



# SB 49 California Environmental, Public Health, and Workers Defense Act of 2017

Communications and Legislation Committee



Item 8-11

August 14, 2017

# Overview of SB 49

- Intent to avoid weakening of environmental or worker protections in California
  - Applies to more than 10 federal laws and associated regulations
  - Establishes “baseline federal standards”
  - State agencies cannot adopt “less stringent” or “less protective” standards
  - State agencies must adopt gap-filling standards at least as stringent or protective

# Baseline Federal Standards

Federal Statutes and Regulations	Baseline Date
Clean Air Act	Jan. 19, 2017
Clean Water Act	
Safe Drinking Water Act	
Endangered Species Act (ESA)	
Wild and Scenic Rivers Act	
San Joaquin River Restoration Settlement Act	
Central Valley Project Improvement Act	
Fair Labor Standards Act of 1938	
Occupational Safety and Health Act of 1970 (OSHA)	
Federal Coal Mine Safety and Health Act of 1939	
Other federal statutes relating to worker rights and worker safety	

# Major Concerns - Uncertainty

- State agency judgments as to what is “less stringent than” or “less protective than” baselines likely to be litigated
- New gap-filling regulations may bypass notice-and-comment rulemaking
- Likely to face constitutional challenge

# Major Concerns - Water Quality

- Appears to include state baselines for water quality
- Restricts State Water Board discretion to amend the Bay-Delta Water Quality Control Plan
- D-1641 requirements may become a permanent “floor” for future water rights decisions for SWP operations

# Major Concerns - ESA-CESA

- Regulatory duplication
  - Many new species listed under CESA that are already protected under federal ESA
- Baselines include existing ESA permit terms
  - Current BiOp requirements for CVP/SWP may become a permanent “floor” for future CESA permits
- Unclear whether DFW must adopt new CESA regulations to implement federal ESA baselines

# Suggested Amendment – Study Bill

- Amend bill to require state agencies research and report any changes in federal law that weaken environmental or worker protections in California
- Legislature can amend state law as needed
- Consistent with Board principle to support regulatory compliance flexibility, promote consistency and reduce regulatory duplication



# Board Options

- Option #1

- Adopt the CEQA determination that the proposed action is not defined as a project and is not subject to CEQA, and authorize the General Manager to oppose SB 49, unless amended

- Option #2

- Take no action



# Recommendation

- Option #1

