



CALIFORNIA MUNICIPAL UTILITIES ASSOCIATION

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November 30, 2015

The Honorable Felicia Marcus, Chair
and Members of the State Water Resources Control Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814

Re: Emergency Regulation for Statewide Urban Water Conservation
Workshop Comments

Dear Chair Marcus and Members of the Board:

The California Municipal Utilities Association (CMUA), representing publicly-owned electric utilities and 40 water agency members that deliver water to over 70% of Californians, appreciates the opportunity to comment on the State Water Resources Control Board (State Board)'s request for input on the potential extension and modification of the existing Emergency Regulation for Statewide Urban Water Conservation (Emergency Regulation) if drought conditions persist into 2016.

CMUA offers the following responses to the specific questions posed by the State Board:

1. What elements of the existing Emergency Regulation, if any, should be modified in an extended Emergency Regulation?

California water agencies have provided leadership through the investment, development, and implementation of extensive water conservation and water use efficiency activities to help the state meet its water management goals. Our member agencies are fully committed to continue integrating efficiency and conservation into their short-term activities and long-term water supply planning. However, as noted in the California Water Action Plan, we not only need to "make conservation a way of life," we must also "increase regional self-reliance and integrated water management across all levels of government." This concept centers on ensuring water security at the local level, which not only includes conservation but also the development of new supplies such as recycled water,



stormwater capture, and desalination. Many water agencies have proposed modifications to the existing Regulation that address the development of these drought-resilient supplies as well as demand equity adjustments for climate, growth and other factors. Operating under a “do no harm” principle that states the implementation of any adjustment should not redirect impacts on other suppliers’ conservation standards, we urge the State Board to carefully consider these proposals to ensure the preservation of an equitable and integrated water management approach throughout the state. The Governor’s November 13, 2015 Executive Order (B-36-15) allows for such an approach by not including a percentage reduction mandate and directing the State Board to consider modifying existing restrictions as well as incorporating insights gained from the current emergency rule, which could include imposing a lower overall conservation requirement.

2. What additional data, if any, should the State Water Board be collecting through the Emergency Regulation and how would it be used?

In response to the question regarding data collection, for the purposes of the existing and any extended Emergency Regulation, the current level of reporting is appropriate. If the State Board does consider the inclusion of any additional data, we ask that staff and Board members thoroughly review the purpose and necessity of the data as it relates to a statewide drought emergency as it is costly and time-consuming to collect information, which redirects resources from the implementation of the Emergency Regulation. Also, while the State Board can play an important and supportive role for public water agencies on issues related to water rates, moving forward CMUA does not recommend having the State Board collect specific information on these rates or other financial information. CMUA firmly agrees with the State Board that “rate-setting is a complex undertaking that involves numerous local determinations...,” “...pricing must be carefully tailored to local circumstances to be effective” and “...water suppliers must carefully construct and document their rate structures to comply with the constitutional limitations of Proposition 218.”¹ Information on different types of rate structures already exists, which allows each agency to review the options and develop a structure that is most effective for their communities while meeting legal requirements.

3. How should the State Water Board account for precipitation after January 2016 in its implementation of any extension of the Emergency Regulation?

If the State Board decides to extend the Emergency Regulation, we recommend that the Board first thoughtfully review how adjustments could further refine the rule to ensure an equitable and integrated water management approach. Otherwise, we urge the Board to maintain existing restrictions until March 1, at which time staff would consult with the Department of Water Resources (DWR), Department of Fish and Wildlife (DFW) and other relevant agencies on specific triggers to subsequently adjust the regulation as needed. CMUA recommends that the State Board assess water conditions on a monthly basis, referencing documents such as the latest Bulletin 120 forecast, which has information on the volume of seasonal runoff from the state's major watersheds, and summaries

¹ Notice of Public Workshop: Conservation Water Pricing (July 7, 2015):
http://www.waterboards.ca.gov/waterrights/water_issues/programs/drought/pricing/docs/notice_conservation%20pricing.pdf

of precipitation, snowpack, reservoir storage, and runoff in various regions of the state. On June 1, after the last Bulletin 120 forecast, the State Board should make a final determination for the remainder of the Regulation. We recommend that during this assessment the State Board review water conditions on a regional basis and carefully consider how that may affect the necessity of extending a *statewide* drought Emergency Regulation.

We also offer the following general comments:

As the State Board decides whether to extend the Emergency Regulation, CMUA strongly recommends the Board consider potential unintended consequences of extreme conservation over a significant period of time. These impacts include revenue stability and affordability issues, demand hardening (i.e., reduced buffer for managing demand during exceptionally dry years), and the impacts to the local and regional economies. CMUA and the Association of California Water Agencies (ACWA) surveyed our members regarding financial impacts of the Regulation and found that the rule is estimated to have a total financial impact (revenue losses and additional costs for conservation-related programs) of more than \$500 million for the 270 day period (June 2015-February 2016) for the 73 agencies that responded to the survey. If the survey responses are representative, total revenue impacts could amount to a combined total of more than \$3 billion for the over 400 water suppliers subject to the regulation. Additional revenue losses and added costs for wholesale agencies and water suppliers with fewer than 3,000 service connections are not included in that figure and would certainly drive the total significantly higher. State Water Board had estimated the Emergency Regulation would have a total combined fiscal impact of \$500 million statewide.

Additionally, there have been assertions that water conservation and water use-efficiency activities can be implemented in the same manner as energy to help address the state's water challenges. While there are some similarities between the two resources, there also are important distinctions that must be addressed, particularly as it relates to any conservation regulations.

Water agencies must rely on a diverse portfolio of sustainable supplies to ensure reliability in meeting water demands, particularly during drought years. These supplies may include conservation savings, groundwater, water reuse, stormwater, and desalination, as well as more traditional sources like surface water, some of which can be imported. However, as opposed to electricity, which a utility/generator can create or reliably purchase when needed, successful water delivery is dependent upon the availability of the resource. This availability is driven by many factors including geography, water quality, infrastructure, energy intensity and precipitation events that are outside the control of local agencies. As a result, each agency has a unique water footprint and it is not feasible for water suppliers to rely upon a system with specific percentage requirements for a particular water supply or that mandate an agency must sequentially secure additional water supplies or develop a new resource based on a single factor, such as energy intensity.

Also, while it has been noted that demand reduction is typically the least energy-intensive option and may be the least expensive as it takes the place of new supplies that would otherwise be needed to meet growing demands—conservation can be limited in its application and often has a significant financial impact due to revenue losses or other costs.

As a final point, CMUA recommends that if another regulation is deemed necessary, the State Board include in its final resolution a statement strongly encouraging all state agencies to expedite the distribution of any grant funds awarded to water suppliers. As noted above, the existing regulation has had measureable financial impacts including revenue losses and unanticipated costs for community outreach, paid media, and enforcement. These additional expenditures are magnified when anticipated grant revenues for other programs are delayed, sometimes by years.

Thank you for considering CMUA's comments and for engaging stakeholders throughout the development of the existing regulation and the potential extension of the emergency rule. CMUA supports Governor Brown and the State Board's efforts to manage the state's multi-year drought and our member agencies will continue playing a leadership role in making "conservation a California way of life." Please contact me at 916-326-5800 or dblacet@cmua.org should you have any questions.

Sincerely,



Danielle Blacet
Director for Water

cc: Tom Howard, Executive Director, State Water Resources Control Board
Caren Trgovcich, Chief Deputy Director, State Water Resources Control Board
Eric Oppenheimer, Director, State Water Board's Office of Research, Planning and Performance
Max Gomberg, Climate Change Advisor, State Water Resources Control Board