

FINDING OF EMERGENCY

(Gov. Code, § 11346.1, subd. (b); Cal. Code Regs., tit.1, § 50.)

Demonstration of Emergency

The Sustainable Groundwater Management Act of 2014 (SGMA) authorizes local agencies to request that the California Department of Water Resources (DWR or Department) revise boundaries of groundwater water basins. (Wat. Code §10722.2(a).) SGMA requires DWR to adopt regulations, by January 1, 2016, that establish requirements, including methodology and criteria to be used to evaluate the proposed revision to the groundwater basin boundary. (Wat. Code, §10722.2(b).) Subdivision (b) of Water Code section 10722.2 expressly directs DWR to adopt these basin-boundary-revision regulations as emergency regulations and deems the adoption an emergency necessary for the immediate preservation of public peace, health and safety, or the general welfare.

Need for the Proposed Regulation to Effectuate the Statute Being Implemented

As indicated above, Water Code section 10722.2 directs DWR to develop regulations that specify the information necessary to support a local agency's request for a basin-boundary revision, including methodology and criteria to be used to evaluate the request. The statute requires that requests for basin-boundary revisions be supported by three general types of information, but directs DWR to develop specific informational requirements, methodology and criteria for local agencies' requests for basin-boundary revisions. These emergency regulations are necessary to implement the statutory mandate and effectuate the basin-boundary-revision process.

Technical, Theoretical, and/or Empirical Studies, Reports, or Documents Relied Upon

The Department relied on the following studies and documents in proposing this emergency rulemaking action:

[DWR] California Department of Water Resources. 1952. Ground Water Basins in California – Water Quality Investigations Report No. 3., Nov 1952.

[DWR] California Department of Water Resources. 1975. California's Ground Water. Bulletin 118-75. Sep 1975.

[DWR] California Department of Water Resources. 1980. Ground Water Basins in California – A report to the Legislature in Response to Water Code Section 12924. Bulletin 118-80. Jan 1980.

[DWR] California Department of Water Resources. 2003. California's Groundwater. Bulletin 118 – Update 2003. Oct 2003.

AUTHORITY AND REFERENCE

(Gov. Code, § 11346.5, subd. (a)(2))

Water Code section 10722.2, subdivision (b), provides authority for these emergency regulations. The Department proposes this emergency rulemaking action pursuant to the authority vested in the Department pursuant to Water Code section 10722.2 and to implement, interpret, or make specific SGMA provisions, as identified in each section of the proposed regulations.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

(Gov. Code, § 11346.5, subd. (a)(3))

Description of Existing Laws

The Department has existing authority under Water Code section 12924 to identify the state's groundwater basins. (All references, unless otherwise specified, are to the Water Code.) The Department has defined groundwater basins and associated subbasins in "California's Groundwater: Bulletin 118" (Bulletin 118). These basin definitions have been documented through a series of updates based on improved groundwater management and scientific understanding of geologic, hydrogeologic, and hydrologic conditions, and where practical political or jurisdictional boundaries.

The Sustainable Groundwater Management Act (SGMA) defines a groundwater "basin" as a basin or subbasin that is identified and defined in Bulletin 118, updated in 2003, or as subsequently updated in accordance with Water Code section 12924 or as provided for in SGMA. (§ 10721, subd. (b), (c).) SGMA applies to all basins defined in Bulletin 118, and specifically requires that high or medium priority basins adopt Groundwater Sustainability Plans or approved alternatives. These regulations apply to all Bulletin 118 groundwater basins, regardless of priority. While section 12924 authorizes the Department to identify basins and subbasins, these are the first regulations that establish a formal process for local agencies to request consideration by the Department to modify previously defined basin boundaries, based upon either new scientific information or for the purposes of compliance with SGMA.

Comparison to existing comparable Federal Regulation

No comparable federal regulations were found that provide for the definition of groundwater basins and the subsequent modification of a basin definition.

Broad Objectives and Benefits

Compliance with SGMA will require significant coordination between local agencies and flexibility to adapt and find solutions to sustainably manage groundwater within the basins and subbasins across the state. Statewide sustainable management of groundwater resources will result in a reliable water supply for domestic, industrial, agricultural, and environmental uses. The groundwater system in California provides a critical water supply for these uses during times when surface water supplies are not available, such as prolonged periods of drought and under varying future climatic conditions. The

use of groundwater has been largely unregulated in California and, as such, groundwater depletion and associated effects are being observed in an increasing number of existing groundwater basins. A significant portion of the state's population and agricultural production are also becoming more reliant upon groundwater resources. As outlined in SGMA, the sustainable management of groundwater will serve to protect against impacts from continued declines of groundwater levels, associated groundwater overdraft, sea water intrusion, degradation of water quality, impacts to connected surface water bodies, and land subsidence.

A significant benefit of this regulation is that it provides a mechanism for local agencies to request modification of the Bulletin 118 defined groundwater basin boundaries for the purposes of sustainable groundwater management, which aligns with Water Code section 113:

It is the policy of the state that groundwater resources be managed sustainably for long-term reliability and multiple economic, social, and environmental benefits for current and future beneficial uses. Sustainable groundwater management is best achieved locally through the development, implementation, and updating of plans and programs based on the best available science.

These regulations create a process by which local agencies may request the Department to consider modification of basin boundaries to increase the likelihood of successful SGMA implementation. Seeking a boundary modification is completely voluntary by local agencies, but if a local agency decides to pursue a boundary modification, the agency must comply with the process set out in these emergency regulations. The requirements in these regulations are framed by the following two primary sections of SGMA:

Water Code section 10722.2(a) provides that, in addition to other information the Department deems necessary to justify a revision, a request for boundary modification shall be supported by the following:

- (1) Information demonstrating that the proposed adjusted basin can be the subject of sustainable groundwater management.*
- (2) Technical information regarding the boundaries of, and conditions in, the proposed adjusted basin,*
- (3) Information demonstrating that the entity proposing the basin boundary adjustment consulted with local agencies and public water systems in the affected basins before filing the proposal with the department.*

Water Code section 10722.2 (c) provides that the methodology and criteria established by the Department shall address the following:

- (1) How to assess the likelihood that the proposed basin can be sustainably managed.*
- (2) How to assess whether the proposed basin would limit the sustainable management of adjacent basins.*
- (3) How to assess whether there is a history of sustainable management of groundwater levels in the proposed basin.*

The regulation requirements are further refined based upon the type of modification being requested, either scientific or jurisdictional. The scientific type is based on hydrogeologic information and supported by a technical study to identify basin boundaries that physically constrain and isolate groundwater flow defining the limits of a basin. Jurisdictional boundary modifications are those that modify internal boundary lines between basins and subbasins for the purpose of improving governance and sustainable groundwater management.

The emergency regulations, aligning with the intent in SGMA, provide several opportunities for the public to provide input into the boundary modification process. In the Department's view, the regulations balance the voluntary process for requesting basin boundary modification in a way that allows local agencies to meet the requirements of the request and to inform other agencies, the Department, and the public in a way that provides a transparent and efficient process. Consistent with SGMA, addressing these requests and subsequent management is best achieved at the local level, and providing opportunity for public comment at the local agency level during formation of the basin modification request is critical.

The proposed regulation contains seven articles; the following describes the general objectives and benefits of each article and specific sections are explained in more detail, where clarification of the rationale behind the section will aid in understanding the overall process.

Article 1 – Introductory Provisions

This article provides the authority for the Department to establish the regulation, the general intent, and the general governing definition of basin boundaries in Bulletin 118.

Section 340.4 provides the general premise by which the groundwater basins are defined in Bulletin 118. The specific hierarchy is a textual description followed by the associated graphical representation (mapped line work). The Department recognizes some ambiguities exist in both the text descriptions and the associated mapped line work of the basins defined in Bulletin 118. These regulations will provide opportunity to remove ambiguity by both the local agency requests and by administrative adjustments initiated by the Department.

Article 2 – Definitions

This article provides a compendium of the specific terms and definitions of these terms that are used in the regulations. These terms are critical in that they provide the context and limits of the technical requirements used in the regulation. The definitions described are specific to the regulation. If a term is not specifically defined in this article, it is considered to have the same meaning provided in SGMA and Bulletin 118. The benefit of defining these terms is to reduce ambiguity and provide clear explanation of the reach and use of each technical term.

Section 341 (b) Administrative adjustment – describes the necessity for the Department to address errors and ambiguities in the map or the written description under the administrative adjustment context. The modifications are intended to provide clarity to the basin definitions, which will allow local

agencies to determine the necessity to pursue any additional modification that will aid in the implementation of SGMA. These types of modifications are not the subject of these regulations and fall under the existing Department authority, and section 342 clarifies this. The application of administrative adjustment type is at the sole discretion of the Department.

Section 341, subsections (c) and (e), “Affected Agency” and “Affected System,” provide definition to those local agencies and water systems that have water management responsibilities and that may be impacted by a boundary modification request. Each boundary modification request must identify those agencies that could be affected by the modification and provide notice and consultation. The definition uses the terminology of “...include more, fewer, or different basins or subbasins...” to identify the affected agencies. “More”, “fewer”, and “different” are intended to describe the change or effect the modification will have to the specific basin or basins that the agency will be in as a result of the modification.

Section 341, subsections (f) and (g) define “aquifer” and “basin” to reflect the functional definition of those terms based on the basins as delineated in Bulletin 118.

Article 3 – Boundary Modification Categories

This article provides a description of the various categories of basin boundary modifications. These categories are used in subsequent articles to identify the required technical components needed to support the boundary modification and the criteria upon which the technical information will be evaluated.

The definition of groundwater basins as described in Bulletin 118 illustrates a two-dimensional portrayal of the basins as expressed by a line on the surface. These regulations instead use the approach of considering the entire three-dimensional aquifers system between the surficial expression of the basin boundaries and a definable bottom.

The article defines two categories of boundary modification requests and informs requesting agencies as to the information required by the Department and the criteria and methodology the Department will use to evaluate the request. The two types are scientific and jurisdictional. It is the Department’s expectation that that these two categories will capture all boundary modification requests. Section 342.6, however, provides for other types of modifications in the event that a request does not fit within the scientific or jurisdictional category.

Section 342.2 describes boundary modification requests based solely on scientific information that demonstrates the existence or absence of barriers to groundwater movement between basins or subbasins. The groundwater basin is a physical feature that defines the area in which sustainable groundwater management must be achieved.

Section 342.4 describes the types of jurisdictional boundary modifications, which includes modifications that are based on certain hydrologic, jurisdictional, or political boundaries. The types of jurisdictional boundary modifications include the following: internal boundary modifications, consolidation of basins

and subbasins, and subdivision of basins and subbasins. The Department believes strongly that sustainable groundwater management requires a general magnitude of area to allow for inclusion of various water resources, recharge areas, and infrastructure opportunities to provide as many opportunities as possible for local agencies to leverage to meet sustainability goals. Furthermore, the implementation of SGMA will require the coordination within a basin or subbasin between the various Groundwater Sustainability Agencies (GSAs), and also from one basin or subbasin to the next where groundwater is known to flow between them and potentially contribute to a much larger basin, such as the Sacramento and San Joaquin Valleys. The subdivision type of jurisdictional boundary modification requires significant local agreement to be submitted to the Department and substantial technical justification to prove that it will promote sustainable groundwater management.

Article 4 – Procedures for Modification Requests

This article describes the eligibility requirements for requesting modifications and the process for submitting, tracking and providing input on basin modification requests. This article allows local agencies to request modification to basin boundaries; describes how local agencies, the Department, and the general public must be informed of requests; and establishes a framework by which persons may provide input for a given modification request proposal.

Section 343.6 describes the requirement to combine request to the greatest extent practical within an existing basin. The intent and benefit of this section is to provide immediate coordination between local agencies as is required through implementation of SGMA in general. However, flexibility is provided where modifications requested by local agencies that do not affect one another may be submitted independently. Where modifications are either in conflict or are coincident, or affect one another in any way, the Department may require coordination to resolve conflicts at the local level. This coordination is fundamental to the implementation of SGMA and should occur during this most fundamental step of the process – when defining the groundwater basin.

Section 343.8 describes the opportunities for local agencies to request basin boundary modifications. The initial submission period is specifically identified in the regulation due to the compressed timeframe to prepare the initial emergency regulations and allow for adequate time for the modification requests to be prepared, evaluated, re-prioritized, and documented in the Bulletin 118 update in 2017. For subsequent submission periods the Department intends to open modification request windows prior to each update to Bulletin 118. The 60-day notice period and 60-day submission period were selected as minimum durations for subsequent opportunities to request boundary modifications. The Department determined that a 60-day notice period and 60-day submission period were a reasonable amount of time, given the requirements of a request package. However, the Department has the flexibility, through these regulations, to establish longer notice and submission periods. In addition, the Department has the ability to initiate review periods more often if necessary. Section 343.8 carves out a specific exception for requests directed to the Department pursuant to section 841 of the Code of Civil Procedure, which authorizes a court to direct parties to a comprehensive adjudication to request a basin boundary modification. The Department will handle such requests on a case-by-case basis as they arrive, outside the scope of submissions made during open periods.

Section 343.9 describes the process of initial notification by a local agency of its intent to request basin boundary modification. This early notification provides a mechanism for local agencies to signal their intent or consideration of making basin modification request to other local agencies, public water systems, the Department, and the general public. This notification provides benefit in helping to align coordination of requests for modification, resource requirements for the Department, and to notify other interested parties that may want to engage local agencies or develop opposition or support for the modification. The Department values this intent notification to allow for as much additional technical information to be gathered for modification requests, which will provide for the best available science in defining the basins of the state. Subsection (b) requires the Department to post the initial notification on its website within 10 days of receiving such notification. This provides a central location and provides easy access to the public to become informed of potential basin boundary modifications.

Section 343.10 requires the Department to send written notice of receipt to a local agency that submits a request for basin modification. This section also requires the Department to post the request and all accompanying materials on the Department's website, which is intended to make the request process transparent and facilitate participation by interested persons.

Section 343.10(d) and 344.4 both describe the notification processes required by the requesting agency. These notices serve to allow for the greatest degree of transparency and solicit stakeholder feedback to the modification request. The intent of the Department is to collect as much relevant technical information as possible on boundary modifications in order to make the most informed decision on requests.

Section 343.12 describes the process that allows persons to provide input (support or opposition) to the boundary modification request. The input must provide information that is scientifically based and formed around the definition of the groundwater basin or the ability to sustainably manage the groundwater resource within the context of the requirements and intent of SGMA. Public input must meet basic threshold requirements in order to be evaluated. As indicated above, additional technical information provides the Department with potentially more data to better inform the definition of the groundwater basin definitions of the state. The Department recognizes that it may not be practical or possible for the person providing input to give the same level of detail that was provided by the requesting agency, but the person providing input is required to submit similar scientific and technical information that will allow the Department to evaluate the information as provided by the regulations. The Department determined that 30 days was a reasonable period of time within which this input must be submitted, considering the extent of information that a person must include and the early opportunity to become aware of potential and actual boundary modification requests.

Article 5 – Supporting Information

This article provides a description of the various notification requirements, local agency and public water system support, and technical information required to be submitted for a basin boundary modification request. Specific requirements are provided based upon the category of the basin boundary modification. The modification categories are described in Article 3. The benefit of this article

is to provide clear definition of the required information to substantiate either, the best available science in support of a scientific basin boundary modification; or the justification for a jurisdictional basin boundary modification that promotes sustainable groundwater management and does not impact the ability of adjacent basins to manage sustainably. The local support requirement provides benefit in that it encourages the immediate need for coordination of management efforts across a given basin.

The article is generally framed around the requirements to demonstrate a sound understanding of the basin conditions to such a degree that will enable the Department to evaluate whether the basin boundary modification would promote sustainable groundwater management. Due to the variability of the physical conditions and resources within California's groundwater basins, the article requires the submission of a variety of technical and non-technical information in order to compile a comprehensive picture of the basin conditions and management practices in place. The Department will then evaluate this whole package of information against the criteria described in Article 6

Section 344.2(c) requires that each modification request include a local agency board resolution formally initiating the local agency boundary modification request. The requirement for the resolution is intended to assure that a noticed public meeting occurs where public comment can be heard on the topic of proposed basin boundary modification. Furthermore, the resolution demonstrates that the governing body supports consideration of the modification request.

Sections 344.4 and 344.8 describe the requirements for notification, consultation, and gathering local agency and public water system input for a proposed basin boundary modification request. The value and necessity for these actions is that it initiates coordination and open dialog necessary to implement SGMA. The sections require documentation of support or dissent to a basin boundary request. While section 343.12 provides opportunity for the public and entities other local agencies and public water systems to voice input, it is important to recognize that the local agencies also rely on public input through the election of board officials and holding public meetings where input can be made. Local agencies also have built-in checks, based on their charter of providing water to the public, through existing regulatory requirements and oversight by other regulatory bodies. Thus, the public has other opportunities to provide comment on modification requests, in addition to the public-input requirements that are included in these regulations.

Section 344.6 is critical to the basin boundary modification request as it is the narrative by which local agencies can articulate the value of the modification and explain how the change will promote sustainable groundwater management in the proposed basin and not limit sustainable management in adjacent basins. This section is critical in providing a framework by which all of the required technical information will be applied in consideration of the modification request.

Section 344.8, Local Agency Input, describes the requirements for documenting support or dissent to a basin boundary request that is provided by affected agencies and affected systems, as those terms are defined in section 341. As explained above, sections 344.4 and 344.8 provide opportunities for other interested persons and entities to provide input on boundary-modification requests. Although broad notifications and coordination is mandatory and consistent with the public input provisions, for most

boundary modification requests, a level of formal support is not necessary with the exception of basin subdivision, as further described below.

Section 344.8(d) defines, for basin subdivision requests, the necessary support of local agencies and public water systems within affected basins requesting subdivision of the basin or subbasin. A significant amount of support is required because subdivision potentially limits the ability of the basin to meet sustainable conditions. Subdivision could lead to the exclusion or concentration of groundwater problem areas within the proposed or adjacent basins. Broad local support for basin subdivision is required to prove this type of boundary modification is accepted at the local level. The threshold for this support is 75% of all local agencies and public water systems in the affected basins in order to submit the boundary modification request to the Department. This level of support was chosen because it signifies broad acceptance of the request at the local level while preventing the potential for one or two local agencies or public water systems from blocking the request for reasons unrelated to sustainable groundwater management. The Department will evaluate these types of requests, including those seeking basin subdivision, and determine whether the boundary modification request has the overall effect of promoting sustainable groundwater management and does not limit sustainable groundwater management of adjacent basins.

Section 344.12 describes the requirement to provide a hydrogeologic conceptual model. This requirement is intended to be a narrative description of the hydrogeologic framework of the basin and is not a numerical groundwater flow model. The Department believes that the hydrogeologic conceptual model is needed to achieve a fundamental understanding of the basin or subbasin that is the subject to a boundary modification request and will promote communication between local agencies. The value of providing this information allows for a foundational coordination of understanding of aquifer systems and groundwater flow within the basin, between adjacent basins and subbasins, and with communication to the Department. All management discussions must begin with this level of understanding as an initial step and will be essential for coordination and implementation of SGMA.

In general, all requests are required to provide a hydrogeologic conceptual model with the exception of some minor internal boundary modification requests, where modification is unlikely to affect sustainable groundwater management. These minor internal modification requests typically include adjustments of a boundary moving a relatively insignificant distance and do not specifically impact the ability of the basin to sustainably manage the groundwater conditions. An example of this is where a county requests moving a boundary a few hundred feet, from a river to the county boundary, where the county boundary is defined as the river, but over time the river has migrated off the original alignment. This type of modification provides greater clarification of the subbasin definition and definitive boundaries that have a more accurate and static definition.

Section 344.14 describes the requirements to support a basin boundary modification based upon scientific definition of the basin. The term "Technical Study" is used to rely upon the professional standards of practice to develop the appropriate level of characterization and justification for the modification. This approach is necessary due to the varied geologic conditions that occur within California's basins and the variety of geologic conditions that may limit groundwater flow and define a

basin boundary. The “Technical Study” is reliant on existing standards of practice of the California registered professional geologist and, where qualified, professional engineers.

Section 344.16 describes the technical information required to justify a basin boundary modification that is jurisdictionally based and not specifically scientific in nature. The section requires the demonstration of existing groundwater management. The purpose of requiring this information is to demonstrate a level of understanding of the hydrogeologic system such that some evaluation of the effect of the modification to the increased likelihood of sustainability within the basin and the lack of limiting effect on adjacent basins can be made. Without demonstration of groundwater management and hydrogeologic understanding, the predictability of the modification’s effects is highly unlikely. The additional specific requirements align with the SGMA undesirable results, and characterization of their occurrence within the proposed basin will be critical to understanding if these areas are being isolated and limiting the ability to improve conditions within these areas. It is understood that these conditions may exist within a basin and that their occurrence does not constitute an immediate denial of the request, but the information provided as a whole, along with the dialogue and intent described in section 344.6, will be considered as a package to support a jurisdictional boundary modification request.

Article 6 – Methodology and Criteria

This article provides a description of the specific criteria by which the Department will evaluate and consider each basin boundary modification request for inclusion into Bulletin 118. In general, the criteria are based upon the premise of substantial compliance with the specific technical requirements for each category of basin boundary modification. The benefit of this article is to provide clear rules by which each request will be evaluated and allows for the variable geologic conditions within the state.

Section 345.2, Basis for Denial of Request for Boundary Modification, describes characteristics of basin modification requests that could result in a denial of that request. The characteristics described in this section do not specifically include all possible grounds for denial of a request for boundary modification. Conversely, evidence of one or more of the characteristics described in this section would not invariably result in the denial of a boundary modification request. Each request will be evaluated in its entirety to determine whether the basin modification will result in a likely sustainable condition and not impact the ability of adjacent basins to achieve sustainability.

SGMA requires the Department to assess whether there is a history of sustainable management in the basin. The lack of sustainable management may or may not be a deciding factor, or a factor at all, in deciding whether a particular boundary modification request merits consideration and not a threshold for automatic denial of a request. The purpose for providing information relating the management of groundwater levels within the basin demonstrates a level of understanding commensurate with being able to identify and evaluate whether the proposed modification request could result in sustainable groundwater management and not limit adjacent basins from sustainable groundwater management. It is understood that many basins may not enter the program in sustainable conditions; however, a modification request should have a level of understanding of the basin conditions to support the request

and not be arbitrary. What could be grounds for denial, however, is if the agency simply refused to provide any information one way or the other

Section 345.2(g) recognizes entities identified by SGMA that have special responsibilities under SGMA. These entities represent agencies that have legislatively defined boundaries and management requirements, resulting in less flexibility than that afforded to other agencies. They were specifically identified in this section for the purpose of providing some consideration to their limited ability to conform to boundary modifications and the associated management requirements. Counties were included because, in addition to their special roles in SGMA, they will have a particular interest in and potential responsibility for any unmanaged area that are created as a result of a boundary modification. As with the remaining subsections in this section, these objections will be considered in the context of all the content provided and will not, alone, automatically lead to a denial of the request.

Section 345.4 describes the evaluation criteria that the Department will use when considering supporting information in a basin modification request. While specific criteria are employed for the two types of requests, scientific or jurisdictional, the general overarching SGMA defined criteria provide the general framework and include:

Water Code section 10722.2 (c)

- (1) How to assess the likelihood that the proposed basin can be sustainably managed.*
- (2) How to assess whether the proposed basin would limit the sustainable management of adjacent basins.*
- (3) How to assess whether there is a history of sustainable management of groundwater levels in the proposed basin.*

The evaluation of the entire package of supporting information and rationale is critical for maintaining the flexibility for local agencies to accommodate the highly variable conditions of basins across the state. Specifically, with jurisdictional modifications, it is important for local agencies to provide a comprehensive package of their understanding of the basin and a rational plan for compliance with SGMA.

Article 7 – Adoption of Boundary Modification

This article provides a description of the procedure the Department will follow for review and adoption of the approved requested basin boundary modification. This procedure is consistent with previous updates of Bulletin 118 and will be continued, including the new basin boundary modification request process. The procedure describes a transparent process to inform the public of the modifications and provide additional opportunity for consideration and comment by the California Water Commission (CWC) and the public.

Section 346.2 describes the process to be followed by the Department following the evaluation of basin boundary modification requests that meet the requirements of these regulations. The intent of the section is to provide a transparent process that allows for final public input prior to memorializing the

modification in Bulletin 118. The Department will post the proposed changes on the Department's website and hold a public meeting where final public comments can be heard. This is valuable to the process as some additional information may arise during the evaluation process that could be critical for the definition of the basin with respect to sustainable management practices. The Department makes the final determination of the definition of the basins, but the proposed basin boundary modifications will be presented to the CWC and their comments will be heard and considered before finalizing the boundary modifications. Since CWC meetings are public, the CWC comments will reflect the Commission's perspective after receiving public input provided. Based upon the CWC comments, some modifications to the requested boundary modification may be necessary prior to finalizing the process. The Department will consult with the requesting agency to determine if the CWC revisions will be acceptable under their planned management strategy. If the additional modifications are acceptable, they will be finalized; otherwise, the requesting agency may withdraw the request. This process allows for a final review and comment period prior to finalizing the modification providing substantial consideration to all available information regarding the boundary conditions.

Section 346.6 Subsequent modification by the Department, provides the Department with the ability to modify requests based upon additional evidence the proposed basin modification information was inaccurate and does not support the specific modification requested. However, should such a situation occur, the Department will consult with the requesting agencies and resolve the conflicting information.

Consistency with existing state regulations

There are no identified inconsistent or incompatible existing state regulations. The proposed regulation is the first of its' kind authorizing the Department to formally consider requests by local agencies to modify basin boundary definitions. The basin definitions are provided, maintained, and updated in Bulletin 118, under Water Code section 12924. The overall intent of the definition of groundwater basin boundaries has not changed, and the overall objectives of these regulations are consistent with the basin updating under Water Code section 12924. These regulations, however, provide a mechanism for local groundwater managers to improve their sustainable management practices through requesting basin boundary modifications to the Department.

OTHER MATTERS PRESCRIBED BY STATUTE

(Gov. Code, § 11345.5, subd. (a)(4))

SGMA provides a framework for long-term sustainable groundwater management throughout California. Under SGMA, local agencies in medium and high priority groundwater basins will form Groundwater Sustainability Agencies (GSAs) that prepare and implement local Groundwater Sustainability Plans (GSPs). The Department's tasks under SGMA include: (1) Developing regulations to revise groundwater basin boundaries; (2) Adopting regulations for evaluating and implementing GSPs and coordinating agreements; (3) Identifying basins subject to critical conditions of overdraft; (4) Identifying water available for groundwater replenishment; and (5) Publishing best management practices for the sustainable management of groundwater.

GSA's responsible for high- and medium-priority basins must adopt GSPs, and the Department is responsible for reviewing these GSPs for adequacy. The State Water Resources Control Board may intervene if a GSA is not formed or if it fails to adopt or implement GSPs that comply with SGMA.

While SGMA imposes responsibilities on other public agencies, the Department is solely tasked with developing regulations that establish requirements, including methodology and criteria, to be used to evaluate the proposed revision to the groundwater basin boundary. Other public agencies provided input on the proposed regulations during the Department's rulemaking process, but no other agency is charged with implementing Water Code section 10722.2, subdivision (b), which calls for the development of the basin-boundary-modification regulations.

Water Code section 12924 requires the Department to identify the state's ground water basins, and these basins have been documented through a series of updates based on improved scientific understanding in DWR Bulletin 118. The proposed regulations are consistent with and complement the Department's authority under Water Code section 12924 in that these regulations, and SGMA, authorize local agencies to request modifications to groundwater basin boundaries included in DWR Bulletin 118.

LOCAL MANDATE DETERMINATION

(Gov. Code, § 11346.5, subd. (a)(5))

The Department has determined that adoption of these proposed emergency regulations does not impose a new mandate on local agencies or school districts.

ESTIMATE OF COST OR SAVINGS

(Gov. Code, § 11346.5, subd. (a)(6))

The Department has developed estimates of costs and savings of these emergency regulations on the state and local agencies. These costs include 1) costs to applicants for preparing the basin modification request package required by the regulation; 2) costs to DWR, the Commission, and other state agencies to review the information provided in applications and change the boundaries; and 3) costs needed for other meetings and consultations with DWR and the Commission that are reasonably required by the regulations.

Local agencies may, but are not required to, submit requests for basin-boundary modifications. As such, any costs incurred by local agencies are voluntary. Despite this, the Department has estimated costs to local agencies, based upon a range of requests. Since requesting a boundary modification is voluntary on the part of local agencies, the Department estimated the number of requests that it may receive. The low-end estimate of fiscal costs assumes that 85 basin boundary changes will be requested, and the high-end estimate assumes 225 basin boundary changes will be requested. Staff believes that the high-end number of boundary changes is unlikely, potentially representing the total number of revisions in years beyond 2020, and presents the estimate for completeness.

Costs to the State resulting from these emergency regulations will fall primarily to the Department. These costs relate to the Department's review of boundary-modification requests, adjustment of the boundaries and basin reprioritization.

As indicated above, the range in expected number of applications is 85 to 225. With the additional range in cost per application for the three application types (simple, moderate, and complex), the range in potential total cost to local agencies for the current fiscal year is \$7.693 million to \$ 41.863 million, and the median expected cost is \$24,788,000. The median estimated cost for the current fiscal year through 2017 is \$29.41 million.

Total state costs for the current fiscal year are estimated to be between \$489,000 and \$1.293 million, with the median estimated cost to be \$891,000. The estimated median state cost for the current fiscal year through 2017 is \$1.51 million.

Local agencies and the State may realize fiscal savings. First, there may be inefficiencies associated with existing boundary definitions that could be reduced with the new definition. Second, there could be cost savings associated with Groundwater Sustainability Plan (GSP) compliance in the future. For example, if there are two defined basins now that can be combined into one, then the costs of preparing GSPs in the future could be reduced. On the other hand, if there is a basin that must be split because it's actually two distinct basins, GSP compliance costs might be increased, but inefficiencies associated with management of the incorrectly combined basin might be avoided

These emergency regulations will not affect federal funding.

THESE EMERGENCY REGULATIONS DO NOT EXPIRE

The proposed emergency regulations do not expire 180 days from the effective date of the regulation pursuant to express statutory authority. Water Code section 10722.2, subdivision (b) provides that "[n]otwithstanding the Administrative Procedure Act, emergency regulations adopted by the department pursuant to this section shall not be subject to review by the Office of Administrative Law and shall remain in effect until revised by the department." These emergency regulations will not, therefore, expire in 180 days and will remain in effect until revised by the Department.