NEW REGULATION GOVERNING WATER-RELATED ENERGY USE AND EMISSIONS

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On September 24, 2016, California Governor Brown approved Senate Bill (SB) 1425, which creates a voluntary registry to track greenhouse gas (GHG) emissions resulting from water use.- Registrants include those organizations regulating and enforcing water use, various large-scale consumers of water (both private and public), and any entities conducting business in the state of California.-

The registry established by SB 1425 is intended to help the government develop a more precise, data-driven approach to further regulation of water-related energy use and GHG emissions.

Pressure to Regulate the Water-Energy Nexus

The passage of SB 1425 and development of a registry to track energy and emissions related to water use has long been seen as an inevitability given the current state of energy consumption in California.- In total, the water sector consumes about 20% of California's electricity, and a significant percentage of natural gas.- Further, due to forecasted low precipitation and continued water supply issues, most observers estimate that the energy consumption required for large-scale water use will increase over time.

Registry Qualification and Incentives

SB 1425 empowers the California Environmental Protection Agency (EPA) to establish the aforementioned voluntary registry (the Water-Energy Nexus Registry) for data on energy consumption and GHG emissions related to water use.

Section 71422(b) of the Public Resources Code indicates that the Water-Energy Registry is intended to help participating entities – individually – in a variety of ways, and in the process, benefit the state as a whole.-

Specifically, the California EPA is meant to use the registry and the data drawn from the registry to: a) help establish new emissions baselines; b) encourage participants to willingly make efforts to improve their efficiency and minimize GHG emissions related to their water use; c) help participants record their water use-related GHG emissions; and d) promote and publicize participants who partake in efforts to reduce their GHG emissions levels voluntarily.

As the registry is voluntary, SB 1425 contemplates various incentives for encouraging participation.- Specifically, section 39712 of the Health and Safety Code potentially entitles participants to financial incentives for reducing their GHG emissions levels related to water use (qualification for such incentives will not affect an entity's qualification for cap-and-trade incentives).

Effect on Emitters

Many California water attorneys, as well as industry observers, expect to see additional regulation down the line, informed by the data acquired from voluntary participation in the registry.- Emitting entities need not be overly concerned at this early juncture, however, and

there is good reason to be optimistic about future regulation informed by registry participation.-

Regulation will likely not be excessive, given the clear legislative focus on a data-driven approach.- In the meantime, additional financial incentives for GHG emissions reduction will help to minimize the costs associated with a technology/process transition.