



RURAL COUNTY REPRESENTATIVES
OF CALIFORNIA

April 22, 2015

Sent via E-Mail to: Jessica.Bean@waterboards.ca.gov

Jessica Bean
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100

Re: Draft Drought Emergency Water Conservation Regulations

Dear Ms. Bean:

On behalf of the thirty-four member counties of the Rural County Representatives of California (RCRC), I appreciate the opportunity to submit comments on the proposed Draft Drought Emergency Water Conservation Regulations. RCRC is governed by a thirty-four member Board of Directors composed of one County Supervisor from each of our member counties.

I would also like to take this opportunity to thank the members of the State Water Resources Control Board (State Water Board) and staff for the two conference calls to date to brief counties on the expedited process underway and to seek informal comments on regulation development for Executive Order Provisions 2, 5, 6 and 7 prior to the formal notice of proposed rulemaking.

RCRC notes that the draft Drought Emergency Water Conservation Regulations incorporate a number of comments and suggestions made on the regulatory framework document. This includes expansion of the number of tiers and, under certain circumstances, allowing the modification of the amount of water subject to the conservation standards and providing a means to move into a lower conservation tier.

RCRC appreciates that the State Water Board and staff are laboring under very strict timelines as a result of Governor Brown's Executive Order, and that staff is endeavoring to address concerns raised within the current constraints of the proposed deadlines, i.e. formal notice of proposed rulemaking on April 28th and State Water Board hearing and adoption on May 5th or 6th.

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RCRC understands that the Drought Emergency Water Conservation Regulations are intended to be a short-term response (270 days) to the drought, however there is the potential for long-term impact. The issue of “fairness” has been brought up repeatedly in response to the proposed use of R-GPCD without consideration of other relevant factors such as climate, population density, etc. “Fairness” clearly will be difficult, if not impossible, to address in the emergency regulations given the proposed timeline. Given this reality, RCRC urges the State Water Board to include in the regulations a process to allow for exceptions when there are extenuating circumstances.

Section 864 (a) (8) would prohibit “the irrigation with potable water outside of newly constructed homes and buildings that is not delivered by drip or microspray systems”. To facilitate enforcement and to avoid confusion RCRC urges greater specificity as to at what point in the construction process this new prohibition would apply. The regulation should also specify when the prohibition would commence and end i.e. the duration of the emergency regulation.

Section 864 (c) specifies that all commercial, industrial and institutional (CII) properties served by a small water supplier or who utilize their own water supply shall either limit outdoor irrigation of ornamental landscapes or turf with potable water to no more than two days a week or reduce potable water usage by 25%. The language of (c), however, states the prohibition as applying to CII properties that are not served by large water suppliers (as defined).

For the sake of clarity, RCRC suggests that the State Water Board consider instead specifying that Section 854 (c) applies to (for example) a publicly or privately owned urban water supplier providing water for municipal services either directly or indirectly to less than 3,000 customers or supplying less than 3,000 acre-feet of water annually and to CII properties utilizing water from (for example) wells on their property. While that section of the regulation may have to be somewhat longer and more detailed, the public would have a clearer understanding of what prohibitions apply to them. This is particularly important as failure to comply, in addition to any other applicable civil or criminal penalties, is an infraction punishable by a fine of up to five hundred dollars (\$500) for each day in which the violation occurs.

The recent Court of Appeal decision *Capistrano Taxpayers Association, Inc. v. City of San Juan Capistrano* relating to Proposition 218 and “tiered” rates adds to the complexity of water supplier implementation of the proposed regulation. RCRC suggests that the State Water Board consider providing impacted water suppliers with guidance as to how to comply with the regulations while at the same time not run afoul of Proposition 218.

In conclusion, RCRC appreciates your consideration of these comments. If you have any questions please contact me at kmannion@rcrcnet.org or (916) 447-4806.

Sincerely,



Kathy Mannion
Legislative Advocate

cc: The Honorable Felicia Marcus, Chair
The Honorable Frances Spivy-Weber, Vice Chair
The Honorable Dorene D'Adamo, Board Member
The Honorable Tam Doduc, Board Member
The Honorable Steven Moore, Board Member
Mr. Tom Howard, Executive Director
Ms. Caren Trgovcich, Chief Deputy Director