

Via e-mail to: commentletters@waterboards.ca.gov



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
10001 I Street, 24th Floor
Sacramento, CA 95814

Re: *Comments on Proposed Extended Emergency Conservation Regulation for Urban Water Conservation*

Dear Chair Marcus and Members of the Board:

We commend the Board's staff for their work with water agencies through the informal workgroup process to consider improvements to the Proposed 2016 Emergency Conservation Regulation for Urban Water Conservation (Proposed Regulation). However, since these adjustments, credits and caps were based on agencies' reaction to existing regulations that were established in an emergency based on the best available but ultimately limited information, we submit that the current approach is neither an equitable nor technically defensible long-term model for addressing emergency statewide conservation requirements.

We respect that the original emergency conservation regulation had to be developed quickly, and was derived using the limited data available to the State Board at the time of the Governor's Drought Emergency Declaration. This resulted in an emergency regulation that was technically unrefined.

For the Proposed Regulation, the State Board sought the input of a workgroup to improve the regulations based upon the direction received in the Governor's November 13, 2015, Executive Order to incorporate lessons learned from the implementation of the 2015 emergency regulation. Through the workgroup process, many suggestions by water industry professionals were offered to improve the regulations through a series of credits and adjustments. The intent of these credits and adjustments was to equitably address both local agency conditions and a significant unintended consequence of the 2015 emergency regulation, which appeared to not fully recognize or value local sustainable supply development.

The newly Proposed Regulation, although an improvement, only partially incorporates much needed revisions and is certainly not suitable as a framework for emergency drought regulations that may need to be instituted in the future. California will continue to face periodic instances of drought, and a regulatory methodology that imposes inexactly derived percentage reduction targets that are "modified" with a partially applied set of credits, adjustments and arbitrary caps is ineffective. As we read comments by water supply agencies and talk with colleagues, the feelings of anger, confusion and frustration are palpable.

The current methodology which uses percentage reduction targets relative to 2013 water use

provides little context as to whether the reporting agency's water use is efficient or wasteful. Some agencies that are currently efficient by State standards, as described below, are now required to cut back water use dramatically, while others that have reduced their use may still be wasteful by State standards.

These inherent differences matter when it comes to assessing whether customer water use is reasonable or if the target percentage water reductions assigned by the State Board are feasible or sustainable. Percentage conservation targets under the current regulations are inequitable for agencies whose customers currently meet State potable use efficiency standards.

A fair and sustainable approach would be the adoption of a compliance framework that uses performance-based potable water use efficiency standards for indoor and outdoor use. Specifically, it is recommended that the indoor residential water efficiency standard be based upon standards that the State has already adopted through SBX7-7 (55 GPCD indoor water use). For the outdoor potable water use standard, it is recommended that AB 1881, the Model Water Efficient Landscape Ordinance (80% of evapotranspiration for existing landscapes), be used for residential and non-residential irrigation.

The benefits of using the State's *existing* water efficiency-based standards for targeting water reductions and measuring/reporting water use performance include:

- ***Fairness.*** Use of the State standards *automatically provides equity across all agencies*, including the recognition of local weather conditions, past conservation investments, growth, and impacts on low-income customers.
- ***Simplicity.*** Use of the State standards will enable the State Board to consolidate the various conservation codes or actions that water agencies must currently measure into a single, *impartial, science-based measurement that is fair and defensible for both the State Board and local agencies.*
- ***Clarity.*** For agencies and their customers, use of the State standards provides *a clear message to the public about what a reasonable amount of water to use is given their local conditions.* Agencies would have an improved tool for identifying inefficient users, while customers will have the information they need to understand whether their water use is efficient or inefficient based on the State's standards.
- ***Flexibility.*** For the Board, use of the State standards creates a *single water management tool* where efficiency targets can be ratcheted up or down as needed to respond to future droughts or the impacts of climate change.

If during future droughts, these State adopted water use efficiency standards for indoor and outdoor use were not deemed to be stringent enough to meet emergency water conservation goals, emergency regulations could then be implemented to temporarily tighten the standards for everyone. This would result in an equitable approach for emergency drought regulations and

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would also eliminate the disincentive for developing local sustainable supplies that exists in the current regulations and the Proposed Regulation.

Another important component of a standards-based approach would be the appropriate recognition of water recycling and sustainable local supply development. The current emergency regulation structure, even with proposed credits and adjustments, does not fully capture the value of these efforts.

An example of this deficiency is the treatment of recycled water. Under the current emergency regulation, one coastal agency that imports almost all of its water supply and recycles *less than one-half of one percent (0.5%)* of its wastewater is only required to reduce its demands by 8%. This agency discharges the balance of this important water resource into the ocean. However, another agency that imports only half of its water and *recycles 100%* of its wastewater for beneficial use, with no discharge, is required to reduce its demands by 28%. The challenge with this approach is that it does not fully recognize the investments of agencies and the communities they serve, potentially impacting future decisions related to significant and much-needed additional investments into expanding recycled water use.

The fact of the matter is that water recycling is among the highest forms of water conservation. Reusing the resource multiple times directly reduces demands and thereby conserves other potable supplies including imported water. Similarly, the creation of new drought-resilient sustainable supplies from currently unusable water sources, such as ocean water and brackish or contaminated groundwater, needs to be similarly acknowledged.

Under a standards-based approach, proper recognition of recycling and sustainable supplies can be accomplished in a simple and straightforward manner. This would be by treating them consistently with conservation when calculating an agency's compliance with emergency indoor and outdoor water use efficiency standards that are more stringent than the state's standards. Not only is this equitable in its recognition of agencies' successes in recycling and sustainable drought supply development, but more importantly it helps ensure that agencies continue to make investments in these innovative local supply projects. These investments, which are not fully recognized under the Proposed Regulation, are critical to the success of the Governor's California Water Action Plan and need to be incentivized by the state.

We hope that the coming El Niño storms will alleviate the State's need for the existing drought emergency regulations. However, the State must look ahead to the next drought and how we will respond to the inevitable need for additional water savings during a crisis. We believe that a methodology that measures water efficiency performance-based standards will provide a meaningful permanent measurement for statewide reporting of water use efficiency.

As you are aware, several agencies throughout the State have embarked on a statewide data collaborative to better inform decision makers on what actions and measures are most effective in achieving future reliability by balancing demand measurement and new supply development

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strategies. As participants of the collaborative, we offer ourselves to assist the State Board in determining the feasibility and effectiveness of applying performance-based standards across the State.

We appreciate the efforts of the State Board and thank your staff for their work with water agencies through the informal workgroup process and your willingness to consider improvements to the Proposed Regulation. The important conclusion is that the basic structure of both the current and the Proposed Regulation is not sustainable and a new standards-based model for future emergency conservation regulations is absolutely necessary. We look forward to collaborating with the State Board and your staff in developing a standards-based approach and to working with you in the months ahead to accomplish this important goal.

Sincerely,



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