

Department: California Department of Water Resources
Contact Person: Shem Stygar
Email Address: Shem.Stygar@water.ca.gov
Telephone Number: 916-902-7741

INTRODUCTION

The model water efficient landscape ordinance (MWELo) provides a standard for the design, installation, management, and maintenance of landscapes to use water efficiently without water waste. The MWELo was developed by the Department of Water Resources (DWR) in coordination with irrigation and landscape experts as a model for local agencies to enforce minimum standards in landscape design, construction, and management. It does this through specific requirements related to soil, plants, irrigation, stormwater, and non-potable water supplies. A landscape designed, built, and managed to meet MWELo standards can use water more efficiently and can help improve the well-being, health, safety, and resiliency of California communities.

However, the annual implementation reports provided to DWR suggest, and two recent independently developed reports by UC Davis and the Landscape Statewide Advisory Group (LSAG) demonstrate, that there is inconsistent implementation and management of the ordinance at the local level. The reports, the UC Davis Survey on Barriers to MWELo Implementation (2022) and the LSAG Summary report for Updating MWELo (August 2019), suggest that MWELo's organization and lack of clarity in certain provisions is a current barrier to consistent and effective implementation of the ordinance. Recognizing the need to facilitate MWELo's implementation, the Governor's Water Resilience Portfolio (January 2022) includes Action 2.2 – Simplify the Model Water Efficient Landscape Ordinance.

The proposed MWELo amendments intend to simplify the MWELo by reducing ambiguities, providing clarity, and improving MWELo's organization. The amendments will facilitate more consistent implementation of MWELo by making the ordinance easier to understand and follow. The amendments include two new statutory requirements and otherwise do not change any other requirements.

ECONOMIC IMPACT STATEMENT

Section A. Estimated Private Sector Cost Impacts

The MWELo is an existing set of regulations as required by Government Code §65594. MWELo is enforced by local agencies for applicable landscape projects. Landscape design and installation businesses will often be a project applicant under MWELo or the entity that installs landscapes subject to MWELo, and thus may be impacted by any change to MWELo.

The proposed amendments to MWELo, will have negligible to no impacts, fiscal or otherwise, as the existing requirements are not changing. The amendments are intended to make MWELo easier to understand, follow and implement. The only new requirement with any potential impact included in the amendments is a provision implementing Government Code §65596(n), which was adopted in 2020. Section 65596(n) requires that all plants be identifiable at the time of inspection. DWR proposes to implement this statutory direction through requiring plant legends with photographs be prepared for each project. Plant legends are common practice when designing a landscape and digital photographs

are easily and freely available online. Thus, this new requirement will have negligible to no fiscal impacts.

Section B. Estimated Costs

1. There are no expected statewide costs that businesses or individuals may incur to comply with the proposed amendments to MWELO once implemented. The regulatory requirements are not changing for project applicants that install landscapes and local agencies that are required to annually report to the Department.

Please reference the description provided in Section A. Estimated Private Sector Costs for the negligible costs associated with the new requirement for plant legends.

Section C. Estimated Benefits

The amendments to MWELO are intended to make MWELO easier to understand, follow and implement. While the changes will allow for a more efficient workflow and more consistent implementation for project applicants and local agencies, DWR does not expect an economic benefit to the amendments as they are not substantive changes to the requirements but are instead a clean-up and reorganization of the MWELO regulation.

Section D. Alternatives to the Regulation

DWR is statutorily required to develop and adopt the MWELO. There are no other alternatives to having the MWELO. With regard to considering other substantive changes, DWR's primary objective at this time is to make the MWELO's current requirements easier to understand, follow and implement. If, in the future, DWR deems it necessary to update or change a substantive requirement, the new organization provides a better framework in which to make those changes.

During the pre-rulemaking process the Department held six meetings with the Landscape Statewide Advisory Group (LSAG) to seek feedback on the proposed amendments to MWELO. The LSAG, is open to all interested parties and currently includes Landscape Architects, Landscape Designers, Landscape Contractors, Irrigation Consultants, irrigation equipment manufacturers, soil scientists, city and county staff, water suppliers, State agencies, educators, horticulturists, nursery growers and arborists.

FISCAL IMPACT STATEMENT

Section A. Fiscal Effect on Local Government

The Department has determined that the regulations do not change the requirements for local agencies. The regulations do not mandate a new program or require a higher level of service in an existing program. These amendments are expected to improve understanding by local agencies that report to the Department on MWELO implementation.

Calculations and Assumptions

Since the MWELO was last updated in 2015, there have been two additions to the Government Code (GC) applicable to MWELO. Government Code §65596.(e) requires the MWELO to include references to local, state, and federal laws and regulations regarding standards for water-conserving equipment. The first addition to the MWELO is from the California Energy Commission that adopted in 2018 standards

for sprinkler bodies in section CCR §1605.3.(x), with requirements for spray sprinkler bodies directly applicable to the MWELO. This regulation is already being enforced at the point of sale and will not have an economic impact or benefit by referencing it in the ordinance.

The second addition is GC §65596.(n) adopted in 2020 requiring that plants installed in a landscape be identifiable at the time of inspection. Landscape designers routinely produce a plant legend when developing landscape plans showing what the plants will look like in the landscape. The plant legend can be readily included with the landscape design plan. This regulation is relevant to the MWELO and should have very minimal economic impact.

The remaining changes in the MWELO are reducing ambiguities and providing clarity to improve the understanding and do not change existing requirements.

Section B. Fiscal Effect on State Government

Other agencies of the state government will not be impacted by the proposed regulations. Other standards, codes, and regulations do reference the MWELO; for example, the CalGreen Building Standards Code and other sections of the Water Code reference sections of the MWELO and should be updated after the final regulation is adopted. However, the MWELO requirements are not being changed and there is no expected impact by the proposed amendments.

Section C. Fiscal Effect on Federal Funding of State Programs

There are no expected fiscal effects on federal funding of state programs that may incur to comply with the proposed amendments to the MWELO. These existing requirements already apply to project applicants that install landscapes and local agencies that are required to annually report to the Department.