

DATE BASIN BOUNDARY
REGULATION COMMENT
RECEIVED BY DWR

9/04/2015

Via e-mail to: sgmps@water.ca.gov

Subject: Draft Basin Boundary Emergency Regulations Comments

To Whom It May Concern,

Thank you for the opportunity to comment on the California Department of Water Resources' Draft Basin Boundary Emergency Regulations. The Kings River Conservation District offers the following comments on behalf of the many agencies and stakeholders we are currently working with on SGMA implementation in the Kings and Tulare Lake Subbasins.

CEQA Compliance

We recommend that section 344.18 be revised as follows:

Each request to modify a basin or subbasin shall include information, to the extent it is reasonably available to the requesting agency, necessary to enable assist the Department to satisfy in satisfying the requirements of a responsible lead agency pursuant to the California Environmental Quality Act (Public Resources Code Sections 21000 et seq.).

In addition to edits above, it would be helpful if DWR would clarify who the lead agency should be. The California Water Commission is the organization ultimately responsible for approval or denial of boundary modifications so one might assume the Commission should be the lead agency. Also, we assume such modifications would fall under a categorical exemption and request confirmation or at least some direction.

Local Support for Modifications

We have two concerns regarding local support:

1. With respect to Jurisdictional modifications, we request clearer definition of the term "affected" in determining required local support. We request that only local agencies and public water systems that border or are intersected by a request for boundary modification be considered as potentially "affected".
2. We believe that the same showing of "local support" as is required for jurisdictional modifications under section 344.8 should also be required for scientific and "other" modifications (or at least for "other" modifications).

Subsequent Modifications

We have three concerns about section 346.6:

1. May the Department initiate a subsequent modification on its own, or must a local agency request it? If the Department, who would develop and evaluate the "substantial evidence" required to support the subsequent modification?

2. The “substantial evidence” standard does not appear in the draft regulations in connection with ordinary modifications. Does a different standard apply to ordinary modifications? If so, what is it?
3. For ordinary modifications under the draft regulations, there are procedures for protests. Are protests allowed for subsequent modifications?

We recommend clarification of the subsequent modification process under section 346.6 to provide: (1) that local agencies may initiate subsequent modifications by the procedures already described in the draft regulations, while the Department may initiate subsequent modifications only upon reasonable prior notice to affected agencies; (2) that the regulations should clearly establish the evidentiary standard for *all* modifications, and that it should be the *same* standard; and (3) that protests should be expressly allowed for all subsequent modifications.

Thank you,

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Manager of Water Resources



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