



July 14, 2014

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The Honorable Felicia Marcus, Chair  
and Members of the State Water Resources Control Board  
c/o Jeanine Townsend  
Clerk to the Board  
State Water Resources Control Board  
1001 I Street, 24th Floor  
Sacramento, CA 95814

Subject: 7/15-16/14 BOARD MEETING (Emergency Regulations for Water Conservation)

Dear Chair Marcus and Members of the Board:

The Association of California Water Agencies (ACWA) appreciates this opportunity to provide comments on the July 8, 2014 proposed emergency regulations for water conservation entitled *Prohibition of Activities and Mandatory Actions During Drought Emergency*. ACWA represents over 430 public water agencies which are responsible for delivery of over 90% of the water used for residential, commercial and agricultural purposes in California. ACWA is keenly aware of the gravity of the continued drought conditions in California.

ACWA urges the State Board to make some important modifications to the proposed emergency regulations. With the incorporation of the suggested changes, ACWA fully supports decisive action by the State Board to address the deepening drought emergency. We believe that this is the right timing for this action, as the State faces its highest seasonal demands by urban water users. Asking the State's urban water users to commit to conserving now will help preserve the supplies California will need if this drought continues in 2015.

These proposed regulations are serious and unprecedented. But California is in a serious drought, and the actions proposed by the State Board will send a strong message to Californians that we are facing severe water challenges. While many water agencies already have taken actions that include or are in addition to those outlined in the proposed regulations, others have not. It is time for all urban water suppliers to raise water user awareness of the severity of the situation. We believe that Californians will respond, just as they have in past drought emergencies.

ACWA appreciates the way the State Board has solicited water use information from water suppliers to inform this proposed action and sought input on workable approaches to

conservation. We particularly support the way the emergency regulations are crafted to identify a target suite of prohibited actions that would apply statewide and to require water suppliers to implement the local water shortage contingency plans to impose mandatory restrictions on outdoor irrigation. At the same time, ACWA believes that the proposed emergency regulations should be modified in some important respects before the State Board approves them.

### **Specific Comments on the Proposed Emergency Regulations**

Following are ACWA's specific comments and suggestions regarding the proposed emergency regulations.

#### **Comment 1: The Enforcement/Fine Provision should be limited to local enforcement action.**

Section X.1 Prohibited Activities in Promotion of Water Conservation, subdivision (b), proposes that the taking of prohibited actions would be infractions, punishable by a fine of up to five hundred dollars for each day the violation occurs. ACWA appreciates the need for implementing appropriate penalties for water waste and understands that the State Board's intent is to implement the authority granted in recent drought legislation and in the Governor's Executive Order so that local water suppliers or other local law enforcement authorities could issue tickets for water waste in a way similar to writing a traffic ticket.

ACWA strongly believes that enforcement of the emergency regulations should be accomplished at the local level and through local water supply agencies wherever practical. Many local water supply agencies have enforcement procedures in place, including the levying of fines when appropriate. **The prohibition of activities in communities in promotion of water conservation (Section X.1) should not be enforced at the State level.** A duplicative effort at the State level would be a misuse of limited State resources. The proposed language is silent on this issue, and the language should be clarified.

As the State Board is aware, many water suppliers have existing administrative fine programs that are commonly enforced progressively – starting with warnings and then fines are added and increased. We suggest that language be added to additionally clarify that the regulation does not affect or limit these existing authorities.

**Recommendation:** Amend the regulation as shown below to clarify that the enforcement is to be implemented at the local level, and the regulation does not affect or limit an urban water supplier's existing enforcement authority.

Amend Section X.1 (b) and add a new Section X.1 (c) to read (inserts shown with underscore and bold):

(b) The taking of any action prohibited in subdivision (a) of this section is an infraction, punishable **at the local level** by a fine of up to five hundred dollars (\$500) for each day in which the violation occurs.

**(c) Nothing in this section shall affect or limit an urban water supplier's authority, pursuant to any ordinance, resolution, or other regulation adopted by the urban water supplier, to enforce any water use restrictions or water conservation requirements adopted by the urban water supplier.**

**Comment 2: Monitoring: Monthly reporting of total water produced is appropriate, but the proposed GPCD reporting requirement should be deleted.**

Section X.2 Mandatory Actions by Water Suppliers, subdivision (d) proposes to require monthly reporting of the amount of potable water the urban water supplier produced and an estimate of the gallons of water per person per day (GPCD) used and an initial statement of the number of persons served.

ACWA supports monthly reporting of total water production as the most equitable, consistent and accurate way to monitor the water waste and outdoor irrigation actions. However the method to calculate monthly GPCD in this Emergency Regulation is *different* from the existing GPCD calculation required in Urban Water Management Plans. The use of this different GPCD for this purpose may lead to several unintended outcomes associated with inconsistent or inaccurate accurate population data resulting from seasonal populations and non-municipal water district boundaries, the potential use of estimated (GPCD) versus actual (production) data to evaluate current and future drought actions and the use of an inclusive figure (industrial, institutional, residential and commercial use) to evaluate response to actions that target residential water use.

**Recommendation:** Eliminate the proposed monthly GPCD reporting and rely on the proposed aggregate monthly production data, compared on a year to year basis, to serve as the key indicator of compliance with these Emergency Regulations.

Amend Section X.2. (d) to read (deletion shown in strikeout and bold):

(d) (...) each urban water user shall prepare and submit to the State Water Resources Control Board by the 15<sup>th</sup> of each month a monitoring report on forms provided by the

Board. The monitoring report shall include the amount of potable water the urban water supplier produced, including treated water provided by a wholesaler, in the preceding calendar month. ~~The monitoring report shall also estimate the gallons of water per person per day used by the person it serves.~~ In its initial monitoring report, each urban water supplier shall state the number of persons it serves.

**Comment 3: Solar Panels - The prohibition against the application of water to any hard surface should not apply to the washing of solar panels.**

Section X.1 Prohibited Activities in Promotion of Water Conservation, subdivision (a) (3) proposes to prohibit application of water to any "hard surface." This prohibition includes, but is not limited to, paved surfaces. In order to maintain the efficiency of the solar panels solar experts advise that the panels should be washed with water on a monthly basis. Modification of the proposed rule would assist the state in meeting 2020 renewable energy goals. ACWA recommends that the use of water to wash solar panels be a specific exclusion to this subdivision.

**Recommendation:** Amend the Emergency Regulations to explicitly exclude periodic washing of solar panels from the subdivision (a) (3) prohibition.

Add Section X.1. (c) to read:

**(c) Paragraph (3) of subdivision (a) does not apply to the periodic washing of solar panels.**

**Comment 4: Wholesale Water Suppliers: The Regulation Should Not Apply to Wholesale Water Suppliers.**

The State Board indicated that it is interested in hearing comments on the applicability of the proposed regulations to wholesale water suppliers. Although wholesale water suppliers have a significant role in working with their retail customers to plan and implement water conservation programs and track progress on water conservation savings, this Emergency Regulation should be applicable only to the retail Urban Water Suppliers who have a direct authority and responsibility and authority and relationship with urban water users. Imposing a reporting role on wholesale suppliers would create a significant risk of double-counting and misreporting of results.

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Thank you for your consideration of these comments. ACWA stands ready to assist the State Board and its staff to work with urban water agencies to help develop guidance and communications tools to implement the Emergency Regulations quickly and effectively. If you have any questions, please contact me or Dave Bolland at (916) 441-4545.

Sincerely,

A handwritten signature in black ink, appearing to read "Timothy H. Quinn". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Timothy H. Quinn  
Executive Director

cc: Mr. Tom Howard, Executive Director  
Ms. Caren Trgovcich, Chief Deputy Director