



Yucaipa Valley Water District

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April 13, 2015

Sent via email to Jessica.Bean@waterboards.ca.gov

Jessica Bean
California Environmental Protection Agency
State Water Resources Control Board
Post Office Box 100
Sacramento, CA 95812-0100

Subject: Comments Regarding the Draft Mandatory Conservation Proposed Regulatory Framework dated April 7, 2015

Dear Ms. Bean:

The Yucaipa Valley Water District appreciates the opportunity to provide input to the State Water Resources Control Board (SWRCB) on the implementation of the Governor's Executive Order No. B-29-15.

On February 3, 2009, the State Water Resources Control Board adopted Resolution No. 2009-0011 setting statewide goals and objectives for the use of recycled water. This policy recognizes that the use of recycled water reduces the dependency on groundwater supplies and imported water supplies from the State Water Project. While the State Water Resources Control Board has taken steps to support the use of recycled water with both regulations and financial assistance, there is no recognition of recycled water as part of the Mandatory Conservation Proposed Regulatory Framework ("Regulatory Framework") dated April 7, 2015 (attached) with regards to the "Water Reduction in Potable Urban Use". This is a significant issue since the "Water Reduction in Potable Urban Use" may be used as a component to determine regulatory enforcement in the future.

During this unprecedented drought, the State Water Resources Control Board should clearly identify and distinguish recycled water use as part of the monthly water conservation savings calculated as a reduction in potable urban use. Communities that have implemented recycled water systems have reduced the amount of potable water applied to golf courses, center medians, schools, parks and even industrial uses.

Directors and Officers

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JOSEPH B. ZOBA
General Manager
and Secretary

The proposed methodology described in the Regulatory Framework is inconsistent and incorrect due to the fact that while recycled water is reflected in the Residential-GPCD calculation it is omitted from the “Reduction in Potable Urban Use” if recycled water was used prior to the 2013 baseline period. This policy creates an inequity and a regulatory disadvantage for water purveyors that have implemented recycled water systems prior to 2013 which have generating billions of gallons of drinking water savings over the past several years as compared to the preferential treatment for a water purveyor that implements a recycled water system in 2015. The water purveyor that starts a recycled water program in 2015 has saved less drinking water, but is rewarded by data generated by the Residential-GPCD calculation and the Water Reduction in Potable Urban Use calculation.

Therefore, the Yucaipa Valley Water District provides the following comment for your consideration to improve the proposed public policy formulation and support the use of recycled water throughout the State of California:

1. Recognition of Recycled Water Use - The use of recycled water is a priority for the State of California and the State Water Resources Control Board. While the calculation of Residential-GPCD is reduced for communities that have implemented recycled water programs, the calculation for the “Water Supplier Reduction” proposed by the State Water Resources Control Board pursuant to Executive Order No. B-29-15 does not reflect the amount of drinking water conserved by recycled water programs in effect prior to the 2013 baseline period.

To recognize the use of recycled water, the State Water Resources Control Board should consider calculating the Total Water Supply Reductions as follows:

Proposed Methodology Recognizing Recycled Water Use		
Drinking Water Reduction in Potable Urban Use		Recycled Water Reduction of Urban Irrigation Use
Compared to the same month in 2013 (%)	+	Percentage of total monthly water demands (%)
		=
		Total Water Supply Reduction (%)

Calculation Methodology		
[2015 Monthly Water Production] / [Comparable 2013 Monthly Water Production]		[Direct delivery of recycled water] / [2015 Monthly Drinking Water Production plus Direct delivery of recycled water]
	+	
		=
		Total Water Supply Reduction (%)

The State Water Resources Control Board should adjust the calculated "Water Supplier Reduction" so communities with pre-existing recycled water systems are not unjustly penalized through this unintended disincentive.

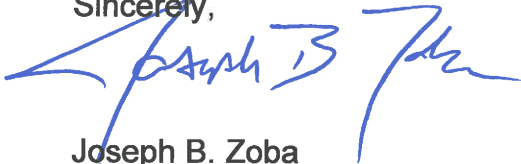
The methodology proposed by Yucaipa Valley Water District is more useful for the State Water Resources Control Board as an indicator of communities by: (1) identifying the reduction in the amount of drinking water used compared to 2013; (2) illustrating the amount of recycled water used by a community to offset potable water demands; and (3) calculating the total reduction in potable urban water use for a community.

Over the past decade, our community has made significant financial investments in the development, construction and operation of a recycled water system that includes desalination equipment necessary to meet strict water quality objectives for total dissolved solids as required by the Santa Ana Regional Water Quality Control Board and the State Water Resources Control Board.

The proposed regulatory modification suggested by the Yucaipa Valley Water District reinforces the importance of recycled water as a component in the water conservation strategy of California in a manner that is consistent with the stated goals and objectives of the Governor, the Legislature and the State Water Resources Control Board.

Please contact me directly should you have any questions at (909) 797-5119 x2.

Sincerely,

A handwritten signature in blue ink, appearing to read "Joseph B. Zoba".

Joseph B. Zoba
General Manager

cc: Felicia Marcus, Board Chair
State Water Resources Control Board
Post Office Box 100
Sacramento, California 95812-0100

MANDATORY CONSERVATION PROPOSED REGULATORY FRAMEWORK

The Governor's [April 1, 2015 Executive Order](#) directs the State Water Board to impose restrictions to achieve an aggregate statewide 25% reduction in potable urban water use through February 2016. The Executive Order stipulates the 25% reduction in water use as compared to 2013, but proposes flexibility in how to achieve this reduction in recognition of the level of conservation already achieved by many communities around the State.

Input Requested: The State Water Board is interested in receiving feedback on these regulatory concepts as well as other ideas on how a 25% reduction could be structured. Please submit comments and ideas on the proposed framework by email to Jessica Bean at Jessica.Bean@waterboards.ca.gov by **April 13, 2015**.

Urban Water Suppliers

- I. Apportioning Water Supplier Reductions:** The Executive Order directs the State Water Board to consider the relative per capita water usage of each water suppliers' service area, and have those areas with high per capita use achieve proportionally greater reductions than those with low use. Reporting on residential per capita (R-GPCD) water use began in October 2014 for the September 2014 reporting period. Residential per capita water use is highest during the summer months when outdoor irrigation demand is high. Reported summertime water use is also generally more consistent because the weather varies less from year to year than during the winter. Accordingly, September 2014 R-GPCD serves as a reasonable basis for placement of the 411 urban water suppliers into four categories as follows:

R-GPCD Range (Sept 2014)	# of Suppliers within Range	Conservation Standard
Under 55	18	10%
55-110	126	20%
110-165	132	25%
Over 165	135	35%

The proposed breakdown of water suppliers into R-GPCD groupings with corresponding conservation standards is intended to equitably and effectively achieve a 25% aggregate statewide reduction in potable urban water use.

II. **New Reporting Requirements:** To assess compliance by commercial, industrial, and institutional (CII) sector customers and actions taken by urban water suppliers to reduce CII sector use, the following additional reporting requirements are proposed:

- Monthly commercial sector use;
- Monthly large landscape commercial customer use (e.g. golf courses, amusement parks);
- Monthly industrial sector use;
- Monthly institutional sector use; and
- Monthly large landscape institutional customer use (e.g. cemeteries, college campuses).

Reporting requirements under the [existing Emergency Regulation](#) that took effect March 27, 2015, will remain in effect.

III. **Compliance Assessment:** To determine if urban water suppliers are meeting required use reductions, water production data, as reported by each individual water supplier for the months of June 2015 through February 2016, will be compared to the same period(s) in 2013. Given the severity of the current drought, the State Water Board will assess suppliers' compliance for both monthly and cumulative water usage reductions.

IV. **Enforcement:**

The State Water Board has a variety of tools available to enforce its regulations:

- Informal enforcement, such as warning letters, can provide a clear reminder to water suppliers of the requirements and an alert that their conservation programs are not achieving the desired water savings. Warning letters would generally not be accompanied by monetary penalties
- Formal enforcement actions include Cease and Desist Orders (CDO) to stop non-compliant activity. These Orders generally contain a description of the specific actions, and a timeline for implementing them, required for the recipient to return to compliance. Non-compliance with a CDO during a drought emergency, such as the current one, can result in a complaint to assess Administrative Civil Liabilities of up to \$10,000 for each day of non-compliance.

In addition to these existing tools, other tools may be needed to ensure compliance for the short duration of the regulations. These tools would be developed through the emergency rulemaking and would remain in effect for its duration (270 days unless extended by the State Water Board). The tools include:

- Informational Orders that would enable the Board to require specific data and other facts on conservation practices if conservation targets are not being met.
- Conservation Orders that would go into effect immediately upon receipt, as opposed to CDOs that can only be issued and enforced after the State Water Board holds an evidentiary hearing, if one is requested. A conservation order would describe the specific actions required for the recipient to come into compliance with the requirements of the regulation. Issuance of a conservation order would be subject to reconsideration by the Board and violation of a conservation order would not be subject to the enhanced penalties associated with violation of a CDO during a drought emergency.

The tools will be used alone, or in combination, to address the following compliance problems:

- Failure of water suppliers to file reports as required by the regulation;
- Failure to implement prohibitions and restrictions as described in the Governor's Executive Orders and the emergency regulation; and
- Failure of water suppliers to meet the assigned water use reduction target.

Small Water Suppliers

There are over 2,600 small water suppliers (those with fewer than 3,000 service connections) that provide water to over 1.5 million Californians. Under the [existing Emergency Regulation](#) that took effect March 27, 2015, these suppliers are required to either limit outdoor irrigation to no more than two times per week or to institute measures that achieve a 20% reduction in use. Small suppliers are not required to report their water production to the Board, but are expected to have the data available on request. Small suppliers will need to contribute to achieving the statewide 25% potable urban water use reduction called for in the Executive Order.

- I. **Apportioning Water Supplier Reductions:** Up until the release of the April 1, 2015 Executive Order, all water suppliers were being asked to achieve a voluntary 20% reduction in water use. The existing emergency regulation assigns responsibilities to both larger urban water suppliers and small suppliers to restrict irrigation to achieve the 20% reduction target. Under this proposal, small water suppliers would be required to achieve a 25% water savings as compared to their 2013 water use under the new regulation.

- II. **Reporting Requirements:** To date, small water suppliers have not been required to report on their water use or conservation measures. Small suppliers would now be directed to provide a one-time report to the State Water Board, 180 days after the effective date of the new emergency regulation, addressing at a minimum:
- Potable water production from June-November 2013 and June-November 2015;
 - The number of days per week outdoor irrigation is allowed and other restrictions implemented to achieve a 25% water use reduction; and
 - Specific restrictions on CII sector use.
- III. **Compliance Assessment:** Compliance would be based upon whether small suppliers submitted the required data and met the 25% water use reduction requirement.
- IV. **Enforcement:** The State Water Board may use any of the tools discussed above, as appropriate.

Additional Prohibitions and End-User Requirements

The State Water Board's [existing emergency regulation](#) includes a number of water use prohibitions that apply to all Californians and end-user restrictions that apply to specific water users, such as restaurants and hotels. These existing restrictions will remain in effect, and consistent with the Executive Order, the following new prohibitions will be put in place:

- The use of potable water outside of newly constructed homes and buildings that is not delivered by drip or micro-spray systems will be prohibited; and
- The use of potable water to irrigate ornamental turf on public street medians will be prohibited.

The State Water Board will also consider adding requirements for large landscape users (e.g. commercial, industrial, institutional) not served by either type of water supplier discussed above to achieve the 25% statewide reduction in potable urban water use.