



**VIA ELECTRONIC MAIL**

December 1, 2015

Hon. Felicia Marcus, Chair  
and Members of the State Water Resources Control Board

c/o Jeanine Townsend, Clerk  
State Water Resources Control Board  
1001 I Street, 24<sup>th</sup> Floor  
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commentletters@waterboards.ca.gov

**Re: Comment Letter – Urban Water Conservation Workshop**

Dear Chair Marcus and Members of the Board:

California Water Association (“CWA”) submits the following comments in advance of the December 7, 2015, Public Workshop on the potential extension and modification of the existing Emergency Regulation for Statewide Urban Water Conservation, adopted by the State Water Resources Control Board (“SWRCB”) on May 5, 2015 (the “Emergency Regulation”), should drought conditions persist in 2016.

CWA is a statewide association that represents the interests of approximately 110 investor-owned water utilities (“IOUs”) that are subject to the jurisdiction of the California Public Utilities Commission (“CPUC”). CWA has been an active participant in the development of the previous and current State Water Board’s Emergency Regulations, and welcomes this further opportunity to provide additional input on the issue of the extension or modification of the current SWRCB Emergency Regulation.

The comments and suggestions in this letter are limited to the Emergency Regulation. CWA cautions against actions that would make the mandated reductions in water use a permanent fixture in conservation regulations. CWA strongly believes that while the targeted reduction standards are appropriate in the context of the current drought emergency, they will not be necessary or desirable once drought conditions subside.



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Implementation of conservation targets in a permanent conservation regulation should not be done without considerable additional study. To the extent that the SWRCB seeks to enact permanent regulations, it should do so in a separate proceeding that allows adequate time for public input and workshops and, ultimately, for thorough consideration of the potential long-term effects of such regulations. In short, the topic of permanent regulations should not be a subject for discussion at the December 7 public workshop.

In Executive Order B-36-15, issued November 13, 2015, Governor Brown proclaimed that if drought conditions persist through January 2016, the current emergency restrictions to reduce urban potable water usage shall be extended until October 31, 2016. CWA agrees that this action is reasonable and necessary should the drought persist. As California enters what may turn out to be a fifth year of drought, the Emergency Regulation, presumably revised and updated in response to current conditions and water utility needs, should provide the guidance and incentives necessary to protect the State's severely constrained water supply.

CWA recommends, however, that the SWRCB revisit the extended Emergency Regulation in April 2016, after the final snowpack report is issued, reservoir capacity restoration has been updated, and additional information on the progress of recharging critical high and medium priority aquifers has been evaluated, and then make a decision as to the degree of mandated reductions, water-use restrictions, and compliance that would carry the Emergency Regulation through to October 31, 2016. Based on the level of precipitation after January 2016, the level of improvement in reservoir capacity and aquifer recharge, and the status of local supplies in the state's hydrologic regions, the SWRCB may well find it appropriate to adjust the State reduction goal and individual conservation standards for particular water suppliers.

CWA further recommends that the SWRCB adjust the Emergency Regulation to consider supply reliability efforts and investments in new sources of supply, as the record from the August-October stakeholder meetings now demonstrates. The current Emergency Regulation does not take these factors into account in setting the individual supplier conservation standards. These projects may be highly beneficial in that they can stabilize or reduce the burden on traditional sources of supply. Failure to acknowledge and adjust for these often-significant investments in a water utility's individual conservation standard will undoubtedly create a disincentive for water suppliers to undertake such important projects in the future.

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CWA also endorses the detailed recommendations of the Association of California Water Agencies and the Regional Water Authority with respect to:

- Climate adjustment.
- Growth adjustment.
- Recycled water adjustment.
- Sustainable supplies credits.
- Groundwater credits.
- A regional compliance option.

With this as background, CWA is pleased to respond in more detail to the specific questions in the November 6, 2015 “Notice of Public Workshop”:

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

At this time, CWA offers three recommendations for modifying an extended version of the existing Emergency Regulation No. 2015-0032.

CWA’s first recommendation is to incorporate a simple formula into the Emergency Regulation for adjusting the mandated percentage reduction in total potable water production identified in Section 865(c) of the Emergency Regulation as the conservation standard for each urban water supplier, to reflect amelioration of the drought conditions affecting the State, should such amelioration be evident upon issuance of the final snowpack report in April 2016. In such a formula, CWA proposes that, upon the State Board’s finding of such amelioration, the percentage point reduction in total potable water production identified in Section 865(c) as the conservation standard for each urban water supplier should be reduced by an equal proportion, that amount being approximately equal to the weighted average proportion by which the deficiency in the State’s snowpack as compared with an average year and the deficiency in the principal State reservoirs as compared with an average year have improved in comparison to those deficiencies as of April 2015.

To present an example, if the deficiency in the snowpack in April 2015 was 95%, but in April 2016 is 45%, then the deficiency will have been reduced by 50 percentage points, and if the deficiency in reservoir storage in April 2015 was 50%, but in April 2016 is 30%, then the deficiency will have been reduced by 20 percentage points. Assuming the appropriate weighting of snowpack and reservoir storage is 1:1, then the weighted average deficiency reduction would be the simple average of 50% and 20%, or 35%.

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In the example provided, CWA's proposal would be that the conservation standard for each urban water supplier should be reduced by approximately 35%. So, if the conservation standard for 2015 for a particular water system was 8%, then the conservation standard for 2016 would be 65% of 8%, or 5% (rounded down from 5.2%). If the 2015 conservation standard for another system was 20%, then its conservation standard for 2016 would be 65% of 20%, or 13%. And for a water system with a 2015 conservation standard of 36%, the conservation standard for 2016, in this example, would be 65% of 36%, or 23% (rounded down from 23.4%).

CWA's second recommendation is that the SWRCB adjust the Emergency Regulation to consider supply reliability efforts and investments in new sources of supply as a basis for reducing the conservation standard for particular urban water suppliers. As noted above, such an adjustment to the Emergency Regulation would enable the SWRCB to recognize efforts by urban water suppliers to secure existing supply and develop new water supplies. Allowing appropriate credit for these investments as a reduction to the water supplier's conservation standard will provide an incentive for all water suppliers to invest in supply sources that would displace current potable water sources.

Each water supplier should be allowed to make a showing regarding any efforts to secure the existing water supply or develop new supplies. Based on the reduction of the burden on existing potable water sources, the SWRCB could make an appropriate downward adjustment in the mandated conservation standard for that supplier.

CWA's third recommendation is that, for the purpose of determining compliance with an extended version of the Emergency Regulation, the SWRCB should develop summer and winter conservation standards that correspond to the relative differences in urban water use in high-use months versus low-use months. The opportunity to realize significant reductions in usage varies by season. The summer months, when usage is higher, offer a greater opportunity to achieve significant conservation. In the winter months, when usage is lower, the same opportunities do not exist. Determining compliance based on seasonal conservation standards will take these differences into account.

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

The current Emergency Regulation focuses on production and usage data. In addition to this data, the SWRCB should also begin collecting local and regional supply data. The SWRCB should survey the status of existing water supplies and any past or proposed enhancements. The

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SWRCB could use this data in consideration of potential adjustments for individual water suppliers and possible regional conservation targets.

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

CWA presented its recommendation for the SWRCB to account for precipitation after January 2016 in its first recommendation under heading 1. above – that is, to incorporate into the Emergency Regulation a simple formula adjusting the conservation standard for each urban water supplier to reflect amelioration of the drought conditions affecting the State, should such amelioration be evident upon issuance of the final snowpack report in April 2016.

If precipitation in the months of January, February, and March produces such amelioration of the State's drought condition as to justify adjustment of the conservation standards defined by the Emergency Regulation, then CWA's "sliding scale" will benefit all urban water suppliers and their customers in a proportionate way. If the winter months do not produce sufficient precipitation to justify such adjustments of the applicable conservation standards, then there will be only a minimal prospect for sufficient precipitation after April 1 to provide significant drought relief.

Conclusion

CWA appreciates this opportunity to provide additional input on the issue of the extension or modification of the current SWRCB Emergency Regulation and to suggest ways to make the Emergency Regulation more equitable and effective. CWA looks forward to participating in the discussion of these issues at the December 7, 2015 Public Workshop.

Sincerely,



Jack Hawks

Executive Director, California Water Association

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