ABOUT AIN
Ag Innovations Network (AIN) is a nonprofit, nonpartisan organization dedicated to helping stakeholders solve problems in the food system through effective collaboration. Since 1999, AIN has been designing, organizing, facilitating and managing multi-stakeholder efforts to improve the performance of the food system for producers, consumers, and participants in local, regional, and global food supply chains. These efforts focus on both policy changes and direct improvements on farms, processing sites, and food outlets. AIN combines deep expertise in the challenges of the global food system, from production through food access, with an approach to problem solving that gives groups the tools they need to deliver outcomes in meetings, conferences, and multi-stakeholder collaborations.

ACKNOWLEDGEMENTS

This effort would not have been possible without the generous contributions of time and perspective from farmers and agricultural advocates, environmental and conservation representatives, government agency staff at all levels, and others who have taken an interest in this project. We are particularly grateful to the members of the California Roundtable on Agriculture and the Environment and the California Food System Alliance Network for their vision and participation. The entire Ag Innovations Network staff has participated in this project, with special thanks to Joseph McIntyre, Katy Mamen, Serena Coltrane-Briscoe, Miriam Volat, Tim Griffin, Eric Cárdenas, Helen McGrath, and interns Katherine Schugren-Meyer and Erica Gross. Consultant Jovita Pajarillo also provided critical project support.

Serena Coltrane-Briscoe, Joseph McIntyre, and Katy Mamen of Ag Innovations Network coordinated the production of this publication.

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The Project

In an effort to address increasing frustration about the complexity and effectiveness of the regulatory system affecting agriculture, Ag Innovations Network held focused listening sessions with agricultural, conservation, and government agency representatives to build a better understanding of the experiences, challenges, and recommended solutions of each stakeholder group.

This report summarizes the perspectives conveyed by each stakeholder group, identifies areas of agreement among the groups, and presents recommendations for constructively addressing key regulatory challenges in both the short and long term.

The Perspectives

- **Specialty crop farmers** are much more concerned about the cumulative impact of navigating, comprehending, and complying with myriad regulatory requirements than they are with specific legislative statutes, regulations, or agencies. They report frustration with the lack of transparency in the regulatory system, which is also thought to be unreasonably costly and time-consuming, as well as deterring implementation of innovative projects.

- **Conservation** representatives report concern that existing regulations do not achieve a sufficient level of environmental protection and express that the current system does not adequately distinguish projects of public benefit, inadvertently impeding or even preventing their completion.

- **Regulators** acknowledge many of the problems conveyed by the agricultural and conservation communities. However, the static nature of current laws and regulations does not provide the flexibility or adaptability needed to address the dynamic problems society faces today. Regulators explain that the statutory or traditional agency structure and culture, limited funding and staff, and competing mandates compromise their ability to proactively address many of the challenges. They also report the need for greater cooperation and collaboration with those they regulate.

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The static nature of current laws and regulations does not provide the flexibility or adaptability needed to address the dynamic problems society faces today.
The Recommendations

NEAR-TERM ADJUSTMENTS TO THE CURRENT REGULATORY SYSTEM

Reduce conflict and increase innovation by building understanding among stakeholder groups
- Increase productive interaction between stakeholders dealing with regulatory issues
- Increase the flow of critical information between regulators and the regulated
- Better accommodate innovative on-farm practices through research and outreach
- Engage stakeholders early and effectively in rule making and implementation planning

Reduce regulatory “friction” by improving interagency coordination
- Create effective coordination programs that include both state and local government
- Encourage a team approach to align regulatory goals and actions

Reduce the cost of complying with regulations by creating vehicles to easily discover and navigate regulatory requirements
- Improve efficiency and coordination of permitting processes
- Provide a regulatory roadmap for common agricultural business activities to easily learn the requirements for project implementation
- Establish one-stop-shops for permit assistance
- Improve the technical support capacity of agencies and others to assist farmers in meeting regulatory requirements
- Develop a web portal for consolidation of crucial information

ENVISIONING A “MODERN” REGULATORY SYSTEM

While significant relief can be achieved through information exchange, reducing regulatory friction, and easing navigation of the regulatory process, stakeholders also identified the need to begin considering what a modern regulatory system for agriculture would look like. The stakeholders identified several key characteristics of an ideal regulatory system:

- It responds to society’s multiple public and private interest goals
- It takes an integrated approach that moves away from a focus on media, such as air or water, and toward whole farm management
- It considers the net benefits of on-farm innovations over time
- It explicitly focuses on incentivizing beneficial behavior
- It is outcome- and risk-based, moving beyond practice-focused regulations
- It encourages shared understanding and learning, and has the capacity to adapt to new information and innovation
- It provides good customer service to the regulated community and good results for the public
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We have created a regulatory scheme that frustrates farmers, does not always deliver environmental outcomes, and can leave those charged with implementing regulations without the flexibility or resources to do their jobs well.

The Preface

Over the course of dozens of meetings that Ag Innovations Network has held with food system stakeholders during the past several years, the complexity of California’s regulatory setting has been consistently identified as one of the top three issues facing specialty crop agriculture, along with lack of reliable supply of both labor and water. In 2010, members of the multi-stakeholder group, the California Roundtable on Agriculture and the Environment,¹ addressed aspects of the issue in Permitting Restoration: Helping Agricultural Land Stewards Succeed in Meeting California Regulatory Requirements for Environmental Restoration Projects.² Food System Alliances,³ now active in eight counties throughout California, have similarly prioritized regulatory challenges.

The Problem

California farmers face a complex regulatory environment. The already challenging proposition of growing food has been further complicated by increases in the number of activities subject to regulation as well as the number of agencies with authority over on-farm actions. While individual regulations represent important public interests, they can at times conflict with one another.

Rather than identifying a particular legislative statute, regulation, or agency as problematic, specialty crop farmers are much more concerned about the cumulative impact of navigating, comprehending, and complying with myriad regulatory requirements. They report frustration with the lack of transparency in the regulatory system, which is also thought to be unreasonably costly and time-consuming, as well as deterring implementation of innovative projects.

Meanwhile, members of the conservation community express concern that existing regulations are not achieving a sufficient level of environmental protection, and report feeling that the current system does not adequately distinguish projects of public benefit, inadvertently impeding or even preventing their completion.

Regulators acknowledge many of the problems conveyed by the agricultural and conservation communities. However, the static nature of current laws and regulations does not provide the flexibility or adaptability needed to address the dynamic problems society faces today. Regulators explain that the statutory or traditional agency structure and culture, limited funding and staff, and competing mandates compromise their ability to proactively address many of the challenges. They also report the need for greater cooperation.
and collaboration with those they regulate. All stakeholder groups express this sentiment in various ways, suggesting a need for improved relationships between communities.

In short, we have created a regulatory scheme that frustrates farmers, does not always deliver environmental outcomes, and can leave those charged with implementing regulations without the flexibility or resources to do their jobs well.

The Project

In response to requests from agricultural, conservation, and regulatory partners, Ag Innovations Network launched a project in early 2012 to seek solutions that simultaneously reduce the business challenges associated with regulatory compliance for specialty crop farmers and meet the underlying public goals of regulation.

OBJECTIVES

• Foster communication and collaboration toward minimizing regulatory challenges
  » Build a common understanding of key regulatory issues across stakeholder groups
  » Establish connections between stakeholders concerned with and already working on key regulatory issues

• Identify and advance both short- and long-term solutions that:
  » Produce beneficial public outcomes
  » Minimize the challenges associated with regulatory compliance for California specialty crop farmers
  » Complement and expand upon existing local and statewide efforts to decrease regulatory burdens

APPRAOH

Through research on the current regulatory structure and existing efforts to address challenges, interviews with key stakeholders, and focused listening sessions with agricultural, conservation, and regulatory representatives, Ag Innovations Network documented a range of perspectives on regulatory issues. The process allowed stakeholders to share their experiences, describe specific challenges, and propose solutions to those challenges.

A Technical Advisory Committee reviewed and vetted early findings, helping to prioritize top recommendations for further consideration. The project culminated with the Summit on Regulations Affecting Agriculture, which was an opportunity for all stakeholders to come together to learn, share, and collaborate on further developing the key recommendations presented in this report.

The following pages incorporate the results of research, conversations, and collaborative problem solving into a set of priority recommendations for constructively addressing the desired regulatory outcomes identified in this project. More detail on the project and its findings is available at aginnovations.org/regulations.
During the summer and fall of 2012, Ag Innovations Network held listening sessions, focus groups, and one-on-one interviews with agricultural, conservation, and government agency stakeholders. The following perspectives are synthesized from those conversations.

One goal of these interactions was to identify some of the many efforts currently underway to address regulatory challenges. In the pages that follow, you will find examples of relevant efforts listed alongside participants’ recommendations. Not all listed projects address the specific concerns raised by stakeholders, but reflect efforts that are directionally consistent and could be built upon.
During listening sessions, farmers explained that they understand regulation to be a necessary part of running a farming operation and often agree with the underlying intent of regulations. Rather than facilitate the business of producing food and encouraging best environmental and social practices, however, the regulatory system is experienced as unduly burdensome. Navigating the regulatory process is confusing to most farmers, leaving them feeling uncertain about cost and timelines and fearful of additional scrutiny. The regulatory process is perceived as expensive, time-consuming, uncoordinated, and at times arbitrary. Farmers expressed feeling that requirements often seem less targeted to accomplishing a set of societal goals and more about jumping through hoops and paying fees that perpetuate a flawed system. Some feel that small-scale farmers are disproportionately affected by these challenges.

Members of the agricultural community conveyed feeling misunderstood by regulators and the general public, who they perceive as not having a sufficiently complete understanding of the realities and complexities of agriculture or the innovative practices farmers are trying to employ. They reported feeling constrained by the rigidity of a system that does not have the capacity to allow innovation and, as a result, prevents projects that might actually achieve the underlying goals of the regulation if viewed in a broader way. Farmers expressed frustration and concern about the impact that the costs and restrictions associated with the regulatory process have on the economic feasibility of their business.
THE LONG ROAD TO PROJECT COMPLETION

GOAL: PRESERVE PRIME AG LAND BY USING A PREVIOUSLY DEVELOPED SITE
RESULT: Prohibitive electricity upgrade costs
ENTITIES INVOLVED: PG&E, CA Department of Fish & Wildlife
YC Planning Department

GOAL: INSTALL LED LIGHTING TO INCREASE ENERGY EFFICIENCY
RESULT: LED lighting had not yet gone through the Title 24 rating process, so this energy-efficient option was not permitted
ENTITY INVOLVED: YC Building Department

GOAL: DIVERT STORMWATER TO MULTIPLE AGRICULTURAL FIELDS
RESULT: Solution not recognized by building code
ENTITIES INVOLVED: Public Works Department, Sacramento-Yolo Mosquito & Vector Control District, CA Department of Fish and Wildlife

SHARE NEIGHBOR’S DETENTION BASIN
IMPACT: 1-year delay

GOAL: CONSOLIDATE PROCESS WATER AS PART OF SPILL PREVENTION PROGRAM
RESULT: Approach unfamiliar to regulators. Advised that excess process water spill onto ground.
ENTITY INVOLVED: CV Regional Water Quality Control Board

TRUCK THE WATER OFF-SITE
IMPACT: 1. Need additional permit; 2. Ongoing cost; 3. Environmental consequences

INSTALL DETENTION BASIN ON-SITE

APPLY FOR WAIVER; SUBMIT PLANS FOR EACH APPLICABLE FIELD
IMPACT: Time consuming
ENTITY INVOLVED: CV Regional Water Quality Control Board

USE FLUORESCENT LIGHTING
IMPACT: Potential violation and associated consequences

WAIT UNTIL LED LIGHTING RATED & APPROVED BY TITLE 24
IMPACT: Costly time delay

REDESIGN SEEDWASHING PROCESS
IMPACT: 1. High cost to reinvent machinery; 2. Ongoing operational cost; 3. Loss of potential income gained by processing seed for others
ENTITY INVOLVED: CV Regional Water Quality Control Board

INSTALLLEDS ILLEGALLY
IMPACT: Potential violation and associated consequences

RECONSIDER DETENTION BASIN

FINALIZE PROJECT
The landowners were dedicated to building an environmentally sound facility, but found that cutting edge approaches were very hard to get permitted, and had to remove many green features from the project design. Ultimately, they felt that the regulatory requirements created many tough choices, inhibited innovation, and provided a disincentive for best practices from a business and ecological standpoint. While the initial project plans included a tasting room and creamery for future phases, it is unlikely that these will be built due to the challenges faced in the first phase.

TOTAL NUMBER OF MONTHS: 34
TOTAL NUMBER OF ENTITIES INVOLVED: 24

REDESIGN SEED PROCESSING WATER FOR IRRIGATION & FERTILIZATION OF VARYING FIELDS
RESULT: Small producer waiver required a plan for each field involved
ENTITY INVOLVED: CV Regional Water Quality Control Board

IMPLEMENT SEED DRIED AT LOW TEMPERATURES
RESULT: Avoid permitting, licensing and annual reporting required of high temperature seed dryers
ENTITY INVOLVED: CA Air Resources Board

SHARE NEIGHBOR’S DETENTION BASIN
IMPACT: Time consuming
ENTITY INVOLVED: CA Air Resources Board

INSTALL WITHOUT SEEKING APPROVAL AFTER GATHERING DATA FROM ENGINEER
IMPACT: Potential violation and associated consequences

REDESIGN SEEDWASHING PROCESS
IMPACT: 1. High cost to reinvent machinery; 2. Ongoing operational cost; 3. Loss of potential income gained by processing seed for others
ENTITY INVOLVED: CV Regional Water Quality Control Board

APPLY FOR WAIVER; SUBMIT PLANS FOR EACH APPLICABLE FIELD
IMPACT: Time consuming
ENTITY INVOLVED: CV Regional Water Quality Control Board

ADDITIONAL REGULATORY STEPS
- Planning process
- Approval of final plans
- Onsite procedures and plans
- Pre-occupancy inspection
- Conditional use permit
- Impact fees

FINISH
FARMERS REPORT THAT WHAT MAKES IT DIFFICULT TO COMPLETE PROJECTS IS THE COMPLEX INTERACTION OF PRIVATE CHOICES, REAL COSTS, AND REGULATORY CHALLENGES.

LEGEND
CA = CALIFORNIA
CV = CENTRAL VALLEY
YC = YOLO COUNTY
= COST/LOSS of REVENUE
= TIME CONSUMING
= LOSS OF AG LAND
= BUSINESS CHALLENGES
= PAPERWORK
= REGULATORY CHALLENGES
= VIOLATION
= OPTION
= ULTIMATE OUTCOME
= NOT ECO-FRIENDLY

Figure 2: A Yolo County farmer wished to build a wine and seed processing facility on his land. This diagram depicts the farmer’s experience in bringing the project to completion.
Navigating the Regulatory System

**WHAT’S THE EXPERIENCE?**

“We wanted to do everything correctly to develop the land for farming, so we attempted to get all the permits we needed. We’ve gotten over 40 permits since 2005. We didn’t know all the requirements upfront, and new ones frequently arose, which set us back significantly. None of the permitting agencies could help us navigate the process because they didn’t know what the other agencies required or which permits were needed. There have been many players involved, it’s been quite expensive, and work has not been able to be completed in a timely manner.”

(Ventura farmer, 2012)

**WHAT COULD MAKE IT BETTER?**

- Permit assistance tools
  - Online regulatory road map
  - Web portal
  - Guidelines/manuals
  - Ombudsperson positions

- One-stop permit shop
  - Lead agency/lead staff person

- Differentiate regulated activities
  - Pre-approve certain practices
  - Replicate/expand programmatic permit programs

**WHAT’S ALREADY BEING DONE?**

- CalGOLD, Governor’s Office of Business and Economic Development
- Joint Aquatic Resources Permit Application, Washington State
- Guide to Watershed Permitting in the State of CA, CA Assoc. of Resource Conservation Districts
- Ombudsperson positions at state and local agencies throughout the state
- Consolidated Permitting Program, California EPA
- Permit Coordination, Alameda Co. Resource Conservation District
- Statewide Programmatic Permitting Program, Sustainable Conservation

**WHAT COULD MAKE IT BETTER?**

- Transparent fee structures
  - Fixed or capped fees
  - Tiered fees according to project size and complexity

- Transparent timelines
  - Automatic project approval for complete applications that are not processed on time
  - Incentives for agency staff to process applications in a more timely manner

- Expedite beneficial projects

- Reduce the cost of regulatory compliance
  - Conduct rigorous economic analysis of proposed regulations
  - Resolve unnecessary fees and processes in existing regulations
  - Reward farmers for contributions they make to society (e.g., ecosystem services)

**WHAT’S ALREADY BEING DONE?**

- Conditional Waiver of Waste Discharge Requirements, Central Coast Regional Water Quality Control Board
- California Government Code, Section 65952, Approval of Development Permits
- AB 1961, Coho Salmon Habitat Enhancement Leading to Preservation Act
- Regulatory Accountability Act of 2011
- SB 617, Financial and Administrative Accountability
- Incentive programs, various state agencies
Lack of Understanding Among Stakeholders

WHAT’S THE EXPERIENCE?
“Agriculture in California is diverse. One size does not fit all and there is a lack of understanding about the agricultural landscape.” (Ventura farmer, 2012) Farmers express feeling misunderstood and taken for granted by agency staff and the general public due to insufficient understanding of what farmers do, how food is grown, and the myriad benefits that working landscapes contribute to communities and ecosystems.

WHAT COULD MAKE IT BETTER?
Increase understanding of core interests among stakeholder groups
Increase understanding of agriculture
» Farm visits
» Meet farmers and learn about farming

WHAT’S ALREADY BEING DONE?
» County-level Food System Alliances, Ag Innovations Network
» Agri-Culture Program, Santa Cruz County Farm Bureau
» Ag Education/Training Program for Regulators, Ventura County Ag Futures Alliance

Disincentives for Innovation

WHAT’S THE EXPERIENCE?
A Yolo farmer sought approval for a multi-use processing facility, and found that, “Rather than designing a facility to meet business and environmental goals, the design was driven by an uncoordinated set of regulations.” (2012) Farmers report that the regulatory system typically does not accommodate cutting-edge solutions or technologies and that, in spite of the diversity of agricultural operations, rules are applied in a one-size-fits-all fashion, inhibiting innovation and providing a disincentive for best practices.

WHAT COULD MAKE IT BETTER?
Creative collaboration among all affected stakeholders to foster mutual goals
» Engage stakeholders in developing new regulations
» Pilot projects to test new ideas
» Innovation or education permits
» Safe harbor agreements
Incentives for beneficial projects
Outcome-based regulatory approaches
» Employ a holistic approach to achieving underlying goals of regulation

WHAT’S ALREADY BEING DONE?
» Experimental Research Permit Exemption, San Joaquin Valley Air Pollution Control District
» Safe Harbor Agreements, U.S. Fish and Wildlife Service
» Agricultural Water Quality Grant Program, State Water Resources Control Board
» Best Available Control Technologies (BACT)
During focus groups, members of the conservation community emphasized the importance of assuring the long-term, sustainable protection of healthy ecosystems along with consideration of economic viability for agricultural operations. Conservation representatives explained that statutes are passed to achieve environmental goals such as air quality, water quality, and species protection. Regulations have been created to implement statutes, and the conservation community sees them as vital to reducing negative impacts to the public and the environment. However, they noted that the current regulatory system has not achieved the desired level of environmental performance, due both to the complex regulatory structure and lack of resources for agencies to effectively carry out their mandates. Conservation representatives reported that the system has also produced unintended consequences, including costly regulatory compliance for conservation projects, which limits funds for additional beneficial efforts. They recommended that a distinction be made between projects that contribute to ecosystem health and those with a negative impact on communities and the environment. They cautioned that any efforts to “streamline” the regulatory system must be carefully executed to improve environmental outcomes rather than undermining these goals. Members of the conservation community shared their impression that environmental regulations are unduly blamed for causing broader “regulatory burden” and pointed out that there are many other regulations and non-regulatory requirements that farmers must comply with. Furthermore, they expressed that compliance with laws such the Clean Water and Clean Air Acts represent a basic level of performance that should be considered part of the cost of doing business. While they acknowledged the importance of business growth, they underscored the importance of harmonizing that growth with environmental objectives. Some participants commented that money spent fighting environmental laws might better go to collaborative problem solving or compliance.
Achieving Environmental Outcomes

WHAT’S THE EXPERIENCE?

“While there is an essential need for regulation, accretion of the regulatory structure over time has led to the perverse situation in which the regulatory framework can actually impede the underlying environmental goal.” In addition, “There are insufficient resources to carry out and enforce existing regulations. Regulations will become less effective over time if the public sector capacity continues to collapse.” (California conservation representatives, 2012)

WHAT COULD MAKE IT BETTER? WHAT’S ALREADY BEING DONE?

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Distinguishing Beneficial Practices

WHAT’S THE EXPERIENCE?

“A distinction is needed between people that are engaged in egregious practices and those who are contributing to ecosystem health.” (California conservation representative, 2012) While regulations are intended to set a basic standard and prevent negative impacts to the environment, they can also have the unintended consequence of hindering beneficial projects.

WHAT COULD MAKE IT BETTER? WHAT’S ALREADY BEING DONE?

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Misplaced Blame Regarding Cost of Regulation

WHAT’S THE EXPERIENCE?

“It is not accurate to lump all regulations together and then single out environmental regulations as the source of the burden.” (California conservation representative, 2012) Environmental regulations are put in place to stop the cost of agricultural impacts from being borne by others in society and the environment. However, environmental regulations are just one subset of the many regulatory and business requirements facing farmers.

WHAT COULD MAKE IT BETTER? WHAT’S ALREADY BEING DONE?

| Focus resources on best practices and prevention of environmental degradation, rather than resisting regulation | Fish Friendly Farming (third party certification)35 |
| Creative collaboration among all affected stakeholders to foster mutual goals | Technology Advancement Program, San Joaquin Valley Air Pollution Control District36 |

Lack of Trust and Collaboration Among Stakeholders

WHAT’S THE EXPERIENCE?

“Relationships and trust building are important, and these efforts must be mutual.” (California conservation representative, 2012) Collaboration, particularly among agricultural and environmental communities, can be challenging. While individuals may be able to work well together, conservation representatives report that the relationship between the broader communities is often characterized by lack of trust and frustration with one another.

WHAT COULD MAKE IT BETTER? WHAT’S ALREADY BEING DONE?

| Build trust and understanding among all stakeholder groups | County Food Systems Alliances, Ag Innovations Network17 |
| Communicate clearly with one another | Watershed planning efforts 38 |
| Convey the value of data collection and information sharing to all stakeholders | |
SUCCESS STORY 2

Permit Streamlining

DANIEL MOUNTJOY | DIRECTOR OF RESTORATION ON PRIVATE LAND
Sustainable Conservation

In collaboration with local Resource Conservation Districts, the Partners in Restoration program facilitates conservation work on private land by simplifying the regulatory process for landowners.

PROBLEM

Dozens of regulations and associated permits affect farmers’ attempts to do projects on their land. The complexity, cost, and time-consuming nature of this system frequently result in landowners deciding to cancel projects before completion.

SOLUTION

The Partners in Restoration program identifies priority resource issues and commonly used conservation practices, and then works closely with agencies to help craft watershed- or county-based programmatic permits. Environmental stakeholders are engaged early on to ensure that environmental goals are not undermined in the effort toward more efficient navigation of the regulatory requirements. Under Partners in Restoration, permits are issued directly to local Resource Conservation Districts, which then act as a one-stop-shop for farmers and ranchers.

RESULT

The Partners in Restoration program has resulted in 227 projects implemented in eight watersheds, with more than 17 miles of riparian habitat enhanced and 200,000 tons of soil loss prevented. Under the Partners in Restoration program, an average of five projects are installed per year, compared to one project per year before the program. Although it takes time to coordinate among all relevant agencies for a common set of management conditions, the program has been successful in securing agreement about specific practices among diverse stakeholders within a watershed or county.

LESSONS LEARNED

• The average time to develop the Partners in Restoration program was 3½ years.
• The average cost to develop the Partners in Restoration program in each watershed was $373,000. This would translate to millions of dollars on a larger scale.
• The cost of project implementation was transferred from farmers to Sustainable Conservation and the Resource Conservation Districts.
• Projects were impeded by limited agency staff time.
• Overall, more and better-planned projects were executed. The coordinated operating system resulted in improved relationships between Sustainable Conservation, Natural Resources Conservation Service, and the Resource Conservation Districts.
• The role of a neutral party is key to putting projects together and negotiating between different agencies.
Both state and local agencies contributed perspectives to this project. Views from federal agency representatives are not included here because many of them delegate implementation and enforcement of regulations to state agencies, while providing oversight and guidance.

State agency representatives underscored the lack of staff and funding, which hinders their ability to effectively carry out existing regulatory programs, coordinate with one another, and launch new efforts.
State Agency Perspective

During interviews, representatives of key state agencies explained that regulatory agencies are charged with developing and implementing regulations and programs, consistent with federal and state laws, to protect public health and the environment. Achieving these regulatory goals, they reported, is a complex and difficult task, made more so by competing interests, demands, lawsuits, and, sometimes, the political process. Like any complex system or set of rules and requirements, the system includes flaws, shortcomings and inefficiencies, which can result in confusion and frustration for the regulated community, the public, and even regulators themselves. State agency representatives emphasized their dedication to minimizing these challenges through better interagency coordination and collaboration, and expressed frustration at the difficulty in achieving meaningful coordination with other agencies at all levels of government. However, there is generally a strong desire to communicate with all stakeholder groups to better understand their needs and concerns, and advance projects that achieve environmentally beneficial results. To do this and ensure a smooth regulatory process, regulators requested cooperation from the regulated community. They pointed out that when regulations are called into question, the resulting revisions are often more complex than the previous iteration as regulators attempt to incorporate new considerations. In addition, state agency representatives reported that a lack of data about agricultural practices and impacts has compromised their ability to make educated decisions in achieving their mandates, which can further complicate regulatory requirements. State agency representatives underscored the lack of staff and funding, which hinders their ability to effectively carry out existing regulatory programs, coordinate with one another, and launch new efforts.

Lack of Interagency Coordination

**WHAT’S THE EXPERIENCE?**

“Regulatory agencies often develop regulations in a stovepipe fashion without meaningful or effective consultation with other agencies.” (California state agency representative, 2012)

The resulting regulations target specific issues, but ignore the interconnectedness of the system in which they’re applied.

**WHAT COULD MAKE IT BETTER?**

- Team approach among agencies
  - Memoranda of understanding
  - Interagency working groups
  - Strategic division of responsibilities
  - Collaboration with diverse legislative and industry champions

**WHAT’S ALREADY BEING DONE?**

- California Biodiversity Council
- California/Federal Dairy Digester Working Group
- California Dairy Quality Assurance Program
- Consolidated Permitting program, Cal/EPA

**Agricultural Understanding and Outreach**

**WHAT’S THE EXPERIENCE?**

Traditional agency culture has discouraged meaningful communication and collaboration amongst agency representatives and those they regulate. Regulatory staff express that they do not feel empowered to reach out directly to farmers and develop greater understanding of agricultural perspectives.

**WHAT COULD MAKE IT BETTER?**

- Build trust and understanding among all stakeholder groups
- Foster an agency culture that encourages communication and collaboration
- Information sharing between agricultural community and regulators

**WHAT’S ALREADY BEING DONE?**

- California Roundtable on Agriculture and the Environment, Ag Innovations Network
- CalAgPermits, California Agricultural Commissioners and Sealers Association
- Agri-Culture Program, Santa Cruz County Farm Bureau
- Ombudsperson positions at state and local agencies throughout the state

**Increase understanding of agriculture**

- Create opportunities for agency staff to spend time in the field

**Permit assistance tools**

- Ombudsperson positions
- Increase capacity of technical support organizations
- User-friendly web tools
- Additional technical and financial assistance to smaller growers

- Technical support capacity-building efforts, Sustainable Conservation and California Association of Resource Conservation Districts
- CalGOLD, Governor’s Office of Business and Economic Development
Beneficial Projects

WHAT’S THE EXPERIENCE?

“New forms of investment in working lands are needed to complement and reinforce traditional ways of paying for conservation.” (California state agency representative, 2012)

Regulators report being in favor of projects on working lands that conserve natural resources or are otherwise beneficial to the environment, as they align with the underlying goals of many regulations. However, they understand that the existing regulatory structure can pose a barrier to permitting these types of projects and feel constrained in their ability to support efforts due to budget shortfalls.

WHAT COULD MAKE IT BETTER?

- Expedite beneficial projects
  » Expand existing efforts to ease implementation of conservation practices such as AB 1961, Conservation Pivot, and Partners in Restoration
- Raise awareness about the importance of regulation in achieving societal goals

WHAT’S ALREADY BEING DONE?

- Statewide Programmatic Permitting Program
  Sustainable Conservation

CONTEXT FOR ENVIRONMENTAL LAWS AND REGULATIONS

JOVITA PAJARILLO | RETIRED
U.S. Environmental Protection Agency, Region 9

THE PROBLEM

The post-World War II boom in the United States led to rising commerce, industrial growth, commercial and urban development, an exploding population, increased demand for housing and public services, the expansion of agriculture, increased construction of highways and roads, and an unprecedented number of cars on the road.

Although beneficial for the U.S. economy, this rapid growth had consequences for public health and the environment. Unregulated discharges of industrial and municipal waste, such as toxic chemicals and raw sewage, resulted in habitat degradation and loss, fish kills, and historic disasters, such as the Cuyahoga River fire. New and increasing pesticide use jeopardized bird populations, ranging from iconic bald eagles to hummingbirds. Smog from traffic and factories began to pollute the air, while environmental catastrophes, such as the massive 1969 oil spill off the coast of Santa Barbara, polluted California’s shores.

THE RESPONSE

Growing public awareness and concern about these ecological problems resulted in both grassroots and legislative action. The first Earth Day was held in April 1970, sanctioning the environmental movement and spawning new organizations such as Friends of the Earth, Natural Resources Defense Council, and Greenpeace. In the early 1970s, President Nixon signed a flurry of landmark environmental laws including the National Environmental Policy Act (which established the Environmental Protection Agency), the Clean Air Act, the Clean Water Act, and the Endangered Species Act. These laws established a new wave of government ethic, and were followed closely by other statutes such as the Safe Drinking Water Act, the Resource Conservation Recovery Act, and the Comprehensive Environmental Response, Compensation, and Liability Act (i.e., Superfund). These federal statutes gave states responsibility for implementation and allowed them to develop more stringent programs than required by federal legislation. Since they were first enacted, many of the statutes have been amended to reflect a new understanding of the conditions.
Regulating for Agricultural and Public Outcomes: Perspectives and Recommendations

County Agency Perspective

During focus groups with local regulators, participants noted that the cascade of regulations over the last 10 years has been overwhelming to all industries, not just to agriculture. Farmers’ reported sense of “regulatory burden” was thought by county representatives to stem from their historic exemption from many regulatory processes and permit requirements, resulting in their being unaccustomed to the quantity of regulations now affecting their businesses. County agency representatives described their unique position at the intersection of local stakeholder needs and legally mandated state and federal laws. They also conveyed awareness of emerging regulatory needs and reported that the bureaucracy of the public agency structure prevents timely response. This, they said, is compounded by the current budgetary climate, which has forced agencies to manage growing enforcement requirements with fewer staff and diminished funds.

Relationship with the Agricultural Community

WHAT’S THE EXPERIENCE?
“The goal of local regulators is not to make life difficult for farmers, but rather to implement responsible land use policies and then get out of their way so they can produce food and fiber.” (Fresno County agency representative, 2012) As they develop and implement laws, regulators are responding to the needs of all constituents. Advocates for new laws anticipate that regulations will resolve their concerns, while those who are being regulated feel burdened by these new regulations. Although new laws are well intended, they are complex, making it impossible to predict all consequences. Regulators have expressed that a better understanding of farmers’ needs could result in more effective policies, but they find it challenging to get constructive input from farmers.

WHAT COULD MAKE IT BETTER?
- Build trust and understanding among all stakeholder groups
  - Understand one another’s experiences more fully
  - Utilize farmers’ existing relationships with ag support organizations to expand communication
- Farmer engagement and feedback directly to regulators
  - Feedback mechanisms that accommodate farmers’ schedules and preferences

WHAT’S ALREADY BEING DONE?
- Ag Education/Training Program for Regulators, Ventura County Ag Futures Alliance
- Partnership building, Resource Conservation Districts
- Ag Issues Workshop Program, San Joaquin Valley Air Pollution Control District

A Rapidly Changing Landscape of Food and Agriculture

WHAT’S THE EXPERIENCE?
“Regulators are very good at following the rules that have been set up, but they are a little behind the curve on innovation.” (Sonoma County agency representative, 2012) Agriculture is not the same as it was even 10 years ago. Many non-agricultural activities now take place on farmland, ranging from weddings and farm dinners to large-scale solar installations. Farmers are increasingly interested in small-scale, on-farm processing to create additional income from value-added products. These shifting conditions raise a host of issues that were never contemplated by regulators. As they struggle to address these emerging areas in a timely manner, regulators explain that they are seeking a balance between the public’s interest and the changing business needs of agriculture.

WHAT COULD MAKE IT BETTER?
- Creative collaboration among all affected stakeholders to foster mutual goals
  - Work together to set the right policies at the beginning of the rule making process
- Differentiate regulated activities
  - Segregate activities by risk or scale and regulate accordingly
- Share resources among counties
  - Emerging policies and ordinances
  - Guidelines to assist farmers with permitting and compliance
- Permit assistance tools
  - Online information, communication, and reporting resources

WHAT’S ALREADY BEING DONE?
- Ag Liaison Advisory Board, San Luis Obispo County
- AB 1616, California Homemade Food Act
- Ag tourism ordinances, various counties
- Small-scale On-farm Food Processing in Marin County, Marin County
- CA Environmental Reporting System (CERS), California Environmental Protection Agency
Forces Beyond Local Control

**WHAT’S THE EXPERIENCE?**

“It would be helpful for farmers to both advocate for their needs and also take into consideration what is demanded of county agencies, such as meeting mandates from state agencies.”

(Sonoma County agency representative, 2012) Local regulators report that they understand the needs of their agricultural communities, yet they are required to comply with and enforce state and federal laws, even when they recognize that those laws are not appropriate to local needs or have an undesirable local impact. There are also many non-regulatory pressures that compound the sense of burden farmers feel about regulation, but there is often little that regulators can do about this.

**WHAT COULD MAKE IT BETTER?**

- Increase understanding of core interests among stakeholder groups
- Determine county-level solutions
- Encourage farmers to advocate for their needs at the state level so policies trickle down to counties

**WHAT’S ALREADY BEING DONE?**

- County Food Systems Alliances, Ag Innovations Network
- Local outreach and engagement, Resource Conservation Districts
- Local information networks such as Resource Conservation Districts, Farm Bureaus, and Cattlemen’s Associations

...the cascade of regulations over the last 10 years has been overwhelming to all industries, not just to agriculture. Farmers’ reported sense of “regulatory burden” was thought by county representatives to stem from their historic exemption from many regulatory processes and permit requirements, resulting in their being unaccustomed to the quantity of regulations now affecting their businesses.
Among stakeholder recommendations, several common themes emerged.

Use the following key to see which stakeholder groups identified each solution set.

- **AGRICULTURE**
- **CONSERVATION**
- **STATE REGULATORS**
- **LOCAL REGULATORS**

### Assistance for Farmers
- Permit assistance tools
- One-stop permit shop
- Differentiate regulated activities

### Stakeholder Collaboration
- Increase understanding of core interests among stakeholder groups
- Increase understanding of agriculture
- Build trust and understanding among all stakeholder groups
- Creative collaboration among all affected stakeholders to foster mutual goals

### Achievement of Beneficial Outcomes
- Outcome-based regulatory approaches
- Incentives for beneficial practices
- Expedite beneficial projects

These common solution sets were refined by the project’s Technical Advisory Committee and formed the basis for discussion during the June 2013 Summit on Regulations Affecting Agriculture. The resulting recommendations are shared in the next two sections.
In collaboration with the project’s Technical Advisory Committee, the recommendations common to multiple stakeholder groups were refined and presented to participants at the *Summit on Regulations Affecting Agriculture* in June 2013.

The short-term, more immediate recommendations fit into two categories — relationship building among stakeholders and easing navigation of the regulatory system — and serve to improve and simplify the existing regulatory system. The next section takes a longer view, describing the ideal characteristics of a modern regulatory framework.

Working in small groups, *Summit* participants prioritized and specified action and potential leads on the recommendations presented on the following pages.
Recommendations to Build Relationships

Objective One
Increase regulatory efficiency and effectiveness, increase innovation, and reduce conflict by developing a better shared understanding among stakeholders of the public outcomes sought, the unique nature of agriculture, and the limits of the laws and regulations in place. This objective focuses on the relationships between regulators, the regulated, and the public.

STRATEGIES FOR CHANGE
1. INCREASE PRODUCTIVE INTERACTION BETWEEN STAKEHOLDERS DEALING WITH REGULATORY ISSUES

Mutual misunderstanding is the cause of a great deal of tension among the agricultural, conservation, and regulatory communities. Farmers frequently feel that they are taken for granted and imposed upon, the conservation community is concerned that environmental goals are not being met and that stakeholders are not cooperating adequately with one another, and regulators feel torn between legal mandates and constituent needs as they try to maneuver bureaucratic obstacles with limited staff and funding. Lack of understanding among stakeholders has often resulted in lawsuits, a reality that limits regulators’ flexibility in implementation of laws as well as their ability to focus on outcomes rather than procedure. Better understanding of one another’s experiences and interests can lead to more efficient project timelines, reduced lawsuits, and better business and environmental outcomes.

Implementation

a) Create opportunities for dialogue at both state and local levels. Successful examples of relationship- and trust-building include the state water plan process, the California Roundtable on Agriculture and the Environment (CRAE), initiatives of some Regional Water Quality Control Boards, and the work of local Resource Conservation Districts.

Potential Lead: Individual agencies at both state and local levels in collaboration with organizations specializing in multi-stakeholder engagement

b) Develop and implement farm tour programs and other opportunities for learning exchanges among stakeholders (e.g., seminars, workshops, and annual conferences) to encourage smarter regulations and beneficial outcomes.

Potential Lead: California Department of Food and Agriculture, California Agricultural Commissioners and Sealers Association, Resource Conservation Districts, and industry groups

c) Foster accountability for consistent implementation and enforcement of all regulation, and develop specific procedures to identify and expedite projects that contribute to habitat and species recovery.

i. Implement training programs for regulators that issue permits. Require certification with a continuing education component. Include field tours or site visits in the training program.

ii. Streamline the voluntary conservation permitting process by setting agency goals that incentivize staff to prioritize review and evaluation of applications that have a benefit to habitat and species. Communicate these goals and resulting processes to the regulated community.

iii. Encourage regulatory staff to hold pre-meetings with project proponents early in the development of the project to clarify the project’s goals and objectives, the permitting process, and establish a timeline. This exchange would prevent pitfalls and enable more effective regulatory coordination.

Potential Lead: California Department of Fish and Wildlife, NOAA Fisheries, and U.S. Fish & Wildlife Service

2. INCREASE FLOW OF INFORMATION CRITICAL TO DECISION MAKING

Insufficient information is a challenge commonly expressed by multiple stakeholders. Farmers desire clearer and more transparent information about regulatory processes, while regulators and the conservation community would like better data about farming practices and their impacts to make more accurate policy decisions. Although all stakeholders are calling for more information, there is some disagreement about the type of information shared and how it is collected, stored, and utilized. Beyond the philosophical differences, the slow uptake of modern information technology, such as online communication platforms, further hinders the exchange of information between farmers and regulators. Improved flow of information between producers and regulators that demonstrates environmental outcomes, is seen by some stakeholders as the easiest and most cost-effective...
way to relieve regulatory stress. Several of the less contentious recommendations to improve information sharing are listed below, and may help to alleviate some regulatory stress in this area.

**Implementation**

a) Develop a comprehensive resource on permit requirements to share with farmers, or enhance an existing resource.  
*Potential Lead:* UC Davis Agricultural Sustainability Institute in collaboration with regulatory permitting agencies

b) Increase the specificity of the business types listed on the CalGOLD website so that more are identified upfront, making it easier for farmers to locate the requirements applicable to their operation.  
*Potential Lead:* Governor’s Office of Business and Economic Development

c) Create a searchable knowledge base, as well as a list of experts and landowners, to expand relevant scientific information and beneficial practices from small plots to the field.  
*Potential Lead:* California Rangeland Conservation Coalition, UC Davis, and California Environmental Protection Agency

d) Support efforts to create an anonymous database in which farmers and ranchers can report monitoring results from their practices as well as the results of implementing best management practices (BMPs) to inform regulators of compliance efforts and outcomes.  
*Potential Lead:* Resource Conservation Districts

3. BETTER ACCOMMODATE INNOVATIVE ON-FARM PRACTICES

Farmers report finding that there is little flexibility within the current regulatory framework to accommodate new and emerging on-farm technologies. Meanwhile, regulators’ obligation to maintain public health and safety prevents them from approving new technologies without rigorous testing. Developing frameworks that allow new practices and technologies to be tested in a cost- and time-effective way would assist both farmers and regulators.

**Implementation**

a) Initiate and expand research collaboration between interested farmers and researchers to pilot new projects and technologies. Consider regulatory exemptions under controlled conditions to allow farmers to innovate, while also fostering needed research.  
*Potential Lead:* California Department of Food and Agriculture’s Fertilizer Research and Education Program, UC Cooperative Extension, and private crop advisors, in conjunction with the associated regulatory agencies

b) Conduct outreach and encourage farmers to take advantage of the existing California Department of Fish and Wildlife
Voluntary Local Program and Safe Harbor Program to minimize risk when undertaking projects.

_Potential Lead:_ California Rangeland Conservation Coalition, California Department of Fish and Wildlife, California Cattlemen’s Association, California Farm Bureau Federation, California Association of Resource Conservation Districts, and the Alameda County Resource Conservation District

4. **ENGAGE STAKEHOLDERS EARLY ON IN THE RULEMAKING PROCESS**

Societal activities and priorities change over time, resulting in the need to evolve regulatory laws and policies. In many cases, important regulatory decisions are made with limited input from affected stakeholders, which can lead to frustration, dissatisfaction, and other unintended consequences. Early stakeholder involvement allows the regulated community to better understand the reasoning behind new regulations, and helps to create regulations that are more easily implemented.

**Implementation**

a) Develop a comprehensive understanding of current and emerging issues before regulations are drafted. Facilitate a process of identifying issues and convening key stakeholders at the appropriate scale to build shared understanding and gather input for developing new regulations.

_Potential Lead:_ California Department of Food and Agriculture and California Environmental Protection Agency

b) Co-create emerging regulations.

i. Encourage agencies to engage stakeholders early on in the process of drafting new regulations, at both local and state levels, to ensure that policies consider local concerns and practical knowledge from the start.

ii. Encourage stakeholders to stay involved and engage directly with regulators to adequately address concerns.

_Potential Lead:_ State and local agencies in collaboration with forums such as the state-level California Roundtable on Agriculture & the Environment, and county-based Food System Alliances

_Better understanding of one another’s experiences and interests can lead to more efficient project timelines, reduced lawsuits, and better business and environmental outcomes._
Objective Two
Increase interagency coordination to more effectively achieve the underlying goals of regulation while reducing the number of duplicative, conflicting, or otherwise uncoordinated regulatory requirements. This objective focuses on the relationships between regulators at all levels.

STRATEGIES FOR CHANGE
1. INCREASE COORDINATION BETWEEN STATE AND LOCAL AGENCIES

Local government often goes unrecognized in discussions about interagency coordination due to the large number of counties, cities, and other local government agencies in California. However, building greater understanding and sharing information among state and local agencies could help avoid duplication or conflict, improve assistance to farmers, and make the regulatory system easier to navigate.

» Implementation
Increase collaboration between state and local agencies, sharing or coordinating responsibilities and better understanding one another’s roles. Hold regular meetings that include both state and local agency representation, and include time for information sharing.72

*Potential Lead:* California State Association of Counties, California Agricultural Commissioners and Sealers Association, California Environmental Protection Agency, Regional Water Quality Control Boards, local Air Districts, and Resource Conservation Districts

2. ENCOURAGE A TEAM APPROACH AMONG AGENCIES

All stakeholders identified lack of effective interagency coordination as a primary source of inefficiency, conflict, and duplication within the existing regulatory framework. Incorporating interagency coordination into the infrastructure of the regulatory process could reduce these challenges.

» Implementation
Encourage a team approach through interagency working groups for coordinated goals, strategies, and actions among agencies at all levels. This approach is usually driven by a specific purpose or project.

i. Identify and address barriers to coordination such as timing, resources, incentives, boundaries/territory, etc.

ii. Include Native American tribes as sovereign nations, as well as technical support organizations.

iii. Evaluate the potential for the formation of multi-agency regulatory teams as part of a streamlined process.73 This could be funded through the Department of Conservation, development fees, or a farm gate assessment. Legislative changes may be needed to consolidate permits.

*Potential Lead:* California Biodiversity Council and California State Water Plan Agency Steering Committee in partnership with top levels of local, regional, state and federal government
Recommendations to Ease Navigation of the Regulatory System

Objective
Develop a coherent framework to allow easier navigation of the regulatory system.

STRATEGIES FOR CHANGE

1. INCREASE PERMIT EFFICIENCY

Customary practices or beneficial projects, such as stream bank restoration, can be needlessly delayed or terminated by the standard permitting process, which tends to be confusing, lengthy, and costly. Examples of regulatory processes that avoid this challenge should be expanded and replicated, such as ministerial permits for projects that fit a pre-determined set of criteria.

» Implementation
Develop a set of standard conditions at the state level, applied to a broad range of project types, that can be used to determine a project’s permit requirements. Consider funding this system through the state revolving loan fund used to finance Programmatic Environmental Impact Reports. A legislative component would also be required.

Potential Lead: Sustainable Conservation or other third-party consultant/organization, Resource Conservation Districts, California Environmental Protection Agency, and California Department of Fish and Wildlife

2. DEVELOP A REGULATORY ROADMAP

Navigating the regulatory process can be quite confusing and unpredictable, resulting in unexpected costs, time delays, and additional requirements. A regulatory roadmap would assist farmers in planning projects and complying with regulations.

» Implementation
Develop an online permit assistance tool that allows a farmer to input data about their operation or project and subsequently displays the regulatory consequences of various options (e.g., cost, additional regulations triggered, etc.). Consider organizing the tool by commodity and including links to relevant codes and regulations, as well as contact information for decision makers at each point in the process. Incorporate a layered Geographic Information Systems (GIS) map into the tool, including the locations of Biological Opinions, impaired waters and Total Maximum Daily Loads (TMDLs), agency boundaries, etc. to inform the user of existing regulatory programs, issues, and key players.

Potential Lead: California Environmental Protection Agency and California Natural Resources Agency in partnership with the Governor’s Office of Business and Economic Development, municipalities, the private sector, and foundations
3. CREATE ONE-STOP PERMIT SHOPS

Farmers must frequently engage with multiple agencies in complying with an assortment of regulations, often encountering confusing, conflicting, or duplicative requirements. The permit applicant is then required to reconcile these requirements into an acceptable project design, which can range from burdensome to impossible. The Consolidated Permit Process, currently managed by the California Environmental Protection Agency, works to alleviate this challenge by assigning one lead agency to direct and manage the regulatory process.

» Implementation

a) Engage agencies in expanding the Consolidated Permit Process to address a broader set of issues. Assign a dedicated agency staff person or ombudsperson with the authority and knowledge to efficiently shepherd the applicant through the process. The lead agency would mediate on behalf of the applicant with the regulatory agencies involved, ensure that all agencies adhere to timelines, and work with affected stakeholders.

Potential Lead: California Environmental Protection Agency and the Governor’s Office of Business and Economic Development could assist appropriate lead agencies and staff people at both state and local levels to collaborate on pertinent issues.

b) Employ agency staff with agricultural background or training to better reflect the specific challenges of regulating agricultural activities. The Governor’s Office of Business and Economic Development is the single point of contact for permitting issues for all businesses, including agriculture. Ensure that agricultural literacy is consistently represented among the staff devoted to resolving interagency conflict to augment efforts already underway to train staff and improve regulatory processes.

Potential Lead: Governor’s Office of Business and Economic Development

4. INCREASE TECHNICAL SUPPORT CAPACITY

Farmers understand that time delays cost money and can result in missed opportunities within the limited windows of the growing season or financial assistance programs. Expensive consultants are often needed to assist farmers in complying with complicated regulations. Meanwhile, technical support organizations are well equipped to provide assistance, but lack sufficient funding and staff to do so effectively. Increasing the capacity and coordination of existing channels of support could result in improved technical assistance to growers, particularly regarding regulatory requirements.

» Implementation

a) Implement a sliding scale fee structure for technical support organizations and encourage farmers to use them as they would a consultant. Consider partnering with trade organizations and their members to provide services. Maximize technical support resources through group workshops or seminars on a particular technical subject and increase the capacity of participants by focusing on training that can be easily shared between farmers. In an era of limited funding and staff resources for agencies, this may be a funding opportunity for agricultural support organizations.

Potential Lead: Technical support organizations, such as UC Cooperative Extension, Natural Resources Conservation Service, Resource Conservation Districts, and the California Department of Food and Agriculture

b) Ensure that ombudspeople at both state and local agencies communicate and collaborate with one another.

Potential Lead: Governor’s Office of Business and Economic Development

5. ESTABLISH A WEB PORTAL

Many agencies ask for much of the same data or reporting information from farmers, resulting in redundancy of information submission. Meanwhile, farmers find it challenging to locate specific regulatory requirements or guidelines and contact information for agency representatives. A central online location for information upload and download could serve the information needs of both the regulated and regulators.

» Implementation

Establish a single web portal that allows the farmer to submit or update required information in one place for all agencies to access, and also allows the farmer to view or download the applicable information from each regulatory entity. The portal would be designed fulfill multiple regulatory requirements while reducing the cost to all parties. Allow electronic signatures on documents and
incorporate electronic tracking of permits. Distinguish project permitting from compliance reporting, and establish a system for each.

i. Project permitting: Assign each project application a number and submit it to all appropriate agencies for review. If the project fulfills specific criteria (e.g., meeting CEQA and Environmental Impact Report requirements), it can be permitted without further review. Otherwise, it undergoes the complete review process. A pre-meeting between agencies and the project proponent may be useful in determining the project’s path upfront.

ii. Compliance reporting: Applicants upload information to a single portal that goes to all agencies requiring similar compliance information. As long as the applicant’s required data falls in the compliant range, they can choose not to share details or extraneous information with agencies.

Pilot the program first to ensure effectiveness and mutual satisfaction, and work out any technical and/or data collection issues. Contrary to popular perception, many farmers are technologically savvy; those who are not could be provided with technical support. While statewide implementation would be costly, it would ultimately save many resources.

*Potential Lead:* A collaborative effort between California Environmental Protection Agency, Governor’s Office of Business and Economic Development, Regional Water Quality Control Boards, Sustainable Conservation, Resource Conservation Districts, and private organizations already engaged with producers on information systems.

**Coordination of the Recommendations**

There are significant opportunities to increase the efficiency and effectiveness of the current regulatory system as it affects agriculture. To move more quickly toward implementing these recommendations, executive leadership at the Governor’s level and the appointment or utilization of senior staff familiar with the issues will be critical.

*To move more quickly toward implementing these recommendations, executive leadership at the Governor's level will be critical.*
While there is significant relief that can be accomplished through information exchange, reducing regulatory friction, and permit streamlining, stakeholders also identified the need to begin envisioning a modern regulatory system for agriculture.

Participants at the *Summit on Regulations Affecting Agriculture* spent their last session together considering the regulatory system that is needed for the 21st century. Several decades have passed since many regulations and regulatory structures were first put in place. During that time, much has been learned and much has changed in the world. Given the opportunity to build the system from scratch today, participants were asked to consider the characteristics of a modern regulatory system and how it might be structured for success.79 The results of this conversation are synthesized below, comprising a preliminary set of considerations that could start a robust dialogue on a more effective way to accomplish societal goals than the current regulatory approach. Stakeholders reported that they believe the time is right to consider the following vision and embark on the long process of creating better environmental, social, and economic outcomes for California’s farms.
Characteristics of a Modern Regulatory System

RESPONDS TO SOCIETY’S multiple private and public interest goals

• Answers the question, “What are the overriding public and private interests and how should regulations serve those interests?”
• Embodies these societal goals in a clear and concise way.
• Is dynamic, adapting to changing science and situations.
• Is centered on the values of economic sustainability, environmental stewardship, and public health, and encourages conducting business in alignment with these values.

IS AN INTEGRATED SYSTEM

• Integrates (rather than excludes) natural components, including soil, water, air, plants, animals, and people.
• Integrates (rather than silos) institutions, including but not limited to local, regional, state, and federal agencies.
• Integrates (rather than distinguishes) goals, including economic viability, public health, and environmental quality.

CONSIDERS NET BENEFITS OVER TIME

• Compares net benefits to costs and considers trade-offs when necessary to maximize net environmental and societal benefits.
• Looks to the future, encouraging longer-term thinking when considering impacts (i.e., utilizes time-based accounting to gauge regulatory impact).
• Considers a farm’s track record (e.g., a history of using good practices).
• Assures that the public good is being met, including public health, environmental quality, resource protection and ecosystem services, and economic viability of farming and farm communities.

INCENTIVIZES BENEFICIAL BEHAVIOR

• Prioritizes incentives over penalties.
• Incentivizes beneficial behavior on the part of regulators, legislators, and the regulated alike.

IS OUTCOME-BASED

• Has clear goals that align with societal priorities.
• Is oriented to achieve desired outcomes/performance.
• Has a focus on problem solving, is open to solutions, and flexible in how desired outcomes are met.
• Is project-based rather than process-based.
• Has innovative leadership with the flexibility to enforce the spirit of the law creatively.
• Positions agencies in a leadership role, leveraged by the private sector.
• Allows local regulatory variability.

There is a strong emerging sense that without addressing these underlying challenges in our regulatory approach, California will end up with both fewer farms and further depletion of our natural resources and capital.
IS RISK-BASED
• Regulates according to risk in a tiered manner.
• Allows self-certification or third party certifications for low-risk activities.

ENCOURAGES SHARED UNDERSTANDING
• Fosters trust.
• Reframes “regulator” as “educator” and achieves compliance through education.
• Encourages two-way education between regulators and farmers.
• Is proactive rather than reactive, encouraging collaborative approaches.
• Fosters hope and optimism rather than pessimism and cynicism about government.

PROVIDES GOOD CUSTOMER SERVICE
• Encourages a customer service approach among regulators.
• Is user-friendly and easy to understand.

Next Steps
Tackling the fundamental way society regulates agriculture is a major undertaking that requires both significant expertise and political skill. Yet there was considerable appetite to approach this challenge, particularly from prominent leaders in all three stakeholder groups. There is a strong emerging sense that without addressing these underlying challenges in our regulatory approach, California will end up with both fewer farms and further depletion of our ecosystem and human capital.

To move forward will require a step-wise approach that includes:

1. Getting leadership endorsement for a multi-year program to create a more modern regulatory framework.
2. Identifying the key stakeholders with both the knowledge of the issues and the capacity to find common ground to lead the effort.
3. Research on global best practices for agricultural regulation and how they would apply in the California context.
4. Elaboration of the key characteristics of the new approach, including core principles and administrative vehicles.
5. Stakeholder review of the proposals and iterative attention to key points of concern.
6. Creation of the appropriate legislative and/or administrative vehicles for implementation.
7. Gaining broad political support for the proposals.

To accomplish these seven steps will take the cooperation and support of political, business, and public interests. With executive leadership from the Governor, industry leadership from agricultural leaders, and public support from both private foundations and nonprofit organizations skilled in the various tasks that are required, participants believe a robust, modern regulatory system for agriculture can be created.
Key Outcomes
During the course of this focused examination of the challenges and opportunities related to regulations affecting agriculture, it became clear that there are two classes of recommended solutions:

1. Immediate adjustments to the current system to relieve the sense of burden or frustration experienced by each stakeholder group.

2. Broader solutions that go beyond the current system to envision how societal goals might better be accomplished within a new, ideal regulatory framework.

The result is a tiered approach to resolving the identified challenges.

In the Call-to-Action section of this report, near-term remedies include building understanding among stakeholder groups, increasing the flow of critical information between regulators and the regulated, and stakeholder engagement in policy development. Recommendations to improve interagency coordination stretch to involve historically excluded local agencies, and encourage working groups to align goals and action. A suite of high-priority solutions to simplify and ease navigation of the regulatory system includes a more efficient and coordinated permitting process, a regulatory roadmap, the use of one-stop-shops, improved technical support capacity, and a web portal for consolidation of crucial information. A lead entity is identified wherever possible to shepherd recommendations into action.

The next section, Rethinking Achievement of Environmental Outcomes, departs from our current system to envision the characteristics of a modern regulatory system. This ideal system responds to society’s goals, is an integrated system, considers net benefits over time, incentivizes beneficial behavior, is outcome-based and risk-based, encourages shared understanding, and provides good customer service to the regulated community. This vision is offered as a set of considerations to guide changes to the regulatory structure as they occur.

Next Steps
While this report marks the end of this particular project, it is anticipated that the many participants and other interested parties will continue to build on the shared understanding established throughout this process, and each do what is possible to move the short-term recommendations forward, while collaborating to bring the vision of a modern regulatory system to fruition.
TOUGH QUESTIONS, HOPEFUL DIRECTIONS

JOSEPH McINTYRE | EXECUTIVE DIRECTOR
Ag Innovations Network

The discussions captured in this report were rich and often laced with both anger and resignation. It became clear that deep underlying questions, that included but went beyond regulation, were affecting the responses of the stakeholder participants. Some of these critical questions included:

- **How do we ensure the cumulative effect of business conditions, changing markets, and regulations do not result in a loss of agriculture in California?**
  Farmers consistently told us that their concerns were more about these cumulative effects as opposed to specific laws, regulations, or agencies. There is no doubt that the global market in food has profoundly reshaped the nature of farming in California. California’s unique history of, and emphasis on, environmentally and socially responsible farming is easily seen as a stumbling block in this more competitive world. However, participants also told us that California’s products were uniquely valued in the marketplace, precisely because they are produced with what is perceived to be the highest safety standards in the world. There is clear middle ground to be discovered, particularly around setting reasoned outcome targets for farms and providing producers and regulators the flexibility to achieve those targets.

- **How do we avoid reducing environmental and social outcomes as we attempt to streamline regulatory processes?**
  Public interest and conservation groups are gravely concerned that hard fought protections are at risk with efforts to simplify permitting or fast track projects. There is a real public interest conflict between immediate economic returns and long-term environmental and social outcomes. Moving forward on regulatory reform will require a significant improvement in the relationships and trust between public interest and agricultural groups. Relying on regulators to be a buffer or arbitrator between these groups is unlikely to be sufficient. There are robust examples of these productive relationships, but more leadership is required from all parties.

- **How can we move to a more data- and outcome-oriented approach to regulations?**
  Almost all participants in these dialogues agreed that moving toward a more outcome-based regulatory approach makes sense. They also understand that this requires the provision of appropriate data to demonstrate results. Yet there is deep and ongoing concern about data sharing between farmers and regulators, and even deeper concern about sharing between farmers and public interest groups. Fear of litigation and/or marketplace vilification is dramatically hindering the sharing of current data and the collection of new data. However, there are examples of potential trusted intermediaries who can create a data bridge between producers, regulators, and the public. Agricultural management information services providers, certifiers, and intermediaries such as Resource Conservation Districts can provide, and in some case have provided, these bridges.

There is a great opportunity for real progress to be made toward better outcomes for both farmers and society. Participants feel that now is the time to make real progress toward building more relationships and partnerships capable of answering these and many more regulatory challenges in California.
END NOTES

1. http://aginnovations.org/roundtables/crae
5. Results of these conversations can be found at http://aginnovations.org/regulations/progress
6. This synthesis has been vetted and approved by members of each stakeholder group. However, these comments do not necessarily reflect consensus within each group.
7. A more complete listing of relevant efforts compiled as part of this project can be found at http://aginnovations.org/regulations/reg_resources
23. http://aginnovations.org/regulations/reg_resources/conservation_planning_certification_and/or_certified_crop_advisor_programs
29. http://aginnovations.org/regulations/reg_resources/the_partners_in_restoration_project
34. http://aginnovations.org/regulations/reg_resources/technology_advancement_program_tap