

State of California  
Department of Water Resources  
California Code of Regulations, Title 23. Waters  
Division 2. Department of Water Resources  
Chapter 2.7. Model Water Efficient Landscape Ordinance  
Sections 490 — 495 and Appendices A, B, C, and D

FINAL STATEMENT OF REASONS

## Update of Initial Statement of Reasons

After careful consideration of the comments received and further review of the proposed regulations' text, modifications to the text of the regulations that were published on November 17, 2023, were revised based on comments received and proposed on March 18, 2024, for a 15-day comment period, and subsequently revised and proposed on August 23, 2024, for a second 15-day public comment period. All modifications from the initial proposed text of the regulations, including non-substantial changes, are summarized below. A "non-substantial change" is one that clarifies without materially altering the requirements, rights, responsibilities, conditions or prescriptions contained in the original text.

There have been no changes in the laws affecting the MWELo regulations since the ISOR was published.

### Changes Made to Section 490. Purpose

**Section 490(b).** The text "Model Water Efficient Landscape Ordinance (hereinafter referred to as, "MWELo" or "model ordinance" for purposes of this Chapter 2.7)" is added to provide clarity that there are several different terms used in the Chapter to refer to the Model Water Efficient Landscape Ordinance. Where the 'ordinance' term specific to the MWELo is present throughout Chapter 2.7 and its appendices it has been updated to either be "MWELo" or "model ordinance". This is a non-substantial change.

**Section 490(b)(7).** The text "that is at least as efficient as MWELo" is added to clarify the requirements of a local landscape ordinance. Per Water Code section 65595(c)(1), the local ordinance is required to be at least as efficient as MWELo. This is a non-substantial change and does not change existing 2015 MWELo requirements.

## Changes Made to Section 490.1. General Provisions

**Section 490.1(a).** The language is revised to enhance clarity and better describe the purpose of MWELo's General Provisions. Previously the text stated that the General Provisions should be reviewed for applicability and did not clearly describe the requirements. The General Provisions are an organized list of generally applicable requirements for all MWELo projects that should be reviewed for applicability by both the local agency and project applicant. The text "defined in Section 491" is replaced with "described in Section 491" to improve clarity and understanding because the definitions are in Section 490.2, while landscape projects are described in Section 491. Sections 490.1.(a)(3) and (4) are related statutes for recycled water and greywater use requirements and are unique to MWELo in that they may or may not apply to the landscape project and should be reviewed by the local agency and project applicant to determine applicability. These are non-substantial changes.

**Section 490.1(a)(3)(A).** To improve clarity and comprehension, the California codes relevant to recycled water use and irrigation system requirements have been consolidated from Sections 490.1(a)(3)(A) and (C), into 490.1(a)(3)(A), ensuring that all pertinent requirements are reviewed by the local agency and project applicant. This is a non-substantial change.

**Section 490.1(a)(3)(C).** In renumbered subheading (C) the text "Cal. Code Regs., Title 24, Part 5, Chapter 15" is added so that the referenced codes are consistently cited in the MWELo using Title / Division / Chapter; recycled water uses 'Part' instead of 'Division'. The text "with all" is included in front of "applicable local and State laws" for consistency with 2015 MWELo Section 492.14(b), which states "All recycled water irrigation systems shall be designed and operated in accordance with all applicable local and State laws." The text "with all" was an unintentional omission from the draft amendments. These are non-substantial changes.

**Section 490.1(a)(3)(D).** The term "Landscape areas" replaces "Landscapes" for consistency with the definitions in Section 490.2. Additionally, "as defined in 490.2(a)(80)" is added to reference and clarify that recycled water is a special landscape area as described in the definitions. This is a non-substantial change.

**Section 490.1(a)(4)(B).** The text "treated or untreated" in front of gray water is deleted because it is redundant. This is a non-substantial change.

**Section 490.1(a)(5)(F).** The text "storm water projects" is changed to "landscape projects" for consistency with the MWELo definitions. 'Storm water projects' is a vague and

undefined term while landscape projects are defined in Section 490.2(a)(44). This clarification improves MWELo's understanding and is a non-substantial change.

**Section 490.1(a)(6)(B).** Replaced the text “requires” with “describes the requirements for” to clarify that the Public Resource Code describes requirements. Public Resource Code Section 4291(a) describes the requirements for those with authority to manage the landscape, while Section 4291(b) describes requirements for a person without the legal right to manage the property. This is a substantial change.

**Section 490.1(a)(6)(C).** Added “per Public Resources Code Section 4291(a) and (b)” to clarify where these requirements are located. This is a substantial change.

**Section 490.1(a)(7)(A).** Subheading (A) is added with the text “Any plant may be selected for the landscape project provided that the requirements of the selected compliance option are met” to clarify that any plant may be selected if it meets the requirements of the selected compliance option. This is an existing allowance per previous 2015 MWELo Section 492.6(a)(1)(A). This is a non-substantial change.

**Section 490.1(a)(8).** The term “condominium projects” is updated to align with statutory language in Civil Code Section 4100. This is a non-substantial change.

**Section 490.1 Notes.** In the Notes, the reference to Sections 1351 through 4100, and 4735 of Civil Code, and Sections 4291, 21080, and 21082 of the Public Resources Code are deleted because while these are cross-referenced regulations, DWR does not have authority to further implement these statute(s) and they should not be cited as a reference. This is a non-substantial change.

## Changes Made to Section 490.2. Definitions

**Section 490.2(a)(2).** The definition added in the initial MWELo amendments, 60-day notice, for “aggregated landscape projects” is deleted because it creates inconsistent terminologies and caused confusion as noted in the public comments received. This is a substantial and sufficiently related change that was noticed in the 15-day comment period beginning on March 18, 2024.

**Section 490.2(a)(2) through 490.2(a)(92).** Because the definition of “aggregated landscape projects” was deleted from 490.2(a)(2), subsequent definitions from 490.2(a)(2) through 490.2(a)(92) were renumbered to be in chronological order. Throughout the amendments where the definitions sections are referenced the corresponding definition numbers were updated. These are non-substantial changes.

**Section 490.2(a)(4).** The text "For the purposes of this model ordinance," was added to the definition of automatic irrigation controllers to acknowledge that many automatic irrigation controllers are not capable of including evapotranspiration (ET) or moisture sensor adjusting. The requirement in MWEL0 is for automatic irrigation controllers to use sensor data to adjust the irrigation schedule per the 2015 MWEL0, Section 492.7.(a)(1)(B) and Appendix D(b)(5)(B) and this requirement is specific to the MWEL0. This is a non-substantial change.

**Section 490.2(a)(5).** The text "(Title 24, Part 5, Chapter 6)" was added to the backflow prevention device definition to specify that the California Plumbing Code section governs this requirement and for consistency in the MWEL0 with how other codes are referenced. This is a non-substantial change.

**Section 490.2(a)(7).** Added "herein incorporated by reference" for the USEPA WaterSense Certification Program, July 2014 to clarify that these requirements are national standards incorporated by reference into the ordinance. The text "including the Irrigation Association's Certified Landscape Irrigation Auditor program" is deleted because the Irrigation Association program is one of four programs recognized and labeled by the USEPA WaterSense Certification program. Any one of the four recognized programs is allowed and specifically identifying this program can create confusion. This is a substantial change.

**Section 490.2(a)(12).** The definition of dedicated irrigation meter was changed from "an inline metering device installed by the local water purveyor at the irrigation supply point that records the volume of water used" to "a customer service meter dedicated to landscape use provided by the local water purveyor." The definition of a dedicated irrigation meter is from the 2015 MWEL0 Section 492.7(a)(1)(A). This is a non-substantial change.

**Section 490.2(a)(14).** The amendments were modified so that the referenced codes are consistently cited using Title / Division / Chapter. Added "person" to definition of designer of record for consistency with Division 3, Chapter 3.5, Article 3 of the Business and Professions Code. The Business and Professions Code is different and uses Division / Chapter / Article; the section numbers and descriptions were deleted. This is a non-substantial change.

**Section 490.2(a)(30).** The definition of "friable" modifies the text "planting material requirements" is replaced with "planting instructions for the plant material" to clarify that the previously used word 'requirement' is intended to describe the general instructions about how deep and wide a plant should be placed in the ground to account for the

diversity of various plants and is not meant as a specific requirement. This is a non-substantial change.

**Section 490.2(a)(31).** Added a cross-reference in the definition of Fuel Modification Plan Guideline to Section 490.1.(a)(6) to clarify where the fire safe landscape requirements are described in MWEL0. This is a non-substantial change.

**Section 490.2(a)(32).** The definition of gray water is corrected to duplicate the exact language from Health and Safety Code Section 17922.12 by deleting “but is not limited to”. This is a non-substantial change.

**Section 490.2(a)(41).** In the landscape area definition, the term “planting” replaces “landscape” to use consistent terminology. The first sentence describes the area as “irrigated planting area”; using ‘planting area’ improves clarity and understanding by not using the term “landscape area” for its own definition. In addition, a run-on sentence was corrected by deleting the text “and” and creating a separate sentence to define that the landscape area is the sum of regular landscape areas and special landscape areas. These are non-substantial changes.

**Section 490.2(a)(42).** Corrected the reference for the Landscape Documentation Package to the appropriate Section 491.4, and not Section 493. This is a non-substantial change.

**Section 490.2(a)(43).** In the definition of landscape project, a reference to the landscape definition is included, Section 490.2(a)(41). This is a non-substantial change.

**Section 490.2(a)(49).** In the matched precipitation rate definition, the phrase “similar precipitation rate” replaced “same volume” because it incorrectly defined ‘matched precipitation rate’. Matched precipitation rate is the comparison of the flow and the area where the flow is being distributed, typically described as a rate of inches per hour. Within the same hydrozone it is common for individual emission devices to have different flow rates to achieve similar application rates or “matched precipitation” to the area of application. This is a non-substantial change.

**Section 490.2(a)(53).** The text “or inorganic mineral materials such as rocks, gravel, or decomposed granite left loose and” is moved to become a new sentence at the end of the mulch definition. This text was associated with the description of organic mulch materials and “beneficial purposes of reducing evaporation, suppressing weeds, moderating soil temperature, and preventing soil erosion.” This description is partially true. The Department has received many comments from local agencies about Fire Marshalls not allowing organic mulch. If the Fire Marshall does not allow the use of organic mulch, then rock, gravel, and decomposed granite left loose is all that is available to use as mulch. The text was moved to the last sentence and now states “Mulch also includes inorganic mineral

materials such as rocks, gravel, or decomposed granite left loose (i.e. may be used for Fire Safe Landscaping).” This is a non-substantial change.

**Section 490.2(a)(55).** In the definition of new construction, the reference to “per Section 491” was deleted. Section 491 is Applicability and includes when the MWEL0 applies to: new construction projects, rehabilitated landscape projects, existing non-rehabilitated landscapes, cemeteries, and landscapes excluded from the MWEL0. The reference to Section 491 is confusing and unnecessary. This is a non-substantial change.

**Section 490.2(a)(64)(A).** Replaced the text “0 to 0.1” with “less than 0.1” to be consistent with how very low water use plants are described in the Water Use Classification of Landscape Species "WUCOLS" database. WUCOLS is used for the MWEL0 plant factors. WUCOLS uses "Categories of Water Needs", which is similar to plant factors, and from page 8 of 18 in the WUCOLS IV User Manual, lists Very Low (VL) as less than 10 percent of ETo. The plant factor associated with VL was corrected in Section 493.3.b.1.A and Appendix A to state "less than 0.1". This is a non-substantial change.

**Section 490.2(a)(66).** In the rain sensor definition, “interrupts” replaced “suspends” because it incorrectly describes the function of the rain sensor. The purpose of a rain sensor is to interrupt the irrigation cycle when there is rainfall providing water to the landscape. The rain sensor does not suspend the irrigation cycle because the term “suspend” implies that the irrigation cycle continues after the precipitation event. This is a non-substantial change.

**Section 490.2(a)(68).** The text “excluding private single-family residential landscapes” was moved to a separate sentence at the end of the definition to improve clarity and understanding. The new sentence is “Private single-family residential landscapes are not recreational areas.” This is a non-substantial change.

**Section 490.2(a)(69).** Clarity was added to the recycled water definition by referencing the allowable Recycled Water uses in the California Code of Regulations. The text "as described in California Code of Regulations, Title 22, Division 4, Chapter 3." clarifies that the use of recycled water is governed by the California Code of Regulations. This is a non-substantial change.

**Section 490.2(a)(70).** Clarity was added to the reference evapotranspiration definition by describing that “the annual reference” evapotranspiration is required in the maximum applied water allowance calculation. Appendix C shows reference evapotranspiration values as both an annual value and monthly values. Monthly reference ETO values are necessary for irrigation scheduling and auditing while annual values are used in the water budget calculations. This is a non-substantial change.

**Section 490.2(a)(77).** Clarity was added to the soil moisture sensing device definition by describing that the device sends a signal to the automatic irrigation controller to either interrupt or initiate an irrigation event. The soil moisture sensor does not suspend or initiate an irrigation event, it sends a signal to the automatic irrigation controller which controls the irrigation events. This is a non-substantial change.

**Section 490.2(a)(90).** The text “to leave the target landscape area” was added to the water waste definition to be consistent with the previous description in Section 493.2(a) where it is stated, “prohibiting runoff from leaving the target landscape due to low head drainage, overspray” this was necessary to improve clarity and understanding because runoff occurs when it leaves the target area, not when it stays in the landscape area being irrigated. Corrected poor grammar by deleting “over application” and making it one word “overapplication”, per Merriam Webster dictionary. These are non-substantial changes.

**Section 490.2(a)(91).** The definition of watering window was clarified to describe that the watering window refers to the “days per week and the hours per day” irrigation is allowed. The previous definition in the draft amendments defined watering window as the time of day that irrigation is allowed. This is a non-substantial change.

**Section 490.2(a)(92).** Added “herein incorporated by reference” for the WUCOLS IV database and identified it as WUCOLS IV, 2014, version. This is a substantial change.

## Changes Made to Section 491. Applicability

**Section 491(a)(3).** The added definition, “aggregated landscape projects” was deleted, and this requirement is from the 2015 MWELo Sections 492.5(a)(1)(C) and 492.12(b) and the original language is kept with those moved sections in the amendments. The 2015 MWELo language with allowances for multiple landscape installations described in the 2015 MWELo Section 492.5(a)(1)(C) are kept with the soil management report in the amended Section 493.1. Soil Management Report. The 2015 MWELo language with allowances for large projects or projects with multiple landscape installations described in the 2015 MWELo Section 492.12(b) are kept with the Irrigation Audit in the amended Section 493.6. Because the new definition for “aggregated landscape projects” was deleted; the previous numbering in the draft regulation text of 491(a)(4) and 491(a)(5) are correct to be numbered in chronological order. This is a substantial and sufficiently related change that was noticed in the 15-day comment period that began on March 18, 2024.

**Section 491(a)(3).** The term “non-rehabilitated” was added to “existing non-rehabilitated landscapes” for consistency when referring to these types of projects. This is now consistent with 2015 MWELo Section 491(s) as defined in “ET adjustment factor” and is a non-substantial change.

## Changes Made to Section 491.2. Provisions for New Construction or Rehabilitated Landscapes

**Section 491.2(a)(1) and Section 491.2(a)(2).** The prescriptive compliance option in Section 491.2(a)(1) and the performance compliance option in Section 491.2(a)(2) incorrectly referenced the applicable sections and were corrected. These are existing 2015 MWELO requirements. These references were included to reduce ambiguity and improve clarity and understanding. This is a non-substantial change.

**Section 491.2(b).** The text “any new construction project with a landscape area between 500 and 2,500 square feet” was moved from the beginning to the end of the sentence to improve grammar and clarity. This is a non-substantial change.

**Section 491.2(c).** The text “An applicant shall use the performance compliance option for any” was added for consistency with Section 491.2(b) and to reduce ambiguity about who is required to implement MWELO and does not change existing MWELO requirements.

**Section 491.2(b)(1) and Section 491.2(c)(1).** The provisions for aggregated landscape projects were moved to be subheadings underneath Section 491.2(b)(1) new construction projects and Section 491(c)(1) rehabilitated landscape projects to clarify that provisions for aggregated landscapes, which have allowances for soil sampling and irrigation audits, applies to these project types. This is a substantial and sufficiently related change that was noticed in the 15-day comment period that began on March 18, 2024.

## Changes Made to Section 491.3. Compliance Responsibilities

**Section 491.3(a).** The designation of responsibility, in previous Section 492 and now in renumbered Section 490.1(a)(1) was duplicated in Section 491.3(a) to reduce ambiguity and improve clarity that the MWELO compliance responsibilities can be designated with either the local water purveyor or another agency. Previously, the designation of responsibility was only described in the General Provisions section. The subsections beneath are re-lettered in chronological order following the insertion of Section 491.3(a). This is a non-substantial change.

**Section 491.3(b)(1)(E).** The text “For the performance compliance option only, upon approval of the Landscape Documentation Package, the local agency shall submit a copy of the Water Efficient Landscape Worksheet to the local water purveyor” was moved from Section 491.3(b)(2) to Section 491.3(b)(1)(E) because it was incorrectly organized as section (2) instead of being correctly associated with the requirements prior to construction. The 2015 MWELO Section 492.1(b) shows the correct organization of this



requirement. The subheadings following were renumbered to be in chronological order. This is a non-substantial change.

**Section 491.3(c)(2)(A).** The text “dedicated irrigation meter or” was added in front of ‘private submeter’ to acknowledge that non-residential projects greater than 1,000 square feet may use a dedicated irrigation meter to measure landscape water use. This does not change existing MWELO requirements and is a non-substantial change.

**Section 491.3(c)(2)(B).** In the MWELO amendments, the text “along with the record drawings, and any other information” was mistakenly omitted; it was included in Section 491.3(c)(2)(B) and is an existing 2015 MWELO requirement, Section 492.1(c)(2). The landscape documentation package submitted by the local agency to the local water purveyor may be different than the actual landscape installed and should be included on the record drawings of the landscape documentation package produced by the project applicant. Improved clarity by adding the text “unless the property owner is the project applicant” to acknowledge that if the property owner is also the project applicant, then the landscape documentation package does not need to be submitted to themselves. These are non-substantial changes.

**Section 491.4(a)(1)(A).** Added clarifying text to the word “date” by including “the project information sheet is completed” to clarify what date should be used. This is a non-substantial change.

**Section 491.4(b)(1)(A).** Added clarifying text to the word “date” by including “the project information sheet is completed” to clarify what date should be used. This is a non-substantial change.

## Changes Made to Section 492. Prescriptive Compliance Option

**Section 492(c)(1).** In the amendments, “(unless contra-indicated by a soil test)” was mistakenly omitted from the reorganization of the 2015 MWELO requirements. It is included in Section 492(c)(1) and is a non-substantial change.

**Section 492(c)(2)(F).** Added “which is herein incorporated by reference” for the 20220 ASABE/ICC 802 Landscape Irrigation Sprinkler and Emitter Standard. This is a substantial change.

Following the second 15-day public notice, the text was re-written to improve clarity and is a non-substantial change. The text was modified from “requirements set in the ANSI standard, ASABE/ICC 802-2020, which is herein incorporated by reference. ‘Landscape Irrigation Sprinkler and Emitter Standard,’ to the text: “requirements set by ANSI in the 2020

ASABE/ICC 802 Landscape Irrigation Sprinkler and Emitter Standard, which is herein incorporated by reference.”

**Section 492(c)(2)(G).** The amendments were modified so that the referenced codes are consistently cited using Title / Division / Chapter. Section was also included in the reference because it is difficult to find without the reference. Text was revised to state “Non-rotating spray sprinkler bodies are required to meet the standards described in California Code of Regulations, Title 20, Division 4, Chapter 4, Section 1605.3(x).” This is a non-substantial change.

**Section 492(d).** The text of the regulation was modified to describe that the designer of record shall make plants identifiable during final inspection and does not specify how that should be done. Plants must be identifiable by botanical name, common name or cultivar as identified in the Food and Agricultural Code. The initial 60-day amendments required using a plant legend with photographs, which was deleted to allow the designer of record more flexibility to comply with Government Code Section 65596(n). The amendments were modified so that referenced codes are consistently cited using Title / Division / Chapter; the Food and Agriculture Code uses Division / Chapter / Article, the section number was deleted. Section 492(e) was moved to Section 492(d) to improve organization and understanding. This is a substantial and sufficiently related change that was noticed in the 15-day comment period that began on March 18, 2024. The text “Division 18, Chapter 5, Article 7” was deleted and “Section 53481” was added to clearly explain where in the Food and Agricultural Code it describes how plants are identified.

**Section 492(e).** The draft regulatory text moved Section 492(d) to 492(e) to improve organization and understanding of requirements. This is a non-substantial change.

## Changes Made to Section 493. Performance Compliance Option

**Section 493.** The text “and documented in the Landscape Documentation Package, Section 491.4(b), and the Certificate of Completion Package, as described in Section 494(b).” was added to the MWEL0 amendments in Section 493 to reduce ambiguity and improve clarity and understanding about required documents for the performance compliance option and includes section references.

## Changes Made to Section 493.1. Soil Management Report

### **Section 493.1(a)(1)(C)**

The text “aggregated” was deleted because the definition for “aggregated landscape project” was deleted. The amendments were changed to be consistent with the 2015 MWEL0 Section 492.5(a)(1)(C) and includes the language “with multiple landscape

installations (i.e. production home developments)". The term "individual" was deleted because it did not improve clarity. This is a substantial and sufficiently related change that was noticed in the 15-day comment period ending on April 3, 2024.

**Section 493.1(a)(1)(C).1.** The last sentence of previous section 492.5(a)(1)(C) states "Large landscape projects shall sample at a rate equivalent to 1 in 7 lots." and was made a separate subheading in Section 493.1(a)(1)(C) to reduce ambiguity and improve clarity. This does not change any existing requirement. This is a substantial and sufficiently related change that was noticed in the 15-day comment period ending on April 3, 2024.

## Changes Made to Section 493.2. Landscape Design Plan

**Section 493.2(a)(2)(A).** The text "specified in Section 493.3(b)(1) is added to cross-reference the plant factor ranges. This is a non-substantial change.

**Section 493.2(a)(12).** The text "Designated insect habitat must be identified in the landscape plan" was changed to "Identify designated insect habitat" to improve clarity. This is a non-substantial change.

**Section 493.2(a)(12).** The text of the regulation was modified to describe that the designer of record shall make plants identifiable during final inspection and does not specify how that should be done. Plants must be identifiable by botanical name, common name or cultivar as identified in the Food and Agricultural Code. The initial 60-day amendments required using a plant legend with photographs, which was deleted to allow the designer of record more flexibility to comply with Government Code Section 65596(n). The amendments were modified so that referenced codes are consistently cited using Title / Division / Chapter; the Food and Agriculture Code uses Division / Chapter / Article, the section number was deleted. This is a substantial and sufficiently related change that was noticed in the 15-day comment period ending on April 3, 2024.

**Section 493.2(a)(13).** The text "performance compliance option" was added before the Landscape Design Plan criteria to reduce ambiguity. This is a non-substantial change.

**Section 493.2(a)(14).** The amendments were modified so that the referenced codes are consistently cited using Title / Division / Chapter; the Business and Professions Code uses Division / Chapter / Article, and the section numbers were deleted. Simplified the Designer of Record by referencing its definition in Section 490.2(a)(14). This is a non-substantial change.

**Section 493.2(b)(7)(A).** Added "which is herein incorporated by reference" for the 2007 Sunset Western Climate Zone System. This is a substantial change.

**Section 493.2(c)(4).** Removed the reference of Division / Part / Chapter and included “subdivision (d) of Section 115921” to improve clarity to the pool cover requirement statute. This is a non-substantial change.

**Section 493.2(d)(7) and Section 493.2(d)(7)(A).** The text “Organic mulches are not required where prohibited by local Fuel Modification Plan Guidelines or other applicable local ordinances. (Public Resources Code Section 4291)” was moved from Section 493.2(d)(7) to Section 493.2(d)(7)(A) to improve the organization and understanding of the mulching requirements. The duplicated text is deleted: “Organic mulch materials made from recycled or post-consumer shall take precedence over inorganic materials or virgin forest products unless the recycled post-consumer organic products are not locally available.” This is a non-substantial change.

### Changes Made to Section 493.2.1 Grading Design Plan

**Section 493.2.1(a).** Business and Professions Code (BPC) Section 5615 allows unlicensed both personal property owners to develop grading plans as well as licensed professionals. The initial amendments limited grading plans to only being submitted only by a licensed civil engineer, which is inconsistent with allowable practices governed by the BPC. The draft regulation was updated to state: “A comprehensive grading plan approved by the local agency for other local agency permits satisfies this requirement.” Grading plans are required to be approved by the local agency outside of MWELo. MWELo does not need to specify who is allowed to prepare other documents because these requirements are governed by other codes, not MWELo. This is a non-substantial change.

**Section 493.2.1(a)(3).** The text “performance compliance option” was added before criteria to the Landscape Design Plan to reduce ambiguity and improve clarity. This is a non-substantial change.

### Changes Made to Section 493.2.2. Irrigation Design Plan

**Section 493.2.2(b)(1).** The section incorrectly referenced the wrong section, previously Section 493.5, for applying irrigation efficiency criteria which is described in Section 493.3. This is a non-substantial change.

**Section 493.2.2(b)(1)(A).** The text “0 to 0.1” replaced “less than 0.1” for consistency with the description and classification of very low water use plants with the Water Use Classification of Landscape Species “WUCOLS” database. The WUCOLS is used as the citation for MWELo plant factors and uses “Categories of Water Needs”, which is used interchangeably with plant factors. In the WUCOLS IV User Manual (pg.8), Very Low (VL) is described as less than 10 percent of ETo. The plant factor associated with VL is corrected in

Section 493.3.b.1.A and Appendix A to state "less than 0.1". This is a non-substantial change.

**Section 493.2.2(c)(1).** The text "the following" was added to the end of "shall contain the following:" to improve clarity. This is a non-substantial change.

**Section 493.2.2(c)(1).** The text "and submeters" was added to provide clarity and understanding that all meters including submeters, a type of meter, should be identified on the irrigation design plan. This does not change the existing 2015 MWEL0 requirement to identify the location and size of separate water meters. This is a non-substantial change.

**Section 493.2.2(c)(4).** The amendments were modified so that the referenced codes are consistently cited using Title / Division / Chapter; the Health and Safety Code uses Division / Part / Chapter / Article, and the section numbers were deleted. This is a non-substantial change.

**Section 493.2.2(c)(5) and 493.2.2(c)(6).** The text "identify" is replaced with "identification of", this is a non-substantial change.

**Section 493.2.2(c)(7).** The text "On the irrigation design plan" is replaced with "identification of" because it is redundant text describing the irrigation plan requirements. This is a non-substantial change.

**Section 493.2.2(c)(8).** The text "performance compliance option" was added to improve clarity and reduce ambiguity. This is a non-substantial change.

**Section 493.2.2(c)(9).** The amendments were modified so that referenced codes are consistently cited using Title / Division / Chapter; the Business and Professions Code uses Division / Chapter / Article, and the section numbers were deleted. This is a non-substantial change.

**Section 493.2.2(d)(10)(A).** The draft regulatory text "the landscape area is adjacent to pervious surfacing and" was deleted because it is redundant with the requirement in Section 493.2.2(d)(10) that states "Overhead irrigation shall not be permitted within 24 inches of any non-pervious surface." The text regarding "no runoff occurs" was left because it requires no runoff to allow the restrictions to be modified. Section 490.1(a)(2) requires local agencies to prevent water waste from inefficient landscape irrigation.

**Section 493.2.2(d)(11).** The text regarding overspray and runoff restrictions was unintentionally omitted in the amendments and is from 2015 MWEL0 Sections 493.2(b)(1) and 493.2(b)(2), which allows the restrictions regarding overspray and runoff to be modified if requirements are met. This is a non-substantial change.

**Section 493.2.2(d)(12) and Section 493.2.2(d)(13).** The section numberings were corrected following the corrected oversight of missing Section 493.2.2(d)(11). This is a non-substantial change.

**Section 493.2.2(e)(1)(A).** The text “with 15 or more service connections” was added for consistency with the description in Water Code Section 535. This is a non-substantial change.

**Section 493.2.2(e)(1)(B)1.** The text “but not more than 5,000 sq. ft.” was included with non-residential landscapes because it is in the 2015 MWEL0, Section 492.7(a)(1)(A) and should have been included in the amended MWEL0 text. When the irrigated landscape is greater than 5,000 sq. ft. Water Code Section 535 applies as described in the revised Section 493.2.2(e)(1)(A). This is a non-substantial change.

**Section 493.2.2(e)(2)(C).** The text “range” was added after the “recommended pressure” to clarify that there is an optimal range of pressure acceptable for emission devices and not just a single pressure measurement. This is a non-substantial change.

**Section 493.2.2(e)(4)(C).** The draft regulatory text was modified to reduce ambiguity and provide clarity by referencing the California Code of Regulations for standards on non-rotating spray sprinkler bodies. This is a non-substantial change.

### Changes Made to Section 493.3. Water Efficient Landscape Worksheet

**Section 493.3.(a)(3)** The CIMIS Reference Evapotranspiration map, 1999, now includes the language, “which is herein incorporated by reference.” This is a substantial change.

### Changes Made to Section 493.4. Irrigation Scheduling

**Section 493.4(a)(5)(B).** The text “meets” was replaced with “does not exceed” to be consistent with the definitions of the Maximum Applied Water Allowance (MAWA) and Estimated Total Water Use (ETWU) in the MWEL0. Per Appendix A “The ETWU (gallons per year) must be equal to or less than the MAWA (annual gallons allowed) to comply with MWEL0.” This is a non-substantial change.

### Changes Made to Section 493.6. Irrigation Audit

**Section 493.6(b).** The text “aggregated” was replaced with “large” in front of landscape projects; “or landscape projects with multiple landscape installations” was added because the introduced definition for “aggregated landscape project” was deleted. This is consistent with the 2015 MWEL0 Section 492.12(b) and does not change existing MWEL0 requirements. This is a substantial and sufficiently related change that was noticed in the 15-day comment period ending on April 3, 2024.

**Section 493.6(c).** The reference to Section 491 was corrected from “Section 491” to reference “Section 493” because irrigation audits are specific to the performance compliance option requirements. The 2015 MWELo Appendix D prescriptive compliance option does not require an irrigation audit. This is a non-substantial change.

## Changes Made to Section 494. Certificate of Completion Package

**Section 494.** This language is added from Appendix B and is an existing requirement: "The Certificate of Completion Package is completed by the project applicant or their designee to certify that the landscape project has been installed in accordance with the Model Water Efficient Landscape Ordinance." This is a non-substantial change.

**Section 494(b)(1)(A).** Added clarifying text to the word “date” by including “the project information sheet is completed” to clarify what date should be used. This is a non-substantial change.

## Changes Made to Section 495. Reporting

**Section 495(a).** The 60-day comment period included both Section 495(a) and 495(b) to describe the same requirement, which created confusion if it was one report or two separate reports that were required. Section 495(a) was combined with Section 495(b) to improve clarity and understanding about local agency reporting including who the reports are submitted to, when they are submitted, and for what reporting period. This reduces ambiguity and clarifies that only one report is required to be submitted to DWR. This is a non-substantial change.

Following the second 15-day public comment period, Section 495(a)(3) was included with Section 495(a) to reduce ambiguity, and clarify for local agencies the reporting requirements, which includes who reports are submitted to, when they need to be submitted, and for what reporting period. Local agencies are required to report on MWELo implementation and enforcement; the additional clarification of “Local agencies shall report” is a non-substantial change to improve clarity and understanding. These are non-substantial changes.

**Section 495(a)(2).** The local agency reporting requirements for the calendar year are moved into Section 495(a) to improve clarity. This section is not a question that needs to be addressed by the local agency. The subsequent Section numbering was updated following this edit. This was changed after the second 15-day notice and are non-substantial changes.

**Section 495(a)(3).** The text “describe” is added to clarify what is being asked of local agency’s when reporting on a local WELo. This is a non-substantial change.

**Section 495(a)(5).** This section was moved from Section 495(a)(7) to Section 495(a)(5) to improve organization, clarity and understanding. The reporting questions were reorganized such that the questions have a chronological order: Section 495(a)(5), number of new construction projects; Section 495(a)(6), number of completed projects by project type; and Section 495(a)(7), total landscape area. In the amendments Section 495(b)(7) asked for “new housing starts, new commercial projects, and landscape retrofits during the reporting period.”, which is inconsistent with the MWEL0 definitions of project types. By listing the project types in (A) through (D) what is required to be reported is clarified. This is a non-substantial change.

**Section 495(a)(6).** This section was moved from Section 495(a)(5) to Section 495(a)(6) so that the questions have a chronological order in how they are asked; please reference the reason above for Section 495(a)(5). This is a non-substantial change.

## Changes Made to Appendix A. Sample Water Efficient Landscape Worksheet

The text “the” and “or their designee” were added to improve grammar. The typo “gallows” was corrected to read "gallons". This is a non-substantial change.

## Changes Made to Appendix B. Sample Certificate of Completion Package

**Element 2.** A secondary signature line was added for the designer of record to allow multiple signatures when more than one person is the designer of record. This is a non-substantial change.

**Element 3.** Section 491.4 reference was corrected to reference section 491.4(b), which includes the requirements for the Soil Management Report within the performance compliance option. This is a non-substantial change.

## Changes Made to Appendix C. Reference Evapotranspiration (ETo) Table

Appendix C subdivides the Reference Evapotranspiration (ETo) Table first by counties and then cities / places within that county. The county identifier for San Joaquin County was unintentionally omitted in the amendments and has been corrected. This is not a substantial change.

There are 19 pages of reference evapotranspiration values for counties/cities. Underneath the header row on each of the 19 pages the county is always shown first, followed by the cities associated with their counties. Because San Joaquin County was unintentionally omitted and has been added back in, the county identifier on the pages following were adjusted so that the county is always shown first. These edits are not a substantial change.



In Siskiyou County, the city “MacDoel” was incorrectly capitalized and was corrected to read “Macdoel”. This is not a substantial change.

## Summary of Comments and Department Responses

The Department received 189 comments during the 60-day public comment period; 24 comments were received during the 15-day comment period; and one comment letter was received following the 15-day comment period. The summary of the comments and the Department’s responses are attached as the following appendices organized in the Table of Contents associated with the public comment period in which they were received.

Appendix A. Summary and Response to Comments Submitted during 60-day Comment Period (shown in the Table of Contents as 4.6)

Appendix B. Summary and Response to Comments Submitted during first 15-day Comment Period (shown in the Table of Contents as 5.4)

Appendix C. Summary and Response to Comments Submitted following first 15-day Comment Period (shown in the Table of Contents as 6.1)

Appendix D. Summary and Response to Comments Submitted for second 15-day Comment Period (shown in the Table of Contents as 7.4)

For ease of reference, the Department assigned a number to each written and oral comment received. Because most comment letters contained multiple comments that needed to be addressed, for each comment, the Department assigned numbers to the comment submission number using MU-## for MWEL0 Update.

The “Summary and Response to Comments” preceding the original comments and received is organized according to the chronological order of the proposed regulations Section that they address. Comments that are generally about the regulations, but not regarding a particular section or subsection of the regulations, are grouped together at the beginning of the Summary under the heading of “General.” Subheadings have been included where comments are related to similar topics.

## Local Mandate Determination

These proposed update to the MWEL0 regulations does not impose any new mandate on local agencies or school districts, as any impacts would result from an implementation of existing law.

## Alternatives Considered

The Department considered reasonable alternatives to the MWELo amendments and determined that no reasonable alternative would be more effective in carrying out the purpose for which the regulation is proposed, would be as effective and less burdensome to affected private persons than the adopted regulation, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law than the amendments.

This conclusion is based on the Departments' determination that the MWELo amendments are necessary based on two recent independently developed reports by UC Davis and the Landscape Statewide Advisory Group (LSAG) demonstrating that there is inconsistent implementation and management of the MWELo 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 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.

In a manner consistent with existing statutes and case law, the proposed amendments add no new substantive requirements. The Department rejected the no action alternative because it would not achieve the objectives of the proposed amendments, which are to simplify the MWELo by reducing ambiguities, providing clarity, and improving MWELo's organization. There are no alternatives available that would lessen any adverse impacts on small businesses, as any impacts would result from an implementation of existing law.

## Alternatives that would lessen Adverse Economic Impact on Small Business

As described in the Economic and Fiscal Impact Assessment, Standard Form 399 and attachment, these amendments only clarify and reduce the ambiguity of MWELo and are expected to have very little to no economic impact on business, as any impacts would result from an implementation of existing law. The only new requirement with any potential impact is a provision implementing Government Code Section 65596(n), adopted in 2020, which requires all plants to be identifiable at the time of inspection. During the 60-day public comment period, DWR modified the proposed implementation of this statutory direction by requiring all plants be identifiable at the time of inspection, without directing

how it should be performed. Thus, this new requirement will have negligible to no fiscal impact.

## Incorporation by Reference

There is no change to the existing MWEL0 requirements; however, in the 2015 MWEL0 regulation external standards were cited and should have included language incorporating them by reference. This oversight is being corrected in these proposed amendments.

The documents listed below are incorporated by reference as they are too lengthy and cumbersome to be included in the CCR. The documents were included in the Initial Statement of Reasons on November 17, 2023, as part of the documents and studies relied upon. The MWEL0 regulation was modified by WUE in August 2024, following feedback from OAL and the proposed MWEL0 amendments included the language: “incorporated by reference”. These documents were made publicly available during the second 15-day comment period that ended September 9, 2024.

1. American Society of Agricultural and Biological Engineers / International Code Council (ASABE/ICC) 802 Landscape Irrigation Sprinkler and Emitter Standard (IS-IEDC), 2020, available at: <https://codes.iccsafe.org/content/ICC8022020P1/american-national-standard>
2. California Irrigation Management Information System (CIMIS) ETo Zone Map, 1999, available at: [https://cimis.water.ca.gov/App\\_Themes/images/etozonemap.jpg](https://cimis.water.ca.gov/App_Themes/images/etozonemap.jpg)
3. Water Use Classification of Landscape Species (WUCOLS IV), 2014, accessible at: <https://ccuh.ucdavis.edu/wucols-db>
4. Sunset Western Climate Zone Maps, 2007, accessible at: <https://sunsetplantcollection.com/climate-zones/>
5. US EPA WaterSense Specification for Irrigation Systems Auditor Certification Program, 2017, accessible at: <https://www.epa.gov/sites/default/files/2017-02/documents/ws-specification-irrigation-auditor-revised.pdf>

## Nonduplication

Some of the regulations may repeat or rephrase in whole or in part a state or federal statute or regulation and do not duplicate or conflict with any federal statutes or regulations. This was necessary to satisfy the clarity standard set forth in Government Code Section 11349.1(a)(3).