation survey is not defined by any professional organization, and exists

solely within this Model Ordinance. The term “Irrigation Audit” should reference the Irrigation Association (IA) definition and certificate, as the professional organization which administers the Irrigation Auditor certificate process. This will help avoid the Model Ordinance from becoming outdated should the definition of an Irrigation Audit or Irrigation Auditor be modified in the future.

DWR Response: Reject.

The definition of Irrigation Audit is sourced from the Irrigation Association. Other organizations may also certify Irrigation Auditors. "Irrigation Survey" is for the purposes of this Model Ordinance to define a practice that is done by non-certified auditors. The term “Irrigation Survey” is also used by the California Urban Water Conservation Council and many water agencies. The definitions are clear.

H53 Summary of Comments: 43.10

“irrigation water use analysis means an analysis of water use data based on meter readings and billing data.” This information is not typically available to local agencies that are not also water purveyors.

DWR Response: Reject. This is beyond the scope of the Model Ordinance. The statute was directed to local agencies. Cooperation between agencies is encouraged when the local agency is not the water purveyor. The local agency always has the power to enforce the design and implementation provisions of the Model Ordinance.

Landscape Area

H54 Summary of Comments: 66.5, 61.3, 41.2, 38.4, 66.2(late), 64.5 (Late), 34.4, 36.1, 18.5

Change "landscape area" definition to include sidewalks, driveways, parking lots, decks, patios, etc - or the site area excluding the building footprint. Justification: The current definition does not include hardscape and can be used as a loophole by developers. As it currently reads, the Model Ordinance can be avoided by including more hardscape in the design. The formula does not account for the fact that the areas being excluded from the calculation have the potential to be used for landscaping. Future conversion of these areas would increase the MAWA, and thus allow for additional water use. Definition should be further refined to include permanently mulched areas. Artificial Turf should be included as permanently mulched areas. To provide more clear definition we propose to include mulch within the definition as follows. The Model Ordinance definition of “landscape area” is really “planting areas” for a project site. This is not consistent with the definition of “landscape area” in site planning by architects, landscape architects, engineers, and planners. Our definition for this term encompasses all the non-building areas.

DWR Response: Reject.

The definition of "Landscape Area" is part of an existing regulation. For purposes of this water conservation ordinance, the landscape area is the area with living plant materials that need water to live and water features. Structures and other features may be part of a landscape plan but are irrelevant to this Model Ordinance. Gravel, stone and mulched areas that are integrated into the landscape but not paths to travel, are part of the landscape area and included in the water budget calculation. Sidewalks, and other paths to travel, driveways, parking lots, decks and patios are not part of the landscape area.

Landscape Contractor

H55 Summary of Comments: 43.12, 49.22

This limits the definition of a landscape contractor to a person with a valid C-27 license.

DWR Response: Accept in Part

The roles and responsibilities of landscape professionals have been clarified. See the California Business and Professions code, California Code of Regulations and the Food and Agriculture Code for guidance on the privileges and limits of licensed and unlicensed landscape professionals.

Local Agency**H56 Summary of Comments: 43.13, 26.6, 26.7**

“Local agency is also responsible for the enforcement of this ordinance, including but not limited to approval of a permit and plan check or design review.” This implies the only enforcement required is the permit, plan check or design review approval. Administration and implementation of a regulatory program is not typically considered enforcement of that program.

DWR Response: Reject

In the definition of local agency, "including but not limited to" implies that local agencies may do whatever is appropriate in their jurisdictions to implement the Model Ordinance. The phrase "adopting and implementing the ordinance" means that the local agency is responsible to implement a water efficient landscape ordinance. Coordination and cooperation with various water agencies in your jurisdiction will make implementation and enforcement of the Model Ordinance easier.

Local Water**H57 Summary of Comments: 66.11**

How are private wells situated on-site handled under these regulations?

DWR Response:

The statute (Statute of 2006, Chapter 559 [AB 1881]) does not address water source. Tracking of water use in non-adjudicated groundwater basins is difficult. Local agencies may choose to address this issue. However, the provisions for the design, installation and maintenance in the Model Ordinance are effective for water conservation, regardless of the water source.

Low Volume Irrigation**H58 Summary of Comments: 43.14, 38.6, 38.7, 36.10, 64.11(Late)**

Should be restored to include systems that have a flow rate of .75 or less. If a specific flow rate is not desirable the following definition is recommended: “Low volume irrigation means the application of irrigation water through a system of tubing or lateral lines and low-volume emission devices. Low volume irrigation systems are specifically designed to apply small volumes of water at a rate similar to the ability of soil to uptake the water.”

DWR Response: Accept

The Model Ordinance has been clarified to allow irrigation with a precipitation rate of 0.75 inches per hour or less in most applications. The precipitation rate is less than many soil absorption rates.

MAWA**H59 Summary of Comments: 49.23, 49.24, 12.7**

Note that MAWA is a maximum. All designers and users are encouraged to create landscapes which use much less than the MAWA. The fact that MAWA for existing landscapes is calculated with an adjustment factor of 0.8 is very important and in sharp contrast to the 0.7 factor for new or modified sites. This should be stated much earlier in the overall document under 491 (q).

DWR Response: Accept
This has been clarified.

Microclimate

H60 Summary of Comments: 66.12(Late)

Add factors of “unusual soil, hydrologic, or geologic conditions, and/or topography.”

Justification: This isn’t Iowa or Kansas. Landscaping areas cover many diverse conditions which affect irrigation design and plant palettes.

DWR Response: Reject

Microclimate refers to influencers of climate only. Other non-climate factors such as soils (soil management); topographic and geologic factors (landscape design plan) are covered elsewhere in the Model Ordinance.

Mulch

H61 Summary of Comments: 49

One commenter suggested adding many details to the mulch definition.

DWR Response: Reject

The definition is adequate.

Operating Pressure

H62 Summary of Comments: 49

Replace the word “system” with “parts.” Manufacturers design parts, designers design systems.

DWR Response: Accept

Overspray

H63 Summary of Comments: 68.1 (Late)

Overspray does not automatically cause “overland flow” in every landscape situation. It does not occur only while irrigation systems are operating and delivering water under irrigation events.

Overland flow (runoff) can occur following an irrigation event. Suggest removing “causes” and replacing it with “which can cause.” Suggest replacing “during irrigation events” with caused by irrigation events”

DWR Response: Accept

Permits

H64 Summary of Comments: 43.15

Permits are not typically required for rehabilitated landscapes. Rehabilitated landscapes are typically unregulated.

DWR Response:

Permitting is left to the local agencies to decide.

Plant Factor

H65 Summary of Comments: 12.2

The correct definition of "plant factor" or "plant water use factor" is a factor, when multiplied by ETo, estimates the amount of water needed by plants.

DWR Response: Accept

This change has been made.

Record Drawing

H66 Summary of Comments: 68.2

Record drawings may simply mean a drawing of record (drawing of a project without any noted measurements or annotations in addition to the drawing itself when it was created for construction purposes), whereas an "as-built" is a drawing that shows not only "significant changes in the work", but simply and straightforward, the reflection of construction of the project. Suggest removing "significant changes" and replacing it with "a reflection of the work"

DWR Response: Reject

The local agency should be able to stipulate which types of record drawings it requires in its jurisdiction.

Recreational Area

H67 Summary of Comments: 43.16, 36.2, 38.7, 49.22, 49.23, 29.2, 64.8, 68.3(Late), 65.5(Late)

The definition should include passive, un-programmed play areas such as landscaped park areas. Recreational area" should include areas that are non turf related if they are related to the activity (golf course with a shrub that obtains water from the rotors). Thus a re-definition should include in a school, park or golf course all landscape areas that are used for a recreational purpose.

DWR Response: Reject

All parts of parks are included in recreational areas. Phrase "such as" implies recreational areas not listed. Recreational areas have a ETAF of 1.0 and therefore a higher MAWA than a regular (non-recreational) landscape.

Rehabilitated Landscapes

H68 Summary of Comments: 66.15(Late), 64.12(Late), 7.2, 43.17, 38.5, 34.5, 29.3, 25.1, 7.1, 26.8, 29.1

Most commenters wanted specific applicability examples, "what about this" and permitting examples.

DWR Response: Reject

The local agency will determine permitting requirements. The definition (ccc) has been clarified. Applicability of rehabilitated landscapes doesn't stipulate reasons for rehabilitation. If project meets all applicability requirements, the project is subject to the Model Ordinance. It is up to local agencies to implement. However, many residential rehabilitation projects will not trigger applicability thresholds.

Runoff

H69 Summary of Comments: 49.34, 66.16 (Late), 68.4

The commenters wanted the definition of runoff to be expanded to include specific scenarios.

DWR Response: Reject

In an effort to keep the definition simple, there is only one example given of why runoff occurs.

Special Landscape Areas

H70 Summary of Comments: 49.36, 63.1, 64.7 (Late)

In definition the word "solely" is absent. Ensure this is consistent through document. . Also add backyard wildlife habitat to areas in SLA. Areas to be irrigated with recycled water should not be included here, but I understand desire to create incentive. Therefore the 1.0 perhaps only extend for a limited time. "special landscape area" means an area of the landscape dedicated to edible plants, and/or areas irrigated with recycled water, and/or areas dedicated to active play such as parks, sports fields, golf courses, and/or where turf provides a playing surface.

DWR Response: Accept and Reject in Part

Solely has been replaced in the definition of Special Landscape Areas (SLA) of edible plant areas. The higher water allowance for SLA is intended to provide enough water to produce a crop (edible plants) or maintain actively growing turf (recreational areas). Backyard wildlife areas, while important, do not need as much water as SLA because they are comprised of mostly trees, shrubs and un-mowed grasses. However, water features that support wildlife have an equivalent plant factor of a high water use plant. Storm water basins should be included. Stormwater water basins are not automatically SLA because they are not producing a crop or maintaining recreational turf. Stormwater basins that are kept artificially filled with water are considered water features and have an equivalent plant factor of a high water use plant. Stormwater basins that are irrigated (but not water features) are considered part of the landscape area and may be SLA, if they meet the SLA criteria.

Swing Joint

H71 Summary of Comments: 49.38.

Change "sprinkler" to "emission device."

DWR Response: Accept.

Water Conserving Plant Species

H72 Summary of Comments: 63.2

A commenter wanted to know if the following statement makes sense: "water conserving plant species" means a plant species identified as having a low plant factor.

DWR Response: Reject

Plants with low plant factors require little water to grow, therefore needing less water than other plants that may be chosen for the same function and aesthetics. Definition of "Plant Factor" provides further clarification.

H73 Summary of Comments: 66.17 (Late)

(nnn) What is a "low plant factor"? Is it defined elsewhere in these definitions?

DWR Response:

The plant factor definition includes the ranges of relative water needs of landscape plants. Definition of "Plant Factor" provides further clarification.

Water Feature

H74 Summary of Comments: 49.39

Add natural streams to start of sentence that begins with "Constructed wetlands..."

DWR Response: Reject

Natural streams are not water features.

H75 Summary of Comments: 61.6

City staff recommends the MAWA exclude landscape areas containing stormwater Best Management Practices (BMPs) that require significant water use. City staff is concerned that landscape design would be significantly constrained when BMPs with significant water use are implemented on site.

DWR Response: Reject

If Stormwater BMP's are irrigated they are part of the landscape area and will be included in the MAWA calculation.

H76 Summary of Comments: 43.19, 64.5 (Late)

Constructed wetlands should be defined.

DWR Response: Reject

A definition is not required. Constructed wetlands used for onsite wastewater treatment are only mentioned because they are not considered water features if they are not filled with applied water (as opposed to wastewater).

H77 Summary of Comments: 36.3

491(000) Definition indicates that "stormwater best management practices are not water features and, therefore, are not subject to the water budget calculation." We think this definition should be clarified. It seems to imply that Low Impact Development such as bio-swales and basins will not be counted as landscape area and not included in Maximum Applied Water Allowance (MAWA). Is this the intent? In our region, stormwater basins can be very large and might be designed to include very high water use plant material. We believe they should not be exempted from the requirements.

DWR Response: Reject

If Stormwater BMP's are irrigated they are part of the landscape area and will be included in the MAWA calculation.

H78 Summary of Comments: 64.5 (Late)

Water feature -the definition should include "habitat creation."

DWR Response: Reject

Wildlife will use water features if available. A separate category is not necessary.

H79 Summary of Comments: 53.1

Pools and spas have a different purpose than, and should be designated separately from, other water features. Distinguishing pools and spas as recreational water features and the remainder as decorative water features will help clarify later sections of the Model Ordinance, such as Section 492.6.2, which describes "decorative water features." Recreational water features have health implications associated with their water use (for instance, not changing out the water can create a health issue), have no relationship to irrigation of surrounding landscaping, and can significantly skew calculations.

DWR Response: Reject and Accept parts.

Function of water features is self explanatory. 492.6(2) (A) has been clarified. Water use in water features is just as significant as water use in irrigation. A local agency may adopt a different requirement in a local ordinance, provided the locally adopted ordinance is at least as effective as

the Model Ordinance in meeting the requirements of the statute (Statute of 2006, Chapter 559 [AB 1881]).

H80 Summary of Comments: 38.8, 43.19

491 Constructed wetlands and storm water best management practices should be included in the landscape areas if they require permanent irrigation systems.

DWR Response: Accept in Part

Constructed wetlands and stormwater best management practices (BMPs) that are not irrigated are not part of the landscape area. If irrigated they are part of the landscape area or if they are kept filled with applied water, they are water features and are, therefore, included in water budget calculations.

H81 Summary of Comments: 43.19

Provides that a water feature is a design element where open water performs an aesthetic or recreational function. We did not note any definition of open water utilized as habitat. Also, stormwater basins can be large and might be designed to include very high water use plant material. These should not be exempted from the requirements.

DWR Response:

Wildlife will use water features if available. A separate category for habitat is not necessary. If stormwater best management practices are kept filled with applied water, they are water features. If irrigated they are part of the landscape area.

H82 Summary of Comments: 24.11

Page 10: Please define "recreational" aspect of a water feature.

DWR Response: Reject

Recreational water features are swimming pools and spas which are self explanatory.

WUCOLS

H83 Summary of Comments: 12.3

(ppp) WUCOLS 1999 is not an official University of California Cooperative Extension publication. It was authored by a UC Cooperative Extension academic but published by the California Department of Water Resources. It has not been accepted for publication by the University. Please correct the affiliation and authority of the publisher because the current wording indicates that WUCOLS is fully approved and condoned by UC, which not true. It is a Department publication authored by a UC Cooperative Extension employee.

DWR Response: Accept

This definition has been clarified.

H84 Summary of Comments: 70.1

Park areas are not included in the exception list. Sports park areas will have difficulty irrigating with a 70% ETo limitation on water usage. Due to heavy play time, fertilization programs, overseeing, etc. "real" water usage is much greater than will be allowed per this Model Ordinance. Under watering the turf playfields will limit turf viability, playability, and increase liability.

DWR Response: Reject

Parks are included in Special Landscape Areas and are allowed an ET Adjustment Factor of 1.0.

Section 492 Provisions for New Construction or Rehabilitated Landscapes

H85 Summary of Comments: 21.1, 26.9, 43.2, 63.3, 43.1.

Designation of Authority: Several commenters cite the difficulty of enforcing all provisions of the Model Ordinance without the cooperation of water purveyors.

DWR Response:

The statute applies to cities and counties. Water purveyors are not named in the statute. Cooperation between local agencies and water purveyors is a local matter. It is in their best interest for local agencies and water purveyors to cooperate in order to conserve their local water resources.

Section 492.1 Compliance with Landscape Documentation Package

H86 Summary of Comments: 25.2, 43.2, 49, 56.1

Commenters cite that there is no guarantee that the Water Efficient Landscape (WEL) Worksheet will be given to the water purveyor or that anything will be done with the information.

DWR Response: Reject.

The Department can not require the water purveyor to do anything with the information. If the water purveyor is a signatory on the California Urban Water Conservation Council (CUWCC) MOU, or conducts a water conservation program of its own, the information will be used. If the applicant and the local agency fulfill their obligations, they are in compliance. Stakeholders have brought up privacy issues where local agencies may or may not be able to submit the WEL Worksheet directly. Local agencies may consider requiring the applicant to release the WEL Worksheet to the water purveyor.

Section 492.2 Penalties

H87 Summary of Comments: 43.1, 26.10, 38.9, 43.24, 55.11, 23.1, 26.11, 43.22, 43.1

Commenters noted that in the earlier updated draft Model Water Efficient Landscape Ordinance (subject to the 45 day notice) that a provision regarding penalties, waivers and variances was deleted from the current noticed draft. The provision was deleted because commenters asserted there was no authority in the statute (Statutes of 2006, Chapter 559 [AB 1881]) for the Department to include this.

DWR Response:

Establishment of penalties, waivers and variances is a local issue. The Department has no authority to allow for waivers and variances or establish penalties. Cooperation with water purveyors is a local issue. Local cooperation is encouraged in the Model Ordinance.

Section 492.3 Elements of the Landscape Documentation Package

No comments on this section

Section 492.4 ETAF and MAWA

H88 Summary of Comments: 5.1

I noticed that the calculations for Maximum Applied Water Allowance (MAWA) and Estimated [Total] Water Use have changed on the Water Efficient [Landscape] Worksheet. These seem to work out better for existing landscapes that have a large quantity of turf such as a sports field. I understand these would be considered Special Landscape Areas (SLA). In the old system, there was really no way for these types of landscapes to limit their water application to below the MAWA. Under these calculations, the SLAs are accounted for and the landscaper has a real number to measure use against. So my question is: why hasn't the MAWA calculation for existing landscapes changed as well? It seems like this would be a more useful number in this type of situation. I appreciate any information you may be able to provide regarding this question.

DWR Response: Reject

The MAWA requirements for special landscapes areas within existing landscapes are based on landscapes ordinance requirements in effect when the landscape was installed or rehabilitated.

H89 Summary of Comments: 12.4

Section 492.4 (2) (b-1): Please change to: The plant factor used shall be from WUCOLS or research-based information from the University of California.

DWR Response: Reject

A minimum amount of published research-based plant factor data is available; WUCOLS is the best information available at this time.

H90 Summary of Comments: 17.1, 37.1, 44.5, 48.1

4 people commented in support of lowering the ETAF to 0.7

DWR Response: Accept

All comments received were considered and responded to. All comments and responses will be available in the Rulemaking Record. See responses to 45-Day Public Comments: G172.

H91 Summary of Comments: 17.2, 44.6, 50.1, 59.2

4 people commented in support of having a special landscape area with a plant factor of 1.0

DWR Response: Accept

H92 Summary of Comments: 17.6, 37.13, 44.9

3 people commented that water features should have a plant factor of 1.0

DWR Response: Reject

Water features are in high water using category as scientific difference still exists regarding the rate of evaporation from a water surface.

H93 Summary of Comments: 18

The comment was made that the ETWU calculation and the use of the hydrozone tables need to be explained better.

DWR Response: Reject

The Department will release a Model Ordinance Guidebook to provide further instructions on how to calculate ETWU.

H94 Summary of Comments: 18

The comment was made that the hydrozone table should be used to calculate the "actual landscape area"

DWR Response: Reject

No specific suggestion is made. The hydrozone table is for planning purposes.

H95 Summary of Comments: 18

The comment was made that vegetable water use estimate are medium to high plant water use, not low water use.

DWR Response: Reject

The calculation referred to indicates an ADDITIONAL allowance of 0.3 for Special Landscape Areas. These areas, including vegetable gardens, are allowed and ETAF of up to 1.0

H96 Summary of Comments: 18

The comment was made that the landscape area should account for tree canopies.

DWR Response: Reject

The landscape area is based on ground measurements. The size and density of tree canopies can be used to determine the plant water use factor of that area.

H97 Summary of Comments: 22.2, 35.2, 45.1, 51.5, 52.6, 70.2

Several commenters stated that ETAF should not be lowered from 0.8 to 0.7 until more scientific research had been completed.

DWR Response: Reject

All comments received were considered and responded to. All comments and responses will be available in the Rulemaking Record. See responses to 45-Day Public Comments: G107, G116, G171.

H98 Summary of Comments: 24.2

There is still confusion in the modified ordinance regarding the MAWA calculation and the ETWU calculation. If both need to be submitted, which will be enforced? Page 28 (K) states the irrigation system needs to be designed and installed to meet MAWA. Please clarify.

DWR Response:

A landscape can use no more than its calculated MAWA. ETWU is calculated to show that the landscape, as designed, will use less than MAWA. 492.7 (1) (K) states that irrigation system must be designed and installed to meet the irrigation efficiency criteria as described in MAWA.

H99 Summary of Comments: 25.3, 37.16

Two people commented that plant was spelled "plan" in 492.4 (pg. 18.)

DWR Response: Accept.

The correction was made

H100 Summary of Comments: 26.12

The “Water Efficient Landscape Worksheet” on page 44 has been 99% stricken out of the suggested information. It is assumed that the agency is obligated to establish a format. This is a critical sheet of information that would be provided to the water purveyors. It would be helpful to see samples of other Cities that have already implemented this. Can you recommend good examples?

DWR Response: Accept in part

The Department will be developing and distributing a guidebook to assist local agencies in adopting and implementing local model water efficient landscape ordinances.

H101 Summary of Comments: 35.9

The Model Ordinance needs to be rewritten to provide an end result in terms of maximum applied water application (MAWA) and not how to reach MAWA. Of course, information on estimated applied water use (EAWU) will also need to be provided by the designer. There could be some simple rules like no water run-off, no overspray, use Smart controllers, develop and identify hydrozones, etc. The designer should determine the best approach to reach the end goal to ensure the EAWU is less than the MAWA. This can be accomplished without direction from the Model Ordinance on how the results should be achieved. I realize that my previous comments are an over simplification of a big issue, but not much more is needed to achieve the results desired.

DWR Response: Reject

All comments received were considered and responded to. All comments and responses will be available in the Rulemaking Record. See responses to 45-Day Public Comments: G181, G6.

H102 Summary of Comments: 36.6, 68.11

Two people commented that the area of every irrigation value should not have to be calculated. The landscape area is provided in the hydrozone table.

DWR Response: Accept in part. The listing of irrigation value is for design purposes also it can be use to calculated the total landscape area.

H103 Summary of Comments: 37.12, 44.1

Two people asked that a Reference Evapotranspiration Zone Map be provided

DWR Response: Accept

A reference for a California Evapotranspiration Zone Map was added to section 492.4 (A) (2).

H104 Summary of Comments: 37.15, 44.11

Two people commented that 492.4 d should say "The sum of the Estimated Total Water Use calculations for all hydrozones shall not exceed MAWA

DWR Response: Accept

The change was accepted and made in the sub-section 492.4 (d).

H105 Summary of Comments: 37.17

Recommend re-wording 492.4d such that the words “square feet” are placed before (high, medium and low water use areas).

DWR Response: Reject

This change is not necessary to clarify the requirements of the Model Ordinance.

H106 Summary of Comments: 38.4

The use of an ET adjustment factor of 0.7 assumes a minimum average irrigation efficiency of .71. However, if requiring low volume irrigation systems, irrigation efficiency can reach a minimum average of .90. Therefore, the ET Adjustment Factor (0.5/.90) should be .55.

DWR Response: Reject

Low volume irrigation systems cannot be used for all landscape applications. The irrigation efficiency of 0.71 is an average across all systems.

H107 Summary of Comments: 38.5

The MAWA formula sets a much higher limit for the use of water than the ETWU. The MAWA formula essentially treats the entire landscape as one high water using plant and allows 70% of that high water using plant water requirement to be used as the basis for budgeting water to the entire landscape, which is often much more water than the landscape actually needs. The ETWU uses appropriate species factors to estimate water use and should be the benchmark formula that sets the limit for all water budgets because it more accurately reflects the actual water use needs of a landscape.

DWR Response: Reject

MAWA is defined as the average plant factor divided by the average irrigation efficiency and is the benchmark formula for the water budget.

H108 Summary of Comments: 38.11

Training for public agency officials Formalized training in landscape and irrigation design should be provided by the State to public agency officials in order to help them understand and calculate the MAWA and ETWU formulas.

DWR Response: Accept

The Department plans to provide a guidebook and hold workshops on implementing the Model Ordinance

H109 Summary of Comments: 61.4

The Model Ordinance limits the quantity of high water using plants in recycled water irrigated landscapes through the MAWA and Estimated Total Water Use (ETWU) formulas. City staff is concerned that the Model Ordinance unnecessarily limits the quantity of high water using plants in recycled water irrigated landscapes that are located in areas with an abundant supply of recycled water. City staff recommends the Model Ordinance provide additional flexibility in the design of recycled water irrigated landscapes in circumstances where there is an abundant supply of recycled water.

DWR Response: Reject

The ETAF for landscapes using recycled water was raised to 1.0. The MAWA for recycled landscapes was not raised to allow changes in landscape plant selection.

H110 Summary of Comments: 61.5

The Model Ordinance requires pools and spas to be considered a high water-using plant when calculating the water budget for a landscape. Water budget calculations must also assume that the irrigation system efficiency is 0.71. However, pools and spas generally have an efficiency greater than 0.71, which must be considered in the water budget calculation.

DWR Response: Reject

Pools and spas lose water by evaporation. The ETAF of pools and spas classified as high water using plants is reasonable

H111 Summary of Comments: 49.48

492.4(b) (3) Change wording to "**Any** Special Landscape Areas shall be identified and **their** water use **included in MAWA calculation** as described below.

DWR Response: Reject

MAWA calculation includes Special Landscape Area water use. Wording is sufficiently clear.

H112 Summary of Comments: 49.49

492.4 (c) In the list of terms for the equation, move the conversion factor up one position so that it is just below the ETAF AND add the word "total" in the LA, "**Total** Landscaped area ..."

DWR Response: Reject

The existing language of the regulation is sufficiently clear.

H113 Summary of Comments: 49.99

Irrigation Efficiency 492.13, change wording "...maximum applied water planned, installed irrigation efficiency is assumed...." Use same language for consistency

DWR Response: Reject

The Model Water Efficient Landscape Ordinance is an existing regulation in effect since 1992 (California Code of Regulations, Title 23 Section 490-495)

H114 Summary of Comments: 49.5, 16.1

Two people commented that Model Ordinance should reward those who use graywater or harvest rainwater

DWR Response: Reject

The Model Ordinance addresses the inclusion of effective precipitation in Section 492.4.

Effective Precipitation

Summary of Comments: 37.35

Worksheet B1 Add $Eppt = \text{Effective Precipitation Rate}$

DWR Response: Reject

The use of effective precipitation is optional.

H115 Summary of Comments: _037.14

492.4 (c) where:...(list) $Eppt$ needs to be listed and defined under the "where" section. Use the definition from 491.1. Is it always 25% of annual precipitation? If so, put it in the definition. If not, define how to determine the value.

DWR Response: Reject

The use of effective precipitation is optional. Current wording and arrangement is sufficient. The figure of 25% of annual precipitation is commonly used and is in effect with the current Model Ordinance

H116 Summary of Comments: 059.4

Effective Precipitation - The current text offers local governments guidance that suggests a static effective precipitation of 25% of annual precipitation, if effective precipitation is to be

considered locally. Timing and amounts of rainfall vary drastically by region and by event. IA feels if effective precipitation is to be considered, it should be done so locally, with relevant scientific data to support any Model Ordinance language.

DWR Response: Reject

All comments received were considered and responded to. All comments and responses will be available in the Rulemaking Record. See responses to 45-Day Public Comments **G168, G183, G272, G421-424.**

Section 492.5 Soil Management Report

H117 Summary of Comments: 8.2, 23.2

Incorporate requirements of the Soil Management plan in to the Landscape Plan to avoid unnecessary design effort, review time, and development cost. Include the contents of this plan as part of the planting (landscape design) plans and specifications, rather than requiring a separate document. This will streamline the designer's obligations, as well as the plan check review process.

DWR Response: Reject

The information in the soils management section cannot be incorporated with the Landscape Design Plan, due to the differing formats of information. The name, Soil Management Plan has been changed to Soil Management Report to better distinguish between the formats of these two elements. Soil information is used for irrigation design and landscape design.

H118 Summary of Comments: 24.12, 54.1, 54.2

Who qualifies to be a "soil specialist". We would like to recommend that you specifically require a Certified Professional Soil Scientist (CPSS) to conduct the site assessment and soil analysis.

DWR Response: Reject

See 45 day responses. Requirements for use of a "soil specialist" have been removed from the Model Ordinance.

H119 Summary of Comments: 49.51

Change (a) to read - "In order to reduce runoff and erosion, encourage healthy plant growth and reduce watering requirements, a soil management plan shall be submitted as part of the Landscape Documentation Package".

DWR Response: Reject

Such a change is not necessary and does not alter the requirements of the Model Ordinance.

H120 Summary of Comments: 25.5, 65.6, 41.3, 27.4, 49.52

(a) (3) and (4) What does this mean and how would the landscape architect know what would be limiting except for what the soil tests tell us?

DWR Response: Accept

These elective provisions have been removed from the Model Ordinance.

H121 Summary of Comments: 25.5, 65.6, 41.3, 27.4, 49.52

(a) Replace the term “may include the following...” to “shall include the following...” Or the Department should clarify the exact components that establish an adequate soil management plan.

DWR Response: Accept

The language in the soils section has been modified such that optional versus required elements are more clearly delineated.

H122 Summary of Comments: 42.14, 18.8, 27.4, 42.2

Timing to submit the soil plan does not correspond with timing of mass grading.

DWR Response: Accept

The language in the soils section has been modified to accommodate mass grading concerns.

H123 Summary of Comments: 42.14, 18.8, 27.4, 42.2

Irrigation design ordinarily comes much earlier than the Soil Management Plan and yet the irrigation design is instructed to rely on the Soil Management Plan.

DWR Response: Accept in Part

The following language has been added to this section: “The soil management report shall be delivered to landscape and irrigation designers in a timely way so as to inform the design plans”. This allows the designers to make modifications as necessary based on soils information.

H124 Summary of Comments: 25.6, 27.4

(b)(2) Include specific parameters and/or protocol for soil sampling.

DWR Response: Accept in Part

The Model Ordinance has been modified such that soil sampling must be conducted in accordance with laboratory protocol.

H125 Summary of Comments: 53.2, 43.25, 49.53

The requirement of a soil management plan adds substantial cost to the developer with no evidence that it will help meet the objective of the Model Ordinance. This seems unduly burdensome unless the relationship between soil type and water efficiency is demonstrated. If the irrigation operates within its MAWA, then why is soil analysis also required?

DWR Response: Reject

The relationship between soil quality and infiltration is well established. Refer to Documents Relied Upon, 4. “*Soil Quality Indicators: Infiltration*” USDA. Improved infiltration and water holding capacity of the soil greatly reduce water waste. The requirements for soils shall remain in the Model Ordinance, although certain elective provisions have been deleted. See comment 25.5.

H126 Summary of Comments: 25.7

Soil Management Plan b, 3: Conduct a soil probe test to determine if the soil in the landscape area has sufficient depth to support intended plants." How would the project applicant or designee determine this?

DWR Response: Accept in Part

This requirement has been combined with the requirement to conduct soil sampling in accordance with laboratory protocols.

H127 Summary of Comments: 18.9, 49.54, 41.4, 42.3, 42.6, 42.5, 42.10, 42.3, 42.9

The soil laboratory analysis needs to include additional tests, such as boron, heavy metals, fertility, infiltration rate of subsoil, nutrients in subsoil, nutrients in topsoil, water holding ability of topsoil, herbicide residue, pesticide residue, sieve analysis, porosity, bulk density, total porosity, and soil nutrient content.

DWR Response: Reject

The elements of the soil lab analysis that are delineated in the Model Ordinance are not obligatory; the language is “...the soil analysis **may** include:” Laboratories and landscape professional routinely conduct soil analysis. The Department defers to these professionals to determine the necessary elements of a soil lab analysis. Requirement that a soil lab analysis be conducted and that there is verification that the recommendations are implemented is adequate.

H128 Summary of Comments: 49.53

Soil texture ADD "of sub and top soils and depth of topsoil”.

DWR Response: Reject

The elements of the soil lab analysis that are delineated in the Model Ordinance are not obligatory, the language is “...the soil analysis **may** include:” Laboratories and landscape professional routinely conduct soil analysis. The Department defers to these professionals to determine the necessary elements of a soil lab analysis. Requirement that a soil lab analysis be conducted and that there is verification that the recommendations are implemented is adequate.

H129 Summary of Comments: 25.8

(c) “.the soil analysis may (change may to shall)

DWR Response: Reject

Laboratories and landscape professional routinely conduct soil analysis. The Department defers to these professionals to determine the necessary elements of a soil lab analysis. Requirement that a soil lab analysis be conducted and that there is verification that the recommendations are implemented is adequate.

H130 Summary of Comments: 25.8

(c) (F) recommendations ADD “for soil amendments”

DWR Response: Reject

Current language allows for soil amendment recommendations without restricting other possible recommendations. Such a modification is not necessary.

H131 Summary of Comments: 24.13

To whom should the soil analysis be submitted?

DWR Response: Accept in Part

The soil analysis shall be submitted to the local agency and to the landscape and irrigation designers. Current language clearly states that the soil analysis report is a required element of the Landscape Documentation Package (LDP). New language also allows the soil analysis to be submitted as part of the Certificate of Completion in cases where significant mass grading is planned. In either case, the applicant is clearly instructed to submit both the Landscape Documentation Package and the Certificate of Completion to the local agency. No further clarification on submittal to the local agency is required. New language also requires that this analysis be submitted to the landscape and irrigation designers.

H132 Summary of Comments:

AB2717 recommends organic matter. Without an analysis of soil organic matter content, any recommendations for amending with organic matter are limited or must be made without basis. Organic Matter Content – self evident, but would help guide to what extent organic (or inorganic) amendments should be employed.

DWR Response: Accept

Percent Organic Matter has been added to the elements of the soil lab analysis that are delineated in the Model Ordinance. It should be noted, however, that these elements are not obligatory; the language is “...the soil analysis **may** include:”

H133 Summary of Comments: 42.4

We object to the use of infiltration rate tables as being wholly inadequate.

DWR Response: Reject

Although use of such tables may not provide adequate information for research purposes, the Department considers that these tables are adequate for the purposes of this Model Ordinance. Landscape professionals are allowed the flexibility to include a laboratory test for infiltration rate if they determine this to be necessary for the project.

H134 Summary of Comments: 27.4

The County of Sacramento recommends the Model Ordinance require the use of a certified laboratory to perform the soil analysis.

DWR Response: Reject

Verification of laboratory certification shall be the responsibility of the applicant. Local agencies may adopt their own ordinance that modifies language to accommodate local conditions, as long as the local ordinance is at least as effective as the Model Ordinance in meeting the requirements of the statute (Statute of 2006, Chapter 559 [AB 1881]).

Section 492.6 Landscape Design Plan

H135 Summary of Comments: 8.4, 35.4, 51.1, 25.9, 55.7

Several commenters were concerned regarding the responsibilities of licensed and unlicensed landscape professionals.

DWR Response: Accept in Part

The roles and responsibilities of landscape professionals have been clarified. See the California Business and Professions code, California Code of Regulations and the Food and Agriculture Code for guidance on the privileges and limits of licensed and unlicensed landscape professionals.

H136 Summary of Comments: 24.15

Page 24: Under water feature "D", insert "for non-public facilities".

DWR Response: Reject

Covers are recommended with every pool or spa.

H137 Summary of Comments: 24.14:

Page 24: Under "G, add "except when for recreational purposes."

DWR Response: Reject

This is in the statute (Statute of 2006, Chapter 559 [AB 1881]). No restrictions on low water use plants.

H138 Summary of Comments: 24.15

Page 26, "A", add "bio-swales".

DWR Response: Reject:

Swales are included in existing language. Addition of "bio-swales" is not necessary.

H139 Summary of Comments: 42.12, 42.13

(D) Soil amendments shall be incorporated according to recommendations of the soil report and what is appropriate for the plants selected (Section 492.5) Change to: (D) Soil amendments shall be incorporated according to recommendations of the soil report with an emphasis on utilizing the soil as an important contributor to landscape water use efficiency and conservation and what is appropriate for the plants selected (Section 492.5)

DWR Response: Reject

The types of amendments are not specified. That is to be determined by the landscape designer and the results of the soil report. The definition is adequate and needs no more detail.

H140 Summary of Comments: 27.5

Sub-section (D): the Model Ordinance states the "installation of turf on slopes greater than 25% shall not be permitted..." Some Special Landscape Areas will unavoidably or even desire turf on slopes of 25% or greater, such as golf course tees, greens, or traps. The County of Sacramento suggests allowing Special

Landscape Areas to be exempt or allowed if less than a percentage of overall project area.

b. Sub-section (3) (A): suggest clarifying "other special planting situations..."

c. Sub-section (13):

i. Clarify "(if applicable)" does this pertain to the use of a licensed landscape architect/contractor or the signature or the stamp?

ii. Is the homeowner-provided landscape exempt from using a licensed landscape architect/contractor?

iii. If so is this statement then signed by the homeowner?

DWR Response: Reject and accept parts.

The requirements for slopes have been revised. Special planting situations are direct seeding, such as wildflower displays, which has been clarified. The roles and responsibilities of landscape professionals have been clarified. See the California Business and Professions code, California Code of Regulations and the Food and Agriculture Code for guidance on the privileges and limits of licensed and unlicensed landscape professionals.

H141 Summary of Comments: 28.2: soil amendments shall be incorporated according to the recommendations of the soil report and what is appropriate for the plant selected. These requirements have the potential to overlap and conflict with existing NPDES requirements that also require soil specifications for stormwater integrated management practices (IMPS) related to infiltration and percolation rates. This duplication in soil amendment requirements has the potential to create conflicts when stormwater infiltration soil rates conflict with soil water retention for water conservation purposes.

DWR Response: Reject

The local agency shall determine which standards to follow. Increasing infiltration rate for stormwater applications are consistent with water conservation goals.

H142 Summary of Comments: 37.19, 44.12:

If a local list of invasive species is not available, refer to the California Invasive Plant Council lists at www.cal-ipc.org.

DWR Response: Reject

This topic will be expanded in a guidebook.

H143 Summary of Comments: 37.20, 44.13:

492.6.a.2.C Stipulate that the surface area shall be calculated with a plant factor of 1.0. Otherwise, designers will assign it 0.7.

DWR Response: Reject

Water features have been assigned an equivalent ET Adjustment Factor of a high water use plant, which ranges from 0.7 to 1.0. Local agencies can assign a more restrictive value.

H144 Summary of Comments: 37.21, 37.22, 37.23

492.6 (b).6-11 Each statement needs to start with a verb like “identify” since each statement follows the word “shall.” 492.6 (b)10 Remove “e” 492.6 (b) 12-Start each statement with “contain.” Adjust wording in (12).

DWR Response: Accept

H145 Summary of Comments: 43.26

Duplicative. 492.6 (B) states “each hydrozone shall have plant materials with similar water uses. A hydrozone by definition [see 491 (y)] is a portion of the landscaped area having plants with similar water needs.

DWR Response: Reject.

Repeated for clarity.

H146 Summary of Comments: 47.2: Section 492.6 Landscape Design Plan

Request this section be expanded to include language to include synthetic turf. The section could read as follows, “...shall not prohibit or include conditions that have the effect of prohibiting the use of low-water use plants and synthetic turf as a group.”

DWR Response: Reject

The use of artificial turf is beyond the scope of this Model Ordinance. Local agencies may include artificial turf in a local ordinance, providing the local ordinance is as effective as the Model Ordinance in meeting the requirements of AB1881.

H147 Summary of Comments: 57.3:

California Landscape Contractors Association suggests that the required statement in subsection (b) (12) be changed to the following: "I have complied with the criteria of the ordinance and applied them accordingly for the efficient use of water in the irrigation design plan." When the landscape architect, certified irrigation designer, or landscape contractor signs the plan, he or she will have already complied with the Model Ordinance.

DWR Response: Accept.

This has been clarified.

H148 Summary of Comments: 63.4

Page 26, (3): Existing natural features including, but not limited to, rock outcroppings, creeks or streams, wetlands, and plant materials that will remain. (Question: why was this removed from text? This should remain in text.)

DWR Response: Reject.

Removed to simplify the regulation. The designer will note existing features if they are relevant to the current design.

H149 Summary of Comments: 64.3 (Late)

Retention basins and bio-swales should be exempted from the water budget since they are methods of Low Impact Design that are required by the Water Quality Control Board to retain and treat storm water. The vegetation associated with these features is characterized by high water use plants for obvious reasons, and their inclusion in the water allowance calculations would result in an extremely low allowance.

DWR Response: Reject

If Stormwater BMP's are kept filled with applied water, they are water features. If irrigated they are part of the landscape area. If un-irrigated then they should not count against the MAWA.

H150 Summary of Comments: 8.3, 18, 26.13, 34.7, 36.7, 68.5(Late)

Several commenters were concerned with turf not being allowed on slopes steeper than 25%.

DWR Response: Accept in parts

This provision has been modified.

H151 Summary of Comments: 41.5, 41.6:

We recommend a minimum depth for mulch of 3 inches. In addition to creating drought resistant soils, the mulch recycles plant debris, keeping it out of the landfill. Comment #2: Remove the exception for creeping or rooting groundcovers or other special planting situations where mulch is not recommended. It is highly beneficial to mulch around creeping or rooting groundcovers when they are first planted, the time to which this section applies (i.e. 'new landscapes'). Furthermore, without defining the 'special planting situations where mulch is not recommended' creates a loophole for not applying mulch.

DWR Response: Reject.

Stakeholder comments indicated that three inches can be excessive and can act as a barrier to water penetration. Local agencies may adopt a deeper mulch requirement. Stakeholders also said to exclude creeping groundcovers from mulching requirement. Local agencies may adopt a deeper mulch requirement. The exceptions to the mulch requirement have been clarified.

Section 492.7 Irrigation Design Plan

Narrow Turf Areas

H152 Summary of Comments: 70.4, 8.7, 57.4, 59.3

4 people commented that overhead irrigation should not be restricted from areas narrower than 8' as new sprinklers exist that can irrigate narrow strips.

DWR Response: Reject.

All comments received were considered and responded to. All comments and responses will be available in the rulemaking file. See responses to 45-Day Public Comments: G212, G213, G269.

H153 Summary of Comments: 052.4

The Model Ordinance as written does not address parkway areas that are adjacent to streets. In most areas, these parkways generally have a width less than the eight feet as is noted as being the minimum dimension for turf areas. As noted in Concern #2, turfed parkways are generally for safe pedestrian access from the on street car-parking area to the sidewalk. This needs to be clarified for turf parkways to be exempted in the final version of the Model Ordinance.

DWR Response: Reject

All comments received were considered and responded to. All comments and responses will be available in the Rulemaking Record. See responses to 45-Day Public Comments : G212, G213, G269.

H154 Summary of Comments: 039.11

492.7 (R) "Areas less than 8' in width in any direction shall be irrigated with subsurface drip" Recommend that Recreational Areas be exempt from this restriction. Often grass is used as a "driving surface" for maintenance. In certain situations, small shrub areas invite children to 'leap over them' at the expense of the shrubs. Small shrub beds tend to collect litter, requiring higher maintenance. If the recreation Area is held to its MAWA and does not allow runoff into storm water, this flexibility should be given to them. While subsurface irrigation is a possibility to irrigate narrow areas, this technology requires special attention that is not available with the manpower allocated public projects.

DWR Response: Reject

All comments received were considered and responded to. All comments and responses will be available in the rulemaking file. See responses to 45-Day Public Comments: G212, G213, G269.

24 Inch Setback

H155 Summary of Comments: 70.3

This is also direct requirement that turf areas cannot be adjacent to hardscape areas without using drip irrigation. Drip irrigation in turf areas is not a common practice and it is impractical and costly to separately valve the system to accommodate differing efficiencies and application rates. A more practical compromise is to set a sprinkler offset distance from hardscape of 6" in turf areas and 12" in shrub areas. This direct requirement should be addressed as a recommendation or a performance standard should be required to eliminate overspray onto hardscape surfaces.

DWR Response: Accept in Part

The restrictions can be modified if certain conditions are met. The language for irrigation in the 24" setback was modified, to prevent runoff onto streets allowing for pathways in parks, for example, to be irrigated as long as the water remains in the park. These restrictions can be modified if certain conditions are met. There is no restriction as regards to placement adjacent to pervious surfaces.

H156 Summary of Comments: 1.1

The 24" setback rule is intended to eliminate overspray onto paving. However, more importantly needs to pass the test of resulting in improving landscape water efficiency and reducing a sites overall landscape water use compared to the current state. The result of the 24" setback

requirement will be mixed success and failure. The successful sites will have substituted non-turf plantings for turf. This is an indirect success, by simply forcing the designer to reduce turf grass, which I agree should be done. However, many sites will still install lawn adjacent to sidewalks or other paving. Note, the designer will not necessarily be allowed to install pervious paving for sidewalks. The reality of the irrigation industry is that many of these sites will use pop-up spray heads. Now, because of the setback rule, these sites will use adjustable nozzles instead of fixed spray nozzles. It is widely known that adjustable spray nozzles do not work as well and result in lower distribution uniformity and they become out of adjustment easily. As a result of poor distribution uniformity, the maintenance companies will increase the watering times to compensate. This will only result in poorer distribution uniformity and more water use. Finally, I also think that a 12" set back for shrub areas is adequate to solve the problem and allow the area to be irrigated more uniformly. I suggest the Department staff consult with several IA certified irrigation designers (who are not currently involved in the review process)

DWR Response: Accept in part

The restrictions can be modified if certain conditions are met. The language for irrigation in the 24" setback was modified, to prevent runoff onto streets allowing for pathways in parks, for example, to be irrigated as long as the water remains in the park. These restrictions can be modified if certain conditions are met. There is no restriction as regards to placement adjacent to pervious surfaces. Comments from irrigation experts have been considered in drafting this provision. In the statute (Statute of 2006, Chapter 559 [AB 1881]) Section 65596 (m), require the inclusion of provisions to minimize runoff and overspray in the Model Ordinance.

H157 Summary of Comments: 8.8, 18, 23.4, 24.17, 33.4, 34.9, 35.3, 51.3, 52.3, 62.1, 65.3,

10 people commented that the requirement to place spray irrigation no closer to 24" of hardscape is problematic from a maintenance, functionality and aesthetic standpoint.

DWR Response: Accept in part

The restrictions can be modified if certain conditions are met. The language for irrigation in the 24" setback was modified, to prevent runoff onto streets allowing for pathways in parks, for example, to be irrigated as long as the water remains in the park. These restrictions can be modified if certain conditions are met. There is no restriction as regards to placement adjacent to pervious surfaces. Comments from irrigation experts have been considered in drafting this provision. In the statute (Statute of 2006, Chapter 559 [AB 1881]) Section 65596 (m), require the inclusion of provisions to minimize runoff and overspray in the Model Ordinance. The change in the provision should alleviate many of the maintenance, functionality and esthetic issues.

H158 Summary of Comments: 36.11, 39.12, 68.7, 43.31

4 people commented the 24 inch set back would be difficult to implement along pathways in the interior of parks and schools. Water that oversprays on to these hardscapes will stay on site.

DWR Response: Accept in part.

The restrictions can be modified if certain conditions are met. The language for irrigation in the 24" setback was modified, to prevent runoff onto streets allowing for pathways in parks, for example, to be irrigated as long as the water remains in the park. These restrictions can be modified if certain conditions are met. There is no restriction as regards to placement adjacent to pervious surfaces. The change to the provision should alleviate any issues mentioned in regards to the interiors of parks and other landscapes.

H159 Summary of Comments: 37.4, 38.2, 48.4

3 people commented in support of the 24 inch setback.

DWR Response: Accept.

The statute (Statute of 2006, Chapter 559 [AB 1881]) Section 65596 (m), require the inclusion of provisions to minimize runoff and overspray in the Model Ordinance. The irrigation setback has been acknowledged to be an effective solution in many cases.

H160 Summary of Comments: 57.4

Micro spray technology typically does not have a high uniformity, would be prone to damage on a lawn, and could be a safety hazard. Subsurface irrigation may leave a checkerboard pattern in the turf and is difficult to maintain over time. CLCA also believes that the prohibition of overhead irrigation within 24 inches of any non-permeable surface in subsection (a) (1) (S) is not appropriate, especially for small landscapes and residential landscapes. As stated in our March 25 letter, this requirement would limit design creativity, result in unattractive landscapes, and or add project costs.

CLCA suggests the following compromise. Leave these requirements for landscape areas that abut sidewalks and other "public" spaces if the Department must. But remove these requirements for landscape areas that abut other spaces, especially backyard hardscapes. CLCA believes that owners, especially residential owners, will not accept de facto setbacks between turf and backyard patios, for example. CLCA also believes that most backyards are too small to effectively prohibit strips of up to eight feet of turf in all instances. In addition, it should be noted that hardscapes usually drain toward planted areas, especially in residential backyards.

DWR Response: Accept in part.

The restrictions can be modified if certain conditions are met. The language for irrigation in the 24" setback was modified, to prevent runoff onto streets allowing for pathways in parks, for example, to be irrigated as long as the water remains in the park. These restrictions can be modified if certain conditions are met. There is no restriction as regards to placement adjacent to pervious surfaces. The change to the provision should alleviate any issues mentioned in regards to the interiors of parks and other landscapes. The size threshold for applicability will exempt many small residential landscapes from this provision.

H161 Summary of Comments: 68.9

Overhead irrigation designs should take into consideration all effects of the local weather for the project site, wind included. If we are to consider applying the water most effectively through the air, the Model Ordinance should state that low angle nozzles and other wind-effect minimizing system capabilities shall be used in the design.

DWR Response: Reject.

Low angle nozzles have not been required as part of the revised Model Ordinance.

Miscellaneous**H162 Summary of Comments: 7.3**

I am assuming that if an irrigation system that is non-conforming with respect to the Model Ordinance is replaced, the replacement system must conform.

DWR Response: Reject.

The applicability section lists the applicability requirements of the Model Ordinance to rehabilitated and existing landscapes.

H163 Summary of Comments: 8.5, 8.9, 17.5, 18, 16.4, 18, 23.5, 24.16, 27.6, 33.3, 36.8, 60.2, 64.2, 70.2

Several commenters stated that the requirement to only use low volume irrigation in mulch areas and on slopes was too prescriptive and that overhead irrigation should be permitted as long as it did not cause runoff and overspray.

DWR Response: Accept in part.

The ordinance was modified for sloped, irrigated areas. This change allows an application rate of 0.75 inch/hour in order to accommodate new technology that functions well on slopes, and meets the goals of the ordinance. The restrictions can be modified if certain conditions are met. Low volume requirements for mulched areas remains unchanged as overhead spray irrigation is not appropriate for mulched areas.

H164 Summary of Comments: 8.6, 38.9, 37.25, 44.15

Several Commenters stated that check valves should only be required where low head drainage occurs

DWR Response: Reject.

The majority of irrigation systems have some elevation change which would result in low head drainage if check valves were not present.

H165 Summary of Comments: 12.6

Section 492.7 (a) (2) (E) Mixing of high and low water-needing plants should be permitted. Allow them but require that their water need be in the "high category for calculating the site budget and water requirement.

DWR Response: Reject.

Mixing low and high water use plants does not permit accurate irrigation scheduling.

H166 Summary of Comments: 24.3

Weather based irrigation controllers can be effective if properly set up. Will there be a requirement that the landscape contractor be certified in the use of a weather based controller so it can be programmed properly?

DWR Response: Reject.

The statute (Statute of 2006, Chapter 559 [AB 1881]) requires the use of automatic controllers

H167 Summary of Comments: 24.1

Page 28: Under "F" except when using recycled water.

DWR Response: Reject. Backflow prevention devices are required for potable water systems. Recycled water is delivered in a separate (dual plumbing) system. The Applicant must comply with local codes for all backflow prevention, including any for recycled water. The existing language of the regulation is sufficiently clear.

H168 Summary of Comments: 26.14

If it is even possible to comply with stated requirements for water meters, all water meters are issued and monitored by the water purveyor, not the City. Would this affect or cause a limit on the quantity of water meters issued affecting overall development?

DWR Response: Reject.

This language is simply a restatement of existing law and was removed from the revision, in order to avoid duplication.

H169 Summary of Comments: 27.6

a. Sub-section (ii): the Model Ordinance states “if the measurements (re: static psi) are not available at the design stage, the measurements shall be conducted at installation.”

The County of Sacramento suggests the removal of this sentence or revising it to state: “measurements shall be verified at installation.” Reason: water efficient irrigation design begins with accurate static psi measurement, which should then be verified.

c. Sub-section (4): the County of Sacramento suggests providing a definition of “design operating pressure”.

DWR Response: Accept in Part.

Sub section (ii) has been modified to state “that static water pressure should be measured at the point of connection.”

H170 Summary of Comments: 38.1

The Office of Sustainability and the Environment of the City of Santa Monica supports Requirement to use low volume irrigation. Low volume irrigation should be required for slopes and mulched areas. This will eliminate runoff caused by irrigation devices with higher application rates.

DWR Response: Thank you for your comment.

Irrigation requirements for slopes greater than 25% have been modified in the Model Ordinance, now stating that these areas shall not be irrigated with systems exceeding 0.75 per hour precipitation rate.

H171 Summary of Comments: 43.27

Duplicative. 492.7 (a) (1) (A) Water Code section 535 already requires separate water meters to measure water used exclusively for landscape purposes when the connection serves landscaping of more than 5,000 sq. ft. of irrigated landscaping.

DWR Response: Accept.

The section 492.7 (a) (1) (A) was removed from the revised Model Ordinance.

H172 Summary of Comments: 47.4

(1)(S) The 2nd and 6th sentences in this section refer to “non-spray” and “no-spray” irrigation technologies. MWDOC recommends the terminology be made consistent.

(2)(E) The language appears to be missing a word. The sentence should read as “(E) Individual hydrozones that mix high and low water use plants shall not be permitted.”

DWR Response: Accept.

The change was made to non-spray. “be” was added in 492.7 (2) (E).

H173 Summary of Comments: 43.29, 64.15

Two people commented that irrigation system should be designed to exceed peak capacity to permit possible expansion and allow irrigation schedule to make up for special events or system repairs.

DWR Response: Accept.

Sub-section 492.7 (a) (1) (L) was removed.

H174 Summary of Comments: 49.71

492.7 (a) (1) (A) add at end of sentence "...and for single family residences with landscapes greater than 1000 square feet.

DWR Response: Reject.

Water Code SEC. 5, Article 4.5 Section 535 (a) Subsection (a) (b (1) exempts single family residences from the dedicated landscape meter requirement.

H175 Summary of Comments: 49.72

(C) (i) after ... "such as inline pressure regulators, booster pumps or other devices" ADD "as appropriate". All these increase pressure, give example of pressure reducing.

DWR Response: Reject.

Pressure regulators reduce pressure.

H176 Summary of Comments: 49.73

492.7 (a) (1) (C) (ii) change "...If the measurements are not available at the design stage..." to "not available at the **site planning** stage". Planning gives/uses large parameters, design is for the details

DWR Response: Reject.

Measurement of static pressure may not be possible in some cases until the time of installation. This criteria is in the Irrigation Design Plan and refers to irrigation system planning and design, not site planning.

H177 Summary of Comments: 49.74

(a) (1) (E) Add the requirement that these valves shall be accessible (not under lock and key)

DWR Response: Reject

To prevent vandalism, there maybe reasons for shut off valves to be kept under lock and key. It shall be left to the applicant and/or local agency regarding accessibility of irrigation components.

H178 Summary of Comments: 49.75

(a) (1) (G) Add "shut-off" between "detect" and "report"

DWR Response: Reject

Devices that "shut-off" the system in such a case are prohibitively expensive, and therefore, overly burdensome. The requirement for "...high flow sensor that detect and report..." is reasonable.

H179 Summary of Comments: 49.76

(a) (1) (I) after ...such as soil type..." add" water holding ability of topsoil" and after "infiltration rate" add "of subsoil"

DWR Response: Reject

The soil type infers the water holding capacity of the soil.

H180 Summary of Comments: 49.77

(a) (1) (K) Be specific - give page and letter (s)

DWR Response: Reject

The Model Ordinance is clear that the minimum average efficiency of the system is 0.71.

H181 Summary of Comments: 49.78

(a) (1) (N) after "...emission devices..." ADD "on each valve or set of simultaneously operating valves."

DWR Response: Reject

This language is unnecessary. This would be standard practice in the landscape industry.

H182 Summary of Comments: 49.79

(a) (1) R State "Avoid using turf in these areas." Compare with p24, (1) (D).

DWR Response: Reject

Section 492.7 covers irrigation design. Landscape planting is addressed in 492.6.

H183 Summary of Comments: 49.8

(a) (1) (T) Change to "Turf shall not be installed on slopes greater than 25%." Compare with page 24, (1) (D).

DWR Response: Reject

Section 492.7 covers irrigation design. Landscape planting is addressed in 492.6.

H184 Summary of Comments: 49.82

492.7 (b) (2) after word "including" add "but not limited to."

DWR Response: Reject

The text provided does not limit the inclusion of other components. This is an unnecessary change.

H185 Summary of Comments: 49.83 (b) (5) Grey water. Ability to coordinate with increasing number of grey water systems may need to be made explicit.

DWR Response: Reject

The requirements of the Model Ordinance do not restrict the use of legal grey water systems in the landscape.

H186 Summary of Comments: 61.7

Individual homeowners should be exempt from this section because it would be difficult for most homeowners to operate and maintain weather-based irrigation controllers. Other methods of controlling irrigation during inclement weather (that are less technically onerous) should be required for individual homeowners in lieu of this requirement.

DWR Response: Reject

The statute (Statutes of 2006, Chapter 559 or AB 1881) requires the use of automatic controllers on all new installations.

H187 Summary of Comments: 64.13

Older or smaller multi-family residential complexes frequently have one master meter, resulting in an inability to monitor these complexes for just landscape water usage. The Model Ordinance requires that even a small change to water usage in these complexes would trigger a violation. It

would be costly to retrofit such complexes with separate sub-meters, and so they should be exempted.

DWR Response: Reject

Water Code, Section 5, Article 4.5 requires dedicated landscape meters to be installed as a condition of new retail water service on properties with at least 5000 square feet of irrigated landscapes. Single family homes are exempt. Existing landscapes that are not being renovated are not required to have a dedicated landscape meter.

H188 Summary of Comments: 68.6

Every irrigation system that operates within the size of landscape areas subject to this Model Ordinance, should incorporate flow sensing, whether basic shut-down capabilities should there be excessive flow on a main line (a flow the control system senses as not a normal flow, and closes a master valve when otherwise the flow would go uninterrupted), or other system which incorporates other important capabilities that read flows in excess of normal valve/station flows (e.g., due to broken sprinklers, risers, missing nozzles, etc.), unusual flows outside of scheduled flow events, flows during non-programmed events such as hand watering or hose bib/quick coupling/fountain fill times, etc.

DWR Response: Accept

The Model Ordinance recommends high flow sensors.

H189 Summary of Comments: 37.24

492.7.a.1.c.ii Static water pressure ... the water supply shall be measured. Specify: "measured at the point of connection"

DWR Response: Accept

Sub section (ii) has been modified to state "...that static water pressure shall be measured at the point of connection."

Slope

H190 Summary of Comments: 70.5, 43.1, 26.5, 29.5, 36.9, 51.4, 52.5, 55.8, 68.8, 43.28

10 people commented that spray heads and rotors should be allowed on slopes

DWR Response: Accept

The Model Ordinance was changed to permit all irrigation systems with a precipitation rate of 0.75 inches/hr or lower on slopes greater than 25%.

H191 Summary of Comments: 13.1, 43.28

Two people commented that overhead irrigation should be allowed temporarily on slopes to establish the vegetation

DWR Response: Accept

The Model Ordinance was changed to permit all irrigation systems with a precipitation rate of 0.75 inches/hr or lower on slopes greater than 25%.

Section 492.8 Grading Design Plan

H192 Summary of Comments: 43.1

Duplication: Eliminate duplicative references to existing regulations already in effect (grading, storm water, etc.).

DWR Response: Accept in Part

New language in grading plan clarifies that a previously prepared comprehensive grading plan prepared by a civil engineer for other local agency permits satisfies this requirement. AB 2717 and the statute (Statute of 2006, Chapter 559 [AB 1881]) both require that the Model Ordinance address stormwater. The Model Ordinance only encourages practices that address stormwater and makes no requirements.

H193 Summary of Comments: 23.3

If possible, allow the grading to be part of the base plan information for either the irrigation or planting (landscape design) plan to avoid the need for a separate plan. This will streamline the designer's obligations as well as the plan check review process.

DWR Response: Accept in Part

New language in grading plan clarifies that a previously prepared comprehensive grading plan prepared by a civil engineer for other local agency permits satisfies this requirement.

H194 Summary of Comments: 36.5

The inclusion of a grading plan for larger projects is important to provide a reference for where slopes occur and where other topographic features are located. But for small projects in the 3,000 square foot size range, for example, grading plans are often not required. We suggest that the inclusion of a grading plan be contingent on the requirement of a grading permit from the approval agency.

DWR Response: Reject

The Model Ordinance does not require a grading permit; rather it requires a grading plan. If no grading plan has been prepared by a civil engineer for other local permits, the applicant must submit a grading plan with the items listed in 492.8 (a) (1). Proper grading of a project is critical to the retention of runoff and shall remain applicable as currently stated in the Model Ordinance.

H195 Summary of Comments: 51.6

Delete grading design requirements and note that jurisdictional agency requirements shall govern.

DWR Response: Accept in Part

New language in grading plan clarifies that a previously prepared comprehensive grading plan prepared by a civil engineer for other local agency permits satisfies this requirement. Proper grading of a project is critical to the retention of runoff and shall remain applicable as currently stated in the Model Ordinance.

H196 Summary of Comments: 38.3

The prohibition of runoff should extend to all sections. Section 492.8 (a) should read "grading of a project site shall be designed to eliminate soil erosion, runoff and water waste".

DWR Response: Reject

Such a change is not necessary as it would not alter the requirements of the Model Ordinance.

H197 Summary of Comments: 24.18

Page 33: "E, add "if applicable."

DWR Response: Accept

This change has been made to the Model Ordinance to clarify that stormwater improvements are not required to be installed. Rather, if they are installed, they are to be included in the grading design plan.

H198 Summary of Comments: 55.10, 25.10, 43.32, 57.5, 35.6, 43.33

Developments are often required to prepare comprehensive grading plans as part of a discretionary permit. The County recommends that local agencies be given the authority to allow these comprehensive grading plans to fulfill the landscape Model Ordinance requirement for a grading design plan. We suggest the following wording for subsection (a): "A grading plan shall be submitted as part of the Landscape Documentation Package if the grading design plan is different from the grading plan submitted by the civil engineer."

DWR Response: Accept

New language in grading plan clarifies that a previously prepared comprehensive grading plan prepared by a civil engineer for other local agency permits satisfies this requirement.

H199 Summary of Comments: 49.86

(a)(1)(B) This needs to be at micro as well as macro levels, since the first inch or so of a storm can be accommodated

DWR Response: Reject

Such a change would be unnecessarily burdensome

H200 Summary of Comments: 49.87

(a)(1)(E) Change stormwater "retention" to stormwater "handling" and add "including complying with current local stormwater BMPs and other local requirements and recommendations.

DWR Response: Reject

Such a change is not necessary as it would not alter the requirements of the Model Ordinance.

H201 Summary of Comments: 8.11

(a) Requirements of (A) and (B) are in many cases mutually exclusive. Recommendation: omit one or clarify.

DWR Response: Reject

Such a change is not necessary as it would not alter the requirements of the Model Ordinance.

H202 Summary of Comments: 49.89

Remove the word "excessive" (a)(2). This needs to be worded stronger for any real effect.

DWR Response: Reject

Such a change is not necessary as it would not alter the requirements of the Model Ordinance.

H203 Summary of Comments: 49.88

(2) (A) regarding "normal" rainfall - name storm size (e.g., 2 year, 10 year)

DWR Response: Reject

Such a change is overly prescriptive

H204 Summary of Comments: 24.18, 8.12

Need to further discuss the required sign-offs under #3. Pg 33 section 492.8 (a) (3): Clarify that a landscape contractor may only prepare plans for design-build work which will also be constructed by that contractor.

DWR Response: Accept in Part

Language was modified to clarify authority for signature of grading design plan.

H205 Summary of Comments: 8.12

A landscape contractor does not otherwise have authority to “stamp and sign” plans.

DWR Response: Accept

The requirement for a "stamp" has been deleted.

H206 Summary of Comments: 57.5

CLCA also suggests that the required statement in subsection (a) (3) be changed to the following: "I have complied with the criteria of the ordinance and applied them for the efficient use of water in the grading design plan." When the civil engineer, landscape architect, or landscape contractor signs the plan, he or she will have already complied with the ordinance.

DWR Response: Accept

Verbs were changed to the past tense

Section 492.9 Certificate of Completion

H207 Summary of Comments: 49.90

492.9 Who inspects the landform grading and soil?

DWR Response: Reject

The Model Ordinance does not stipulate inspection of the landform grading and soil.

H208 Summary of Comments: 55.6

The Model Ordinance proposes that an applicant must have a landscape architect, certified irrigation designer, or licensed landscape contractor certify that the landscape project was installed as planned (final inspection, Section 492.9(a)(7)). Then a certified irrigation auditor must conduct an irrigation audit and complete an audit report (Section 492.9(a) (8)). This can be a costly process, especially for the home-owner who has self-installed the landscaping and irrigation. County staff recommends that only a certification or an audit be required for newly installed landscape projects.

DWR Response: Reject

The two requirements, certification of proper installation and audit of system performance, address different aspects of the landscape project. The Department has determined that both requirements are necessary to meet the goals of water conservation.

H209 Summary of Comments: 50.2, 33.26, 57.6, 19.2, 27.7

CLCA suggests that the Department clarify and limit the requirement in subsection (a) (6) to require a preliminary field inspection of the irrigation system prior to backfilling. Define what it means by "evidence" of a preliminary inspection prior to backfilling. Is it redundant to require the applicant to perform (6), (7), and (8) when the purpose of these sections is (8)?

DWR Response: Accept

The requirement for a preliminary inspection has been deleted from the Model Ordinance.

H210 Summary of Comments: 29.6

(6) Results of preliminary inspection using GPS verification or similar documentation trail that the irrigation system was installed as designed. This is done by taking a GPS device to validate that the rotor or head is in the location as specified. (8) ...complete an irrigation audit report with a GPS verification of the irrigation overspray components being installed according to the irrigation design. This can easily be validated with a GPS recording and verification of the CAD drawing in the field.

DWR Response: Reject

Adding a requirement for GPS recording and verification is not necessary to meet the goals of the Model Ordinance.

H211 Summary of Comments: 19.2

(7) and (8) should be combined allowing for the "certified landscape irrigation auditor" to perform any inspections necessary.

DWR Response: Reject

An irrigation auditor is not qualified to inspect for proper installation of the system. The two requirements, certification of proper installation and audit of system performance, address different aspects of the landscape project. The Department has determined that both requirements are necessary to meet the goals of water conservation.

H212 Summary of Comments: 27.7

Sub-section (8): if a project fails an irrigation audit what is the consequence if any?

DWR Response: Reject

Local agencies will determine the process for an unacceptable Certificate of Completion, where the results of the audit are to be submitted.

H213 Summary of Comments: 43.35

If applicant acts in reliance on approved plan and installation, what is the audit for?

DWR Response: Reject

The two requirements, certification of proper installation and audit of system performance, address different aspects of the landscape project. The Department has determined that both requirements are necessary to meet the goals of water conservation.

H214 Summary of Comments: 24.21, 33.27

492.9(b) (3) Notation of contradiction. Need to state exemptions in (a) (8) for clarification.

DWR Response: Accept

"If applicable" has been removed from this section of the Model Ordinance, clarifying that there is no exemption from irrigation audits.

H215 Summary of Comments: 57.6

Subsection (b) (4) seems to imply that a second soil analysis is needed by requiring the project applicant to submit "documentation verifying implementation of soil report recommendations." Assuming that the Department does not wish to go to the extreme of requiring a second soil analysis or soil analysis report, please add guidance on how to comply with this requirement

DWR Response: Accept

This section re-written for clarification

H216 Summary of Comments: 49.91

Soil analysis should be moved to higher position in Certificate of Completion. Recommend to number (6)

DWR Response: Reject

Such a change is unnecessary and would not alter the requirements of the Model Ordinance.

H217 Summary of Comments: 18.7

Section 492.1 needs clarifications. The Certificate of Completion and record drawings should be submitted after project completion, not after plan approval by the local agency.

DWR Response: Reject

The Certificate of Completion is submitted after the project is complete. The Landscape Documentation Package is submitted prior to landscape construction.

H218 Summary of Comments: 43.23, 55.9

Section 492.9(c) (3) requires the project applicant to submit copies of the approved Certificate of Completion to the local water purveyor. Instead, transmittal by the local agency to the appropriate water purveyor would be preferable to ensure that the Certificate is accurate and has, in fact, been approved.

DWR Response: Accept in Part

Current language requires that the applicant submit an “approved” Certificate of Completion to the water purveyor. Language was modified such that the applicant is required to ensure that the Certificate is submitted to the water agency, thereby allowing the submission to be accomplished by the local agency.

H219 Summary of Comments: 43.34, 44.16

492.9 Requires submittal of a Certificate of Completion to the water purveyor for no apparent purpose and the water purveyor has no obligation to take action on such a certificate.

DWR Response: Reject

This submission will provide information to the water purveyor that is potentially very important for tracking water use and/or assisting customers in landscape water efficiency. The water purveyor will determine the extent to which they will utilize the information in these documents. Local agencies may adopt their own Model Ordinance that modifies language to accommodate local conditions, as long as the local ordinance is at least as effective as the Model Ordinance in meeting the requirements of the statute (Statute of 2006, Chapter 559 [AB 1881]).

H220 Summary of Comments: 58.2, 39.13, 27.7, 43.35, 44.16

This new “Certificate of Completion” - which, according to the Model Ordinance, is required to be granted prior to issuance of a “Certificate of Occupancy” - puts the state squarely in the position of dictating local land-use planning, design and decision-making. Typically, the Certificate of Completion indicates only that the building is compliant with building codes.

DWR Response: Accept in part

The Certificate of Occupancy requirement was removed from the Certificate of Completion Section 492.9.

H221 Summary of Comments: 52.7

The Model Ordinance allows certain tasks to be accomplished by professionals that are not in compliance with state law. Licensed Landscape Architects under 5615 of the Business and Professions Code may prepare construction drawings and specifications as well as responsible construction observation. This should be clarified.

DWR Response: Accept

The language that requires the signature of a professional has been changed throughout the Model Ordinance to state "... the signature of a licensed landscape architect, licensed landscape contractor or any other applicable landscape professional, person, licensed or unlicensed, as listed in the Business and Professions Code, California Code of Regulations, or Food and Agriculture Code."

Section 492.10 Irrigation Scheduling**H222 Summary of Comments: 70.7, 39.2, 35.8, 51.6, 57.7**

Five people commented that the requirement to provide an irrigation schedule was not necessary since ET Controllers were required

DWR Response: Accept

Section 492.9 (b) (1) was changed to require that the input parameters for automatic controllers be provided instead of the irrigation schedule.

H223 Summary of Comments: 12.5

Section 492.7 Irrigation Man (a) (l) (B) vs. Section 492.9 (b) (l) and Section 492.10 (a) Recommendation: require calculations of schedules (492.10) but revise 492.7 to allow any automatic controller that accepts and provides:

1. Independent programming of each valve.
2. multiple (4-6) program starts (cycles) per day.
3. override by a rain sensor.

Section 492.7 mandates the installation of weather- or soil moisture-based irrigation controllers while Section 492.10 mandates the calculation of detailed ETo-based irrigation schedules for each valve. The mandates of Section 492.10 can be easily met with a conventional irrigation controller, so why mandate a weather-or soil moisture-based controller? If someone is required to calculate all the schedules, then why mandate a specific type of controller? The Department sponsored research has demonstrated that installation of a weather-based controller does not necessarily result in irrigation schedules that "utilize the minimum amount of water to maintain plant health", which is the stated requirement in Section 492.10, so why mandate their use? If there is so much confidence in weather- or soil moisture-based controllers then why is a detailed calculation of irrigation schedules required (492.10)? These types of controllers will set their own schedules which, based on the interpretations of the Department -sponsored research on weather-based controllers, will very likely differ dramatically from the calculated schedules. Bottom line - the use of a weather-based or soil moisture-based controller does not assure implementation of correct, water conserving schedules.

DWR Response: Reject.

Automatic controllers are required by the statute (Statute of 2006, Chapter 559). The requirement for irrigation schedules was removed.

H224 Summary of Comments: 24.18

Page 35: Who and how enforcement and implementation is applied is problematic.

DWR Response: Specific details of implementation and enforcement are for the local agency to determine.

H225 Summary of Comments: 25.11

Irrigation Scheduling, "Irrigation schedules meeting the following criteria shall be submitted with the Certificate of Completion" (add, and be included on the reduced size irrigation layout chart, color coded to identify stations and valves as-built and be located in the controller box). This provides the maintenance staff the reduced plan with as-built information and the irrigations schedule so that corrections may be made to the controller during maintenance. Also, if ET programming information is lost, the designed schedule is easily located and available for use.

DWR Response: Accept in part

The Model Ordinance was changed to require the submittal of the input parameters for automatic controllers, not irrigation schedules.

H226 Summary of Comments: 27.8

In section 492.10 The County of Sacramento requests the Model Ordinance to include a sample of an Irrigation Schedule, to standardize the schedule for ease of review.

DWR Response: Reject

The Model Ordinance was changed to require the submittal of the input parameters for automatic controllers, not irrigation schedules.

H227 Summary of Comments: 29.4, 33.29, 44.17

3 people commented that ET controllers should be programmed to default to historical ET.

DWR Response: Reject

The Model Ordinance was changed to require the submittal of the input parameters for automatic controllers, not irrigation schedules.

H228 Summary of Comments: 37.14, 43.36, 61.8, 66.6

Several commenters stated that water windows provided in the Model Ordinance did were problematic

DWR Response: Reject. The watering windows are intended to minimize the evaporation loss that occurs when irrigating during sunlight hours. Local agencies may alter the watering windows if appropriate as long as the new watering window maintains the effectiveness of the local ordinance.

H229 Summary of Comments: 49.93

492.10 (a) add word "regularly" before word "evaluated"

DWR Response: Reject

The existing language is clear.

H230 Summary of Comments: 49.94

(a) (3) Change wording to "...Total annual applied water shall not exceed MAWA, and preferably will be significantly less."

DWR Response: Reject. The additional statement is not required. Section 490 (b) (4) states “reduce water use to the lowest practical amount.”

H231 Summary of Comments: 49.95

(a) (5) (C) at end of sentence add ".. And maximize infiltration"

DWR Response: Reject

The intent of the sub-section is to avoid runoff. There are several provisions meant to increase water infiltration (mulch, grading, soils, stormwater retention, etc.)

Section 492.11 Maintenance Schedule

H232 Summary of Comments: 24.6, 49.96, 39.2:

Commenters state that they believe creating maintenance schedules is burdensome and unnecessary. "...the landscape and irrigation maintenance schedule the section requires a regular maintenance schedule be performed. This will be an additional burden to the water agencies for requirements and compliance if this is expected to be monitored. Maintenance schedules and irrigation schedules seem unnecessary. The water agency and/or water purveyor cannot oversee the execution of maintenance and irrigation schedules. While helpful to the end user, there is no guarantee that this information will reach the hands of the person in charge. Furthermore, all sites will be required to have a 'smart' controller which does not require monthly schedules.”

DWR Response: Accept in Part

The statute requires provisions to foster sustainable landscapes, including maintenance. The only way to keep water efficient landscapes within the MAWA and the plants healthy and attractive is for regular maintenance. Replenishing mulch, pruning, maintaining the irrigation system and other treatments will foster long term healthy landscapes and water savings. A schedule will remind the property owner that such treatments are necessary and will protect their investment. The requirements for irrigation schedules have been simplified.

Section 492.12 Audit, Survey, Irrigation Water Use Analysis

H233 Summary of Comments: 19.4

Requires landscape irrigation audits shall comply with the "Irrigation Association Certified Landscape Auditor Training Manual (2004 or most current edition)". By incorporating it by reference eliminates other qualified local or regional program guides that meet or exceed quality standards.

DWR Response: Reject

Current language states, “**at a minimum**, all landscape irrigation audits shall comply with the IA ...Manual....” Local agencies are allowed the flexibility of adopting other standards that are greater than this minimum standard.

H234 Summary of Comments: 19.4

IA Training classes focused on large overhead irrigations systems where catch can and uniformity tests are performed may not necessarily provide adequate information on how to incorporate drip systems into water budget development, in overall system uniformity calculations or the current Best Management Practices of auditing low volume irrigation systems.

DWR Response: Reject

Current language states, “**at a minimum**, all landscape irrigation audits shall comply with the IA ...Manual....” Local agencies are allowed the flexibility of adopting other standards that are greater than this minimum standard. Information regarding Drip systems is located in the IA manual Appendix. This is further addressed in the 45-day comment period responses.

H235 Summary of Comments: 52.8

A Certified Water Auditor may not have the necessary skills, knowledge or experience that would enable them to be able to accurately judge whether or not an irrigation system was efficient in design or installation.

DWR Response: Reject/Accept/Accept in Part

To become a certified irrigation auditor, the person must pass a written, objective exam and submit an independently completed audit verified by an IA certified auditor in good standing. Acquiring this certification is adequate to ensure that an irrigation system is performing properly.

H236 Summary of Comments: 12.7

Add language to require the audit reconcile the schedules produced by a weather-based or soil moisture-based irrigation controller with the irrigation schedules calculated in 492.10.

DWR Response: Reject

Irrigation schedules in Section 492.10 have been modified such that this comment is no longer applicable.

H237 Summary of Comments: 49.97, 19.5

492.12 (c) (1) "minimal overspray or runoff that does not cause overland flow..." possible loophole.

DWR Response: Accept in Part.

This language has been modified such that the auditor does not “verify minimal overspray”. Rather, the auditor reports on overspray conditions.

H238 Summary of Comments: 57.8, 23.6

California Landscape Contractors Association strongly believes that an irrigation audit report as described in (c) (1) should not be required. Performing an irrigation audit as described in subsection (c) (1) would be very expensive and unnecessary. The plans would have been approved, a preliminary inspection of the irrigation system would have taken place, and a final inspection of the entire project inspection would have occurred prior or in addition to the audit.

DWR Response: Reject in Part.

Irrigation audits verify whether or not the irrigation system is performing properly. Verification that the system has been properly installed does not verify proper performance. The Department

has determined that verification of proper functioning of the system is important in water conservation. The required components of the audit identified shall remain in the Model Ordinance. The requirement of a preliminary inspection has been removed.

H239 Summary of Comments: 24.4

On Page 34 (7) the certificate of completion requires a landscape architect, designer or contractor certify proper installation and in (8) requires an audit on the irrigation system. Is this also to be performed by the installer? Agencies will not have the staffing levels to complete comprehensive audits on newly installed landscapes.

DWR Response: Reject in Part.

The irrigation audit must be performed by a certified irrigation auditor. If the installer has this certification, they may conduct the irrigation audit. Agencies are not obliged to perform the audit. They are obliged to ensure that an audit report is included in the Certificate of Completion. The requirement of a preliminary inspection has been removed.

H240 Summary of Comments: 26.4

The City adamantly opposes the suggestion of an on-going irrigation audit unless there is a commitment from the water purveyors or agencies within our city limits.

DWR Response: Reject

The statute (Statute of 2006, Chapter 559 [AB 1881]) does not allow for language that obligates water purveyors. Local agencies are required to follow the Model Ordinance and must make a good faith effort to work with water agencies to implement the necessary provisions.

H241 Summary of Comments: 26.5, 43.37

Model Ordinance requires information that local agencies may not have access to. This should be a responsibility of the various water agencies.

DWR Response: Reject

The statute (Statute of 2006, Chapter 559 [AB 1881]) does not allow for language that obligates water purveyors. Local agencies are required to follow the Model Ordinance and must make a good faith effort to work with water agencies to implement the necessary provisions.

H242 Summary of Comments: 23.7, 27.9, 29.7, 37.3, 44.18, 48.3

(c)(2) "the local agency shall administer programs that may include ..." The types of programs that agencies are required to administer are widely variable, leaving agencies unclear as to what they are administering. Some commenters feel that this language weakens the Model Ordinance while others appreciate the change because it allows flexibility.

DWR Response: Accept in Part

This provision is intended to provide local agencies the flexibility needed to accommodate the wide variety of situations found throughout the state.

H243 Summary of Comments: 63.5

Page 37, Section 492.12 (2): . . . or water purveyor shall fulfill the following requirements for landscape irrigation audits: Why was this removed from text? This should remain in text.

DWR Response: Reject

The statute (Statute of 2006, Chapter 559 [AB 1881]) does not allow for language that obligates water purveyors. Local agencies are required to follow the Model Ordinance and must make a good faith effort to work with water agencies to implement the necessary provisions.

H244 Summary of Comments: 64.16

Section 492.9 requires an irrigation audit to obtain a certificate of completion. Does this mean a one time audit prior to occupancy with no subsequent audits? Can audits be eliminated for landscape projects that are operating year after year within their water budgets?

DWR Response: Reject/Accept/Accept in Part

Ongoing audit requirements were deleted from the Model Ordinance, leaving local agencies the flexibility needed to accommodate the wide variety of situations encountered in implementing post-installation water monitoring.

Section 492.13 Irrigation Efficiency

Two questions in this section moved to Water Efficient Worksheet Section

Section 492.14 Recycled Water

H245 Summary of Comments: 28.1, 49.1, 65.2 (Late), 61.4

Commenters asked for clarity and consistency in text regarding recycled water. Some asked for an exemption for the MAWA when using recycled water. Changing the text to be consistent with section 492.6(a) (2) (B), requiring the use of recycled water where available, is a more reasonable approach. City staff is concerned that the Model Ordinance unnecessarily limits the quantity of high water using plants in recycled water irrigated landscapes that are located in areas with an abundant supply of recycled water. City staff recommends the Model Ordinance provide additional flexibility in the design of recycled water irrigated landscapes in circumstances where there is an abundant supply of recycled water.

DWR Response: Reject and Accept parts.

Some comments regarding recycled water were addressed in the Notice of Modifications to the Proposed Regulation (November 26, 2008). Recycled water is a valuable resource, especially from an energy use perspective. Conservation of all sources of water is consistent with the statute. The higher ETAF for recycled water use is not intended to subsidize a higher than 0.5 overall plant factor, but to allow extra water. Landscape designers and applicants should always consider the climate appropriateness of any plants chosen for use in their proposed landscape.

Section 492.15 Stormwater

H246 Summary of Comments: 43.1, 34.1, 35.7, 49.101, 51.5:

Duplication: Eliminate duplicative references to existing regulations already in effect (storm water, etc.). Property owners aiming to meet stormwater management requirements may be unduly burdened by these additional restrictions. At times, the guidelines for stormwater management and water efficient landscaping are inconsistent. Stormwater management is legislated by public works engineering ordinance and code. It is inappropriate and confusing to include stormwater management design and specification criteria in a water efficient ordinance. It is recommended that stormwater management should be deleted from the Model Ordinance

and just note that jurisdictional agency requirements shall govern this section of the Model Ordinance.

The prohibition of runoff should extend to all sections. Section 492.15 (a) should read "Stormwater management practices will eliminate runoff".

DWR Response: Reject.

The statute specifically calls for provisions dealing with grading and encouraging stormwater retention, etc. to foster sustainable landscapes and aid in water conservation. If stormwater best management practices are kept filled with applied water, they are water features. If irrigated they are part of the landscape area. If un-irrigated they should not count against the Maximum Applied Water Allowance. Stormwater retention is consistent with water conservation. The statute specifically calls for provisions that foster sustainable landscapes, including grading and stormwater. Grading plans are a requirement in the existing regulation. The statement is adequate to achieve water conservation goals through stormwater management.

Section 492.16 Public Education

H247 Summary of Comments: 33.2, 49.102, 27.3

“Section 492.16 seems to require public education by local agencies, where will the funding for the local agencies to implement this program come from in this very tight budget times where even normal everyday services are being eliminated as budget cuts?” “Outreach should be conducted to allied professions which are now affected by this new water conservation ordinance. These professions include Pool Design, Landscape Fountain Companies, and Civil Engineers. Will the State perform this type of outreach or will this be considered part of the public education to be performed by local agencies?” “Add word "planning" into last sentence as follows: " The use of appropriate principles of planning, design, installation..." AND (1) reflect/copy this in (a) (1) and (b) (2)”

DWR Response:

This provision exists in the statute (Statute of 2006, Chapter 559, section 65596 (h)), Landscape Task Force Recommendations and existing regulation (AB 325). Outreach and education will be conducted on all levels. Many programs already exist at the state, federal and local level. Professional trade organizations, academic institutions, water purveyors and private contractors also currently provide education and outreach. Training and education are the keys to success in any field and should extend to landscape professionals, local agency staff and applicants. Planning landscape functions is covered in 492.6 (a). Otherwise this is a local issue.

Section 492.17 Environmental Review

H248 Summary of Comments: 27.1

If the local agency adopts AB 1881 as it is written, does the agency have to do a CEQA review as well? Please clarify sub-sections (a) & (b).

DWR Response:

CEQA does not apply to the adoption of the Model Ordinance Local agencies must determine what CEQA review may be required in their jurisdictions. See 492.17 (b), "as appropriate" is stated.

Section 493 Provisions for Existing Landscapes

H249 Summary of Comments: 26.16

Existing landscapes installed prior to the adoption of our new ordinance will not require retrofit of the landscape design unless a landscape modification is proposed. The City shall involve each applicable water purveyor with only new or modified projects applicable to the adopted ordinance.

DWR Response: Accept in Part

Local agencies may adopt their own Model Ordinance that modifies language to accommodate local conditions, as long as the local ordinance is at least as effective as the Model Ordinance in meeting the requirements of the statute (Statute of 2006, Chapter 559 [AB 1881]). The Model Ordinance is written so as to allow a great degree of flexibility to local agencies in developing and implementing such programs.

H250 Summary of Comments: 31.5

(Section 493.1) Please clarify the legislative authority local agencies may use to monitor and regulate the existing landscapes identified in this section.

DWR Response: Accept. This has been clarified.

Statute of 2006, Chapter 559, Section 65595(l) requires prescribing the amount of water to be applied for landscapes. Thus to ensure that they meet the prescribed allowance (MAWA) they need to be monitored and regulated.

Section 493.1 Audits for Existing**H251 Summary of Comments: 31.2**

The County is not a water purveyor and does not have the data base, inventory, personnel, or resources should one or more retail water purveyors opt not to participate in a collaborative approach to tracking/controlling MAWA on existing landscapes. Moreover, the County does not have the ability to compel water districts to perform in this regard.

DWR Response: Reject

The statute (Statute of 2006, Chapter 559 [AB 1881]) does not allow for language that obligates water purveyors. Local agencies are required to follow the Model Ordinance and must make a good faith effort to work with water agencies to implement the necessary provisions.

H252 Summary of Comments: 43.38

Who is going to seek permission to measure existing landscaped areas to determine if MAWA compliance is necessary—and who is going to get the inspection warrant if permission is denied? Existing landscapes should be exempt and the Model Ordinance should apply prospectively instead. What happens if the property does not meet MAWA? These are not cases where the property owner has sought any type of permit or review from a local agency and no penalties are required under the Model Ordinance.

DWR Response: Reject/Accept/Accept in Part

The language “..local agency shall administer programs that may include...” is intended to provide local agencies the flexibility needed to accommodate the wide variety of situations found throughout the state.

H253 Summary of Comments: 33.5

Section 493 seems to require cities to complete irrigation analysis, surveys or audits for nearly each and every existing landscape in their jurisdiction and to implement enforcement of water waste prevention in their jurisdiction. It is very tough to go back and require existing users to update their landscaping to meet the current standards and typically that is not required unless they take on a building improvement project that triggers the development meet current standards.

DWR Response: Reject

Not all existing landscapes are affected, only those undergoing rehabilitation, and also require a landscape permit, design review, etc. from the local agency.

The language “..local agency shall administer programs that may include...” is intended to provide local agencies the flexibility needed to accommodate the wide variety of situations found throughout the state.

H254 Summary of Comments: 31.3

It is unclear what this section intends to achieve if a site exceeds their MAWA. A modified pricing structure (e.g. allocated tiered rates) offers the best incentive for landowners to retrofit existing landscapes and irrigation components.

DWR Response: Reject

This comment was covered in the 45 day notice comments and responses regarding tiered rates: G10, G34, G36-41, G44, G46, G48.

H255 Summary of Comments: 43.39

The Model Landscape Ordinance does not contemplate how the Model Ordinance is to be enforced against subsequent owners of property. Further, because there is no independent requirement for a landscape permit in most jurisdictions, there is nothing to prohibit a homeowner from redoing the landscaping in violation of the Model Ordinance.

DWR Response: Accept in Part

The water budget (MAWA) is associated with the site and its landscaping, not the property owners.

The statute (Statute of 2006, Chapter 559 [AB 1881]) does not authorize including a requirement for local agencies to develop a landscape permit program. Local agencies may adopt their own Model Ordinance that modifies language to accommodate local conditions, as long as the local ordinance is at least as effective as the Model Ordinance in meeting the requirements of the statute (Statute of 2006, Chapter 559 [AB 1881]).

H256 Summary of Comments: 47.7, 16.3

The language lists programs that the local agency shall administer for dedicated and mixed-use meters and for unmetered connections. MWDOC supports this list but would also like “incentive based programs such as rebates” and “the use of budget based tiered rate structures” as additional options.

DWR Response: Reject

This comment was covered in the 45 day notice comments and responses regarding tiered rates: G37-39, G48, G59. Local agencies and water purveyors may implement any incentive based programs that are appropriate in their jurisdictions and service areas.

H257 Summary of Comments: 37.31

493.1. a Add “single-family residence”

DWR Response: Reject

This list of properties is not exclusive. It is not necessary to specifically include single-family residences.

H258 Summary of Comments: 17.3

We appreciate the changes that were made to Section 493.1 to allow additional flexibility for local agencies to provide water audits, surveys and water use analyses on existing landscapes. To clarify the Department's intent for local determination, we request that language be added as follows, “... the local agency shall administer programs that may include, but not be limited to irrigation water use analyses, irrigation surveys, and irrigation audits to meet the existing landscape MAWA. The local agency shall be responsible for determining the programs appropriate for local conditions”.

DWR Response: Reject

Such language is not necessary and would not alter the requirements of the Model Ordinance.

H259 Summary of Comments: 18.10

Section 493.1 (a) & (a1), recommend rephrasing the clause this way for clarity: For all existing landscapes that are one acre or more and installed before...”

DWR Response: Reject

This change is not appropriate as the criteria referring to meters is critical and is best kept at the beginning of the statement.

H260 Summary of Comments: 22.3

We would like to ensure that the Department will be satisfied with local agencies determining how often water use analyses and irrigation surveys should occur and will not be penalized later for noncompliance.

DWR Response: Accept in Part

Local agencies may adopt their own Model Ordinance that modifies language to accommodate local conditions, as long as the local ordinance is at least as effective as the Model Ordinance in meeting the requirements of the statute (Statute of 2006, Chapter 559 [AB 1881]). Current language allows a great degree of latitude to the local agency for developing and administering these water conservation programs for existing landscapes.

H261 Summary of Comments: 5.1

Recreational areas are considered “Special Landscapes” in the New and Rehabilitated section of the revised Model Ordinance and are given an ETAF not to exceed 1.0. Special landscapes are not addressed in the section for Existing Landscapes. Please provide guidance as to how these areas are to be calculated in the revised Model Ordinance.

DWR Response: Reject

Existing landscapes are subject to the provisions of any pertinent ordinances in place at the time they were installed. For example, landscapes that have been installed during the time that the current Model Ordinance has been in effect are subject to that ordinance.

H262 Summary of Comments: 43.38

What happens if the property does not meet MAWA? These are not cases where the property owner has sought any type of permit or review from a local agency and no penalties are required under the Model Ordinance.

DWR Response: Reject

It is the responsibility of the local agency to determine how to implement provisions of the Model Ordinance, including modification of permitting procedures or determination of penalties needed to meet this goal.

H263 Summary of Comments: 27.7

County of Sacramento recommends the State requiring the use of an “independent” Certified Irrigation Auditor. The Auditor should not have any association to the contractor, designer, project applicant, or owner due to conflict of interest.

DWR Response: Reject

DWR finds the requirement to use a certified auditor sufficient. Local agencies may modify local ordinances, as long as the local ordinance is at least as effective as the Model Ordinance.

Section 493.2 Water Waste Prevention

H264 Summary of Comments: 17.7, 23.9

Section 493.2 requires local agencies to prohibit runoff and other conditions caused by inefficient landscape irrigation. Prohibiting these conditions sets an unattainable standard, particularly due to the inefficiencies in existing landscape irrigation systems. We suggest that the language be changed as follows: “Local agencies shall prevent water waste resulting from inefficient landscape irrigation by requiring property owners to minimize runoff. Penalties for water waste violations shall be established locally.”

DWR Response: Reject

The requirement to prohibit water waste means that the local agency shall not allow this. It does not mean that runoff be eliminated. Similar to prohibiting cars to travel above the speed limit, local agencies have developed procedures for imposing penalties, but this does not eliminate speeding. The Model Ordinance language will not be changed in response to this comment.

H265 Summary of Comments: 37.33

493.2 Cities and counties shall...Add “or Water Agencies”

DWR Response: Reject

The statute (Statute of 2006, Chapter 559 [AB 1881]) does not allow for language that obligates water purveyors. Local agencies are required to follow the Model Ordinance and must make a good faith effort to work with water agencies to implement the necessary provisions.

H266 Summary of Comments: 49.103

Phase in smaller landscapes. Cumulative water use of small landscapes is highest source of water waste.

DWR Response: Accept in Part

The Department may re-evaluate the Model Ordinance periodically if given the opportunity. Until then, education and local programs may deal with small landscapes.

H267 Summary of Comments: 43.40

Duplicative. 493.2 Most local agencies have water waste prohibitions in their municipal codes in drought response and other ordinances.

DWR Response: Accept in Part

The statute (Statute of 2006, Chapter 559 [AB 1881]) Section 65596 (f) and the AB 2717 Landscape Task Force Recommendation 17 is to adopt and enforce statewide prohibitions on overspray and runoff. Additionally, such language exists in the existing Model Ordinance. Where local agencies have already adopted such prohibitions, they are already in compliance with this provision of the Model Ordinance. This provision requires that all cities and counties adopt such prohibitions.

H268 Summary of Comments: 24.19

Page 40: We read this as a requirement to transition all existing landscapes. If this is correct, the City doesn't have the resources to do so.

DWR Response: Reject

This language requires that a water conservation program be administered for existing landscapes subject to the Model Ordinance. It does not require a transition of all existing landscapes. Current language allows a great degree of latitude to the local agency for developing and administering these water conservation programs for existing landscapes.

Section 494 Effective Precipitation

The one comment related to Effective Precipitation was moved to the Irrigation Design section

Section 495 Appendices**H269 Summary of Comments: 69.1**

Appendix A. The boundaries of the specific "Cities" is unclear. City of Salinas staff would be unable to determine, for example, whether a particular property was located in "Salinas" or "Salinas North" in Monterey County. Staff recommends making the maps describing these regions available on the internet for public access.

DWR Response: Reject

Applicant can reference CIMIS stations or the ETo Zone Map.

H270 Summary of Comments: 69.1

Appendix A. Staff is unaware of any community by the name of "Long Valley" in Monterey County, although staff believes a community by that name exists in Mono County.

DWR Response: Accept

The table has been corrected. The information for Long Valley has been removed from Monterey County and placed in Mono County.

H271 Summary of Comments: 69.2, 37.36

Appendix B. Section B1, the addition of the text "or cubic feet/year" is misleading. Use of the equation would provide a Maximum Applied Water Allowance in gallons per year only, not in

cubic feet/year. One gallon equals 0.133680556 cubic feet. This conversion factor should be provided in the worksheet for ease of use.

DWR Response: Accept in Part

"Cubic feet/year" has been removed from this section.

H272 Summary of Comments: 26.12

Appendix B. Section A of the "Water Efficient Landscape Worksheet" on page 44 has been 99% stricken out of the suggested information. It is assumed that the agency is obligated to establish a format. This is a critical sheet of information that would be provided to the water purveyors. It would be helpful to see samples of other Cities that have already implemented this. Can you recommend good examples?

DWR Response: Reject

The sample Water Efficient Landscape Worksheet in Appendix A is intended to serve as an example for this worksheet. The items that had been removed were determined to be repetitive of information found in other documents to be submitted with the Landscape Documentation Package. Local agencies may adopt their own Model Ordinance that modifies language to accommodate local conditions, as long as the local ordinance is at least as effective as the Model Ordinance in meeting the requirements of the statute (Statute of 2006, Chapter 559 [AB 1881]).

H273 Summary of Comments: 24.22

Appendix C. Page 54: Having different professionals signing off on items they don't have full control over will be a challenge.

DWR Response: Reject

Appendix C is a sample document. Local agencies may adopt their own Model Ordinance that modifies language to accommodate local conditions, as long as the local ordinance is at least as effective as the Model Ordinance in meeting the requirements of the statute (Statute of 2006, Chapter 559 [AB 1881]). Such a modification may include that correct installation is verified by more than one person, depending on their areas of responsibility.

H274 Summary of Comments: 69.2

Appendix E. Staff recommends that Appendix E of the previous draft be retained.

DWR Response: Reject

The information contained in Appendix E is either stated elsewhere in the document or is readily available and commonly used. The Appendix is considered unnecessary and will not be retained in the Model Ordinance.

H275 Summary of Comments: 24.4

Appendix C. The installation certificates should be through the installation contractor as opposed to the architect as most designers are not part of the installation process.

DWR Response: Accept

The language that requires the signature of a professional has been changed throughout the document to include "...or any other person, licensed or unlicensed, as listed in the Business and Professions Code, the California Code of Regulations, or the Food and Agriculture Code".

H276 Summary of Comments: 24.5

Appendix C Section B: "No run off"? How does one guarantee this since each step or phase is someone else's area of control?

DWR Response: Accept

This section of the Certificate of Completion has been removed from the Model Ordinance.

I. SUMMARY AND RESPONSES FROM THE LATE FILED COMMENTS (EXTENDED 15 DAY COMMENTS NO. 71, NO. 72 AND NO. 73)

The late comments were filed and requested that the Department further clarify sections that were addressed in previous Department responses to comments that were timely submitted, December 30, 2008 (See commenter number after each comment). Pursuant to its authority and discretion to respond to late filed comments under the Administrative Procedures Act, the Department responds below.

No. 71 Steve LaMar's Comments January 9, 2009**I1 Summary of Comment 71:**

Delete the requirements for Certificate of Occupancy and preliminary inspection prior to backfilling. Clarifies comments from Commenter #58.

DWR Response: Accept. Deleted Certificate of Occupancy and preliminary inspection requirements.

I2 Summary of Comment 71:

Change the field observation requirement as follows: The applicant have a licensed landscape architect or landscape contractor conduct a final field observation for approval of certificate. Clarifies comments from Commenter #58.

DWR Response: Accept. The proposed section has been revised for clarity but with different language than suggested by the commenter. See Section 492.12

I3 Summary of Comment 71:

Change the final field inspection as follows: The Local agency shall conduct a final field inspection of the project. Clarifies comments from Commenter #58.

DWR Response: Reject. The Model Ordinance requires that the designer, hired by the applicant, conducts the final field inspection. This will expedite inspection. However, a local agency may designate this inspection to a water agency providing the water agency agrees.

I4 Summary of Comment 71:

Set a performance standard based upon the lower ET adjustment factor and let the landscape designer develop a plan that meets the Maximum Applied Water Allowance. Clarifies comments from Commenter #35.

DWR Response: Reject. Setting performance standards alone will not ensure that landscape irrigation systems are designed, installed, and managed efficiently to meet the goals of the AB 1881.

I5 Summary of Comment 71:

Eliminate all landscape water audits. As a superior alternative, take advantage of the fact that all landscaped areas of 5000 square feet or larger are required to have a separate, dedicated, water meter for the landscape area. Clarifies comments from Commenter #58.

DWR Response: Accept in part. We have removed the preliminary inspection requirement. AB 1881 requires including provisions for landscape maintenance practices that foster long-term landscape water conservation. The ordinance requires local agencies to administer programs that shall include but not limited to irrigation audits or surveys. Audit of existing landscape is part of existing regulation. The requirement for dedicated water meters for landscapes of 5,000 square feet or more doesn't apply to single family residential, which is a major landscape area in the state. Also, the existing ordinance applies to CII landscapes 2,500 square feet or larger. To make this standard 5,000 square feet would make the new ordinance less stringent than the existing ordinance. A water audit conducted after installation ensures correct system design, installation and performance. There is no other such assurance in the process.

I6 Summary of Comment 71:

Rather than create some huge new costly water audit industry and reporting regimen to cities and counties, let's give the water districts new authority (voluntarily, not as a mandate) to reduce landscape water waste! Clarifies comments from Commenter #58 and its referenced commenter #20.

DWR Response: Reject. AB 1881 doesn't authorize the Department to adopt regulations that require water suppliers to take actions. AB 1881 applies to local agencies only. However, AB 1881 encourages the promotion of consistent local ordinances which may include water agencies. The Department added language to encourage local agencies to designate the necessary authority that implements and enforces the provisions of the Ordinance.

I7 Summary of Comment 71:

Eliminate the costly and prescriptive "soil management plan" with expensive new laboratory soil analyses required at the wrong times in the process. Clarifies comments from Commenter #58.

DWR Response: Accept in part. The AB 1881 requires provisions for a soil management plan. In response to this concern, the soil management plan requirement was modified by deleting the elective part of the regulation and addressing the timing for submission.

I8 Summary of Comment 71:

Delete Section on requiring Landscape Design Plans to include stormwater BMPs, capture and infiltration requirements regulated by federal NPDES and Municipal Stormwater Permits. Clarifies comments from Commenter #35.

DWR Response: Clarified. The AB 1881 does not require, but only encourages stormwater BMPs. The text of the regulation has been clarified.

I9 Summary of Comment 71:

Amend Grading Design Plan, to accurately reflect the finished grade of the landscape area. Clarifies comments from Commenter #58 and its referenced Commenter #20.

DWR Response: Accept. The language has been clarified. If no plan exists or if grading design plan is different from the Civil Engineer grading design plan, a plan should then be submitted.

I10 Summary of Comment 71:

The requirements for Irrigation Schedules, for Maintenance Schedules, and for Irrigation Audits and Schedules are way too prescriptive for application on a statewide basis for effective implementation. Clarifies comments from Commenter #35.

DWR Response: Accept in part, Deleted irrigation schedules requirement. Only instructions on how to prepare irrigation schedule is required. This will assist in the proper setting up of the automated ET controllers. Maintenance schedule is necessary to properly maintain the landscape. Required audit after installation remains in the ordinance. There is no requirement for Irrigation Audit Schedule.

No. 72 American Society of Irrigation Consultants Comments January 7, 2009.

(These comments were submitted to The Department during the 45 day comment period, Commenter #20).

These comments were referenced by the Commenter #58 during the 34-day comment period. The Responses below represent the changes to the revised text of Regulation in response to Commenter #58:

I11 Summary of Comment 72:

Require water purveyors to track landscape water use....

DWR Response: Reject. The Department has no authority to require water suppliers to track landscape water use. AB 1881 applies to local agencies. However, water purveyors are encouraged to participate in the process.

I12 Summary of Comment 72:

Allow irrigation design professionals and other professionals to encourage water conservation and sign documents.

DWR Response: Accept. Licensed or unlicensed persons as listed in the Business and Professional Code and California Code of Regulations, and Food and Agriculture can sign documents.

I13 Summary of Comment 72:

The Notice claims no additional costs. But CLCA provided the cost analysis and estimated that the cost will be \$550 to \$800 for 5,000 square feet landscape.

DWR Response: Reject. This cost analysis is based on the first draft of the ordinance. Since, then the ordinance has been modified and requirements streamlined. The new requirements may have some cost for the applicants to design and install the system and for completing an audit, but the cost to local agency is negligible or none. Most of the requirements are already in existing regulations so the model ordinance is not adding any additional significant costs. Furthermore, the local agencies charge for reviewing the plans and therefore will be able to recover their costs. The applicant(s) will have some initial costs but because of water conservation, they will also recover the additional costs through reduced water charges.

I14 Summary of Comment 72:

Make provisions in the ordinance for landscape water managers, landscape maintenance and water purveyors.

DWR Response: Reject. The statute (Statue of 2006, Chapter 559 [AB 1881]) does not allow for language that obligates water purveyors. Local agencies are encouraged to designate the necessary authority that implements and enforces the provisions of the Model Water Efficient Landscape Ordinance or its local landscape ordinance.

I15 Summary of Comment 72:

Require Smart Controller Technology.

DWR Response: Reject. Smart Controller Technology is a trade name. The ordinance requires automatic irrigation systems as provisioned in the statue (Statue of 2006, Chapter 559 [AB 1881]).

I16 Summary of Comment 72:

Remove low volume irrigation from the requirements and require proper device as used by designer.

DWR Response: Accept in part. There are three locations where low volume irrigation was required: On slopes greater than 25%, within the 24” setback, and in mulched areas. The ordinance was modified for sloped, irrigated areas. This change allows an application rate of 0.75 inch/hour in order to accommodate new technology that functions well on slopes, and meets the goals of the ordinance. The restrictions can be modified if certain conditions are met. The language for irrigation in the 24” setback was modified, to prevent runoff onto streets allowing for pathways in parks, for example, to be irrigated as long as the water remains in the park. These restrictions can be modified if certain conditions are met. Low volume requirements for mulched areas remains unchanged as overhead spray irrigation is not appropriate for mulched areas.

I17 Summary of Comment 72:

Consider including only those documents in the Landscape Documentation Package that are related to landscape irrigation.

DWR Response: Accept in part. The ordinance documentation has been streamlined. The Landscape Documentation Package will continue to include all relevant information to landscape design. This will include the Landscape Design Plan, Irrigation Design Plan, Grading Design Plan, Water Efficient Landscape Worksheet and Soil Management Report.

I18 Summary of Comment 72:

Delete Soil Management Plan or require one when soil information becomes available.

DWR Response: Accept in part. The soil management report requirement has been modified. Non-compulsory requirements were removed and required timing for soil analysis was clarified.

I19 Summary of Comment 72:

Delete water features from the ordinance. They are regulated by other ordinances.

DWR Response: Reject. Other regulations don’t address water conservation. Water features are open water bodies and consume water. They are included in the high water use plan areas of landscape. They are also a provision in the existing model ordinance.

I20 Summary of Comment 72:

Delete landscape project design specifications, jurisdictions have their own requirements.

DWR Response: Reject. The design criteria and plan specifications are part of the existing regulation. The specifications in the ordinance address recommendations from the AB2717 Task Force and will increase water conservation and follow the provisions of AB 1881.

I21 Summary of Comment 72.:

Delete licensed professional stamp/signature requirements.

DWR Response: Accept in part. Stamp requirement deleted. Signature is required to verify the professional agrees with the ordinance criteria. Allowance for who signs have been modified to better reflect existing codes.

I22 Summary of Comment 72:

Delete soil infiltration rate requirement from the design plans because design is done prior to soil testing.

DWR Response: Reject. This is not a requirement. Language is “may include”. A modification to the Soil Section states –“The soil information shall be provided to the designer in a timely way so as to inform the design plans”. The intent is that the designers will make any necessary modifications, based on soil information, to the design plans before installation.

I23 Summary of Comment 72:

Delete 24 inch setback requirement, this is a significant issue.

DWR Response: Accept in part. Clarified. Setback is required but the restrictions can be modified if certain conditions are met (see text of regulation, Section 492.7 (a) (1) (S)).

I24 Summary of Comment 72:

Delete slopes greater than 4:1 shall be irrigated with drip or other low volume technology.

DWR Response: Accept in part. Clarified “slopes greater than 25% shall not be irrigated with system exceeding 0.75 per hour precipitation rate.” This change will accommodate new technology that functions well on slopes, and meets the goals of the ordinance. The restrictions may be modified if certain conditions are met.

I25 Summary of Comment 72:

Delete Grading design plan.

DWR Response: Reject. However design plan has been clarified. A grading design plan is required if no other plan exists or the grading design plan is different from the Engineer Grading Plan.

I26 Summary of Comment 72:

Delete preliminary inspection.

DWR Response: Accept. Preliminary inspection is deleted form section 492.9.

I27 Summary of Comment 72:

Delete maintenance schedule. Maintenance schedule is not part of the permitted package.

DWR Response: Reject. Statutes require including provisions for landscape maintenance practices that foster long-term landscape water conservation. It is a brief schedule of checking and fertilizing etc. that will be delivered to the property owner for use in long-term maintenance of the property to retain the water conservation practices put in place during installation.

I28 Summary of Comment 72:

Delete Water Audit or require it when the water use exceeds MAWA.

DWR Response: Accept in part. Water audits upon project completion ensure good system performance with proper design and installation in order to meet the provisions of AB 1881. The Irrigation Audit is a program administered by the agency and the agency has discretion on how to apply it, to those who exceed the MAWA.

I29 Summary of Comment 72:

Retain ETAF of 0.8 (rather than 0.7) until more testing is done.

DWR Response: Reject. There is adequate information for improvement in irrigation efficiency. The proper design and installation of the irrigation system including water conserving devices and audits, and other design specifications as well as better maintenance and management will achieve the proposed higher efficiency of 0.71 and ETAF of 0.7.

I30 Summary of Comment 72:

Delete requirement for all model homes to have signs and educational requirements.

DWR Response: Reject. Education is in the existing regulation. It is important outreach to achieve water conservation.

I31 Summary of Comment 72:

Delete water audits for existing landscape.

DWR Response: Accept in part. Water audit is a requirement of current ordinance. Language was modified to make it more practical and local agency has discretion on the nature of the program.

No. 73 Multiple signatories letter January 12, 2009**I32 Summary of Comment 73:**

Model Ordinance requires drip irrigation in certain areas and creates high costs that far outweigh the benefits. Clarifies comments from Commenter #35 and #20.

DWR Response: Accept in part. There are three locations where low volume irrigation was required: On slopes greater than 25%, within the 24" setback, and in mulched areas. The ordinance was modified for sloped irrigated areas. This change allows an application rate of 0.75 inch/hour in order to accommodate new technology that functions well on slopes, and meets the goals of the ordinance. The language for irrigation in the 24" setback was modified, to prevent runoff onto streets allowing for pathways in parks, for example, to be irrigated as long as the water remains in the park. The restrictions may be modified if certain conditions are met but the outcome is unchanged. Low volume requirements for mulched areas remains unchanged as overhead spray irrigation is not appropriate for mulched areas.

I33 Summary of Comment 73:

A new, overly complicated and detailed "documentation package" that includes excessive and duplicative information regarding grading and soil content. Clarifies comments from Commenter #35 and 20.

DWR Response: Accept in part. Documentation requirements have been streamlined. See text above.

I34 Summary of Comment 73:

An unnecessary new governmental and bureaucratic process whereby the State ultimately decides whether or not shopping centers and new housing projects can be built.

DWR Response: Requirements have been streamlined.

I35 Summary of Comment 73:

Multiple field audits must be conducted – before, during and after construction – to ensure compliance. Clarifies comments from Commenter #58.

DWR Response: Modified. Audit is to be performed for new construction at time of completion of installation. Preliminary audit is deleted. Local agency shall administer a program that may include, but not limited to, audit and survey to monitor water use for compliance with MAWA.

I36 Summary of Comment 73:

Local governments are obligated to hire hundreds of new, technically proficient personnel to meet the new compliance process. Clarifies comments from Commenter #58.

DWR Response: Process was streamlined to achieve the goals of the AB 1881 with least burden.

I37 Summary of Comment 73:

The imposition of new, untested plumbing standards that have not yet been approved by the state's building standards authority and rule-making body. Clarifies comments from Commenter #58.

DWR Response: No new plumbing is proposed.

I38 Summary of Comment 73:

We are not aware of anything that shows a profound failure of existing procedures for landscape-based conservation to support the state conservation goal.

DWR Response: Western Policy Research Report states that Model Ordinance has yet to fully live up to its expectations. The report partly led to passing AB 2717 and AB 1881. AB 1881 recognized it as did the Landscape Task Force and studies conducted to degree of the implementation of the existing Model Ordinance. DWR conducted a survey of 548 cities and counties. 196 surveys were completed. 14 adopted state model ordinance, 74 adopted a local ordinance and 8 adopted a resolution that ordinance was not necessary.

I39 Summary of Comment 73:

Ordinance is so prescriptive that the local agencies may have little room to adopt their own local ordinance. Clarifies comments from Commenter #35.

DWR Response: The Model Ordinance has been streamlined. Local agencies can adopt their own ordinance as prescribed in AB 1881 that is at least as effective as the State Landscape model Ordinance.

J. AUTHORITY AND REFERENCE

Authority cited: Sections 65591, 65593, 65594, 65595, Gov. Code. Section 1353.8, Civil Code. Sections 21082, Public Resources Code.

Reference: Sections 65591, 65595, 65596, 65597, Gov. Code. Section 1353.8, Civil Code. Sections 21080, 21082 Public Resources Code.

K. IDENTIFICATION OF REPORTS OR DOCUMENTS SUPPORTING REGULATION CHANGE

Items number 1 through 4 were noticed on February 8, 2008 as part of the Initial Statement of Reasons. Items 5 through 26 were noticed on November 26, 2008 as part of the Notice of Addition of Documents and Information to Rulemaking File.

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.
5. “*Water Smart Landscapes for California*” California Urban Water Conservation Council AB 2717 Landscape Task Force Final Report to the Governor and Legislature, December 2005.
6. “*Draft Evapotranspiration Adjustment Factor White Paper*” State of California Department of Water Resources, November 2008.
7. “*Water Smart Landscapes for California*” California Urban Water Conservation Council AB 2717 Landscape Task Force Final Report to the Governor and Legislature, December 2005.
8. “*Residential Landscape Architecture*” pp 290-293, Norman K. Booth and James Bliss 1991
9. “*Soil Quality Indicators: Infiltration*” USDA Natural Resources Conservation Service, January 1998 <http://soils.usda.gov/sqi/publications/files/Infiltration.pdf>
10. “*Protecting Urban Soil Quality: Examples for Landscape Codes and Specifications*”, USDA Natural Resources Conservation Service, December 2003. http://soils.usda.gov/sqi/management/files/protect_urban_sq.pdf
11. “*Abiotic Disorders of Landscape Plants: A Diagnostic Guide*” Chapter 2 page 18 and Chapter 5, pp 51-69, University of California, Agriculture and Natural Resources 2003, Laurence Costello, Edward Perry, Nelda Matheny, Michael Henry, Pamela Giesel.
12. “*Managing Salinity of Recycled Water for Landscape Irrigation*” WateReuse Foundation 2007.
13. “*California Health Laws Related to Recycled Water: The Purple Book*” California Department of Health Services, June 2001.
14. “*Reference Evapotranspiration for California*”, Cooperative Extension UC Division of Agriculture and Natural Resources, 1987, Publication Leaflet 21426.

15. “*Reference Evapotranspiration Zones*” map, UC Department of Land, Air and Water Resources and California Department of Water Resources 1999.
16. “*Draft Water-Efficient Single-Family New Home Specification*” Environmental Protection Agency, Water Sense, April 2008.
17. “*Landscape Sprinkler Design*” US Bureau of Reclamation and Irrigation Training and Research Center, August 1999.
18. “*Microirrigation Design for Landscape*” US Bureau of Reclamation and Irrigation Training and Research Center, August 1999.
19. “*Landscape Water Management Auditing*” Irrigation Training and Research Center 1999.
20. “*Landscape Water Management Principles*” Irrigation Training and Research Center 1999.
21. Hunter 2007-2008 Irrigation Products Catalog.
22. MP Rotator Website <http://www.mprotator.com>.
23. Rainbird Landscape Irrigation Products 2007-2008 Catalog.
24. Toro 2007 Residential/Commercial Irrigation Specification Catalog .
25. California Landscape Contractors Association Correspondence Dated September 27, 1995.
26. Contractors State License Board Correspondence Dated July 31, 1992.

L. DETERMINATIONS

L1. Local Mandate Determination

By imposing requirements on local agencies in connection with the adoption of water efficient landscape ordinances, the bill would impose a state-mandated local program, but it is not reimbursable. Local agencies are required to adopt the Model Ordinance or other water efficient landscape ordinance that is at least as effective as the Model Ordinance by January 1, 2010. The mandate is not reimbursable because currently local agencies pursuant to Government Code Section 66012-66014 collect fees for permits sufficient to pay the cost associated with adopting and implementing the Model Ordinance.

The proposed regulation updates an existing regulation (California Code of Regulations, Title 23, commencing with Section 490). No reimbursement was required then. Furthermore, the proposed regulation is a Model Ordinance and local agencies can adopt their own ordinance that is at least as effective as the proposed regulation.

L2. Estimate Cost and Savings

Pursuant to Administrative Procedure Act Government Code 11346.5 (a) (6), the Department originally responded “None” to the cost impact on representative private person or business in the Initial Statement of Reason. The cost impacts on private person or business has been modified to unknown. Private person can recover cost by reduced water charges. There may be undetermined benefits to businesses including jobs for additional design, installation, audit, and maintenance professionals.

L3. Economic Impact on Small Businesses

Small business which may be impacted by the proposed Model Ordinance include landscape maintenance services, irrigation and landscape equipment companies, nursery companies, landscape designers, fertilizer companies, soil testing companies, water auditors, and turf producers.

Pursuant to Administrative Procedures Act Government Code 11346.5 (a) (8), the Department has determined that the adoption of the proposed Model Ordinance by local agencies may have a positive or minimal economic impact to many of these small businesses. For example, landscape maintenance services would still be required to maintain landscapes even though the type of plant mix may vary. Less water might be used on landscapes but because a purpose of the Model Ordinance is to have that water used more efficiently which will also reduce water charges to the landscape owner, planting of landscapes would continue, as would maintenance.

Landscape maintenance would still be required because turf and other plants would continue to be used on future landscapes. The Model Ordinance would allow for various plant mixes, depending on locality. Most landscapes already are designed with a mix of high, medium, and low water using plants. Therefore, changes in current landscape “maintenance” practices probably would not change significantly because of the Model Ordinance.

Just as with landscape maintenance services, nursery companies and fertilizer companies would most likely have minimal economic impact from the Model Ordinance. Nursery companies would continue to sell plants although the types of plants may change. Fertilizer companies would continue to sell fertilizer because the landscape would still be planted, but with a different plant mix.

Small businesses that supply irrigation equipment may have a positive economic impact as the need for more efficient irrigation equipment is requested from developers and other applicable project proponents. The Model ordinance does, pursuant to the statues of 2006, Chapter 559, require certain irrigation equipment such as rain sensing override devices, automatic controllers, and for certain acreage water meters. The increased need for this equipment should increase sales by irrigation supply companies. Some service companies, such as soil testing services, water auditors, and landscape designers, may have a positive economic impact as project applicants request these services when planning projects.

Turf growers that supply turf to project proponents that must comply with the Model Ordinance may have a minimum negative economic impact due to the Model Ordinance. Landscape designs might call for less turf because of the Model Ordinance limit on applied water for landscape areas. However, since certain turf areas and area irrigated with recycled water has a higher Maximum Applied Water Allowance, the size of this area may not change. If landscape designers would have traditionally planted the landscape with 100 percent turf, it may be difficult to design such landscape, and may cause an impact on turf growers.

The effect on turf growers is difficult to measure, however, because landscape designs often have a mix of high and low water using plants and a change from the current design practices due to the Model Ordinance may not be great. Less use of turf could be attributed to less water available to landscapes because of water district conservation requirements or because of greater

costs for that water, not because of the Model Ordinance. Model Ordinance does not apply to registered local, state or federal historical sites, landscapes with less than 2500 square feet, homeowner-provided landscapes less than 5,000 square feet, and botanical gardens and arboretums open to the public. Therefore, the impact to small business turf growers that is attributable to the Model Ordinance is unknown, although some impact is likely, but will be insignificant.

The initial cost of designing and installing water efficient landscapes that conform to the Model Ordinance is relatively higher compared with installation of conventional landscapes and this cost may be passed to property owners. The higher cost is primarily due to increased cost of designing and drawing landscape plans and slightly higher costs of purchasing and installing irrigation equipment. However, once the water efficient landscapes are established, the landscape require less water, less money to manage, and increase environment benefits. Due to savings in irrigation and maintenance cost, the higher initial cost in water efficient landscape could be recouped in as short time by property owners. Since property owners can recoup these added costs in a short time frame the effect on private sector is insignificant.

L4. Alternative Determination

Pursuant to Administrative Procedures Act Government Code 11346.5 (a) (13), the Department has determined for the reasons discussed above in this Final Statement of Reasons and in the summary and response to comments to the initial 45-day comment period and the 15-day comment period that no alternatives considered would be more effective in carrying out the purposes for which the Model Ordinance is proposed or would be as effective and less burdensome to affected private persons than the adopted Model Ordinance.

No proposed alternatives to the proposed Model Ordinance would be less burdensome. The proposed alternative suggested by some stockholders would be to implement water tiered rate; have water purveyor, not local agencies, to be responsible for the Model Ordinance; and applying substantial price increase for usage that exceeds MAWA. None of these alternatives are authorized by the statutes.

M. UPDATED INFORMATIVE DIGEST

The following updated informative digest replaces the originally noticed informative digest.

Landscape water conservation offers more potential for water savings than any other action that California can take. To help achieve these savings, the State of California Department of Water Resources updated an existing regulation, the Model Water Efficient Landscape Ordinance (California Code of Regulations, Title 23 Section 490 – 495). This rulemaking action was authorized by Government Code, Sections 65595 and 65596.

The “Water Conservation in Landscaping Act of 1992” resulted in the Department’s adoption of the Model Water Efficient Landscape Ordinance (Model Ordinance). 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. California's population is projected to

reach almost 60 million people by 2050, according to long-range population projections released in July 2007 by the State's Department of Finance. Having recognized the significant impact of irrigating outdoor landscapes has on water supplies and wanting to further reduce waste of water, the California Legislature revisited the Model Ordinance.

In September 2004, the California Legislature enacted Assembly Bill 2717, Chapter 682, Statutes of 2004, to direct the California Urban Water Conservation Council 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 AB 2717 Landscape Task Force Final Report included recommendations for updating the Model Water Efficient Landscape Ordinance. The Final Report also listed additional benefits of water efficient landscapes.

The report stated: When landscapes are water efficient, water suppliers, customers and the environment can realize benefits including:

- Reduced average daily water demand
- Reduced seasonal peak water demand
- Reduced water extractions
- Reduced run-off, overspray and soil erosion, resulting in improved water quality and less degradation of roads and other structures
- Reduced green waste production
- Avoided costs of energy
- Avoided cost of water treatment
- Avoided cost of wastewater treatment

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 was directed to update the Model Water Efficient Landscape Ordinance. The Department shall adopt the updated Model Ordinance by January 1, 2009. 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.

A series of notable events regarding California's water supply makes the adoption of the proposed regulation imperative:

- **December 14, 2007** - U. S. District Court Judge Oliver Wanger ruled on a series of severe restrictions on the operations of the massive pumps that supply water from the Sacramento-San Joaquin Delta to 25 million Californians (about two-thirds of all Californians) to protect threatened fish in the Bay-Delta.
- **February 29, 2008** - As previously mentioned, Governor Arnold Schwarzenegger in a press release announced a plan to achieve a 20 percent reduction in per capita water use statewide by 2020. The Department of Water Resources supports the proposed regulation as a mechanism that may help local agencies achieve the goals of the "20 x 2020" water efficiency plan.
- **April 9, 2008** - The Department of Water Resources released the updated Urban Drought Guidebook to help local agencies prepare for the possibilities of another dry year or water supply interruptions.
- **June 4, 2008** – Governor Arnold Schwarzenegger issued Executive Order S-06-08 declaring a statewide drought, which directed his state agencies and departments to take immediate action to address the serious drought conditions and water delivery reductions that exist in California.
- **July 8, 2008** – The Department of Water Resources announced a series of drought actions for the State in response to the Governor's Executive Order. After experiencing two years of drought and the driest spring in recorded history, water reserves are extremely low. With the Sacramento-San Joaquin Delta ecosystem near collapse, court-ordered restrictions on water deliveries from the Delta have reduced supplies from the state's two largest water systems by twenty to thirty percent. Drought conditions in the Colorado River Basin and a Sierra snow pack that is now dangerously unreliable due to global climate change, is leaving many communities throughout California facing mandatory restrictions on water use and/or rising water bills. If the drought continues into next year, the results could be catastrophic to our economy.
- **September 4, 2008** – The Department of Water Resources announced a number of actions in preparation for a potentially dry 2009 and beyond. More specifically, the Department of Water Resources posted a press release announcing the creation of the 2009 Drought Water Bank, which will purchase water from willing sellers, and transfer it to water agencies that are at risk of experiencing water shortages next year due to drought conditions.
- **September 30, 2008** – Governor Arnold Schwarzenegger signed SBxx-1, the new Water Code language now known as the Integrated Regional Water Management Planning Act, clarifies what an IRWM plan should address. One item that an IRWM plan should address is protection and improvement of water supply reliability, including identification of feasible agricultural and urban water use efficiency strategies.
- **October 29, 2008** - The Department of Water Resources released a report urging California's water managers to develop climate adaptation strategies. The report, *Managing an Uncertain Future: Climate Change Adaptation Strategies for California's Water*, details how climate change is already affecting the state's water supplies and sets

forth a number of recommendations to help avoid or reduce climate change impacts to water resources.

- **January 7, 2009** - The Department of Water Resources released for public comment the Public Review Draft of the California Water Plan Update 2009: Integrated Water Management, which is essentially the state's Water Plan. The Water Plan cites "urban water use efficiency" as a top resource management strategy to reduce water demand. In the chapter entitled "Imperative to Act," it states: "*We need to make water efficiency a priority at home, in our communities, on the farm, and at the office.*"

The Department of Water Resources final rulemaking file on the proposed regulation will be available on its website following its adoption of the proposed regulation.

Senate Bill X2 1 provides DWR with authority to adopt the ordinance, but the law will not take effect until March 1, 2009.