



March 29, 2023

Joaquin Esquivel
Chair, State Water Resources Control Board
1001 I Street
Sacramento, CA 95814

RE: Comment Letter – Board Workshop on Making Water Conservation a California Way of Life

Dear Chair Esquivel:

WateReuse California (WRCA) thanks you for the opportunity to submit comments on the March 15, 2023, Draft Staff Framework for the Making Conservation a California Way of Life Regulation (Proposed Regulatory Framework). Together AB 1668 (Friedman) and SB 606 (Hertzberg) lay out a new long-term water conservation framework for California. This legislation was carefully negotiated to include specific provisions recognizing and balancing the fact that recycled water and potable reuse supplies are already drought and climate resilient and that many communities, encouraged through existing state policies, have made major investments or plan to invest in recycled water and potable reuse.

Department of Water Resources (DWR) Recycled Water/Potable Reuse Recommendations

WRCA supports the State Board's inclusion of the recycled water and potable reuse recommendations contained in the DWR memorandum, "Recommendations to the State Water Resources Control Board Pursuant to California Water Code Section 10609" and the full recommendation reports.

Specifically, WRCA supports DWR's recycled water landscape irrigation recommendation, which conforms with the statute and the existing principles of the Model Water Efficient Landscape Ordinance (MWELO); the potable reuse "bonus" incentive and how it should be calculated (Appendix B of the DWR report); and the recommendation for a variance for recycled water with high total dissolved solids (TDS) used for landscape irrigation, which is also included in the statute and supported by a recent National Water Research Institute and the Southern California Salinity Coalition study.

These DWR recommendations are further detailed below:

- The ET factor for special landscape areas (SLAs), including landscapes irrigated with recycled water should be 1.0, consistent with the statute and the principles of the Model

Water Efficient Landscape Ordinance. During the development of the legislation and after its passage, it was broadly discussed by the authors and their staff that a 1.0 ET Factor for recycled water correctly recognizes that landscapes using recycled water may need more water to account for higher salinity and other factors.

- The potable reuse bonus incentive from 10 percent to 15 percent is included in the calculation of a retail agency's Water Use Objective. WRCA is not aware of any agency that will be receiving a 15 percent bonus incentive as none meet the additional statutory requirements for this higher level. During the DWR stakeholder process, WRCA worked directly with members of the environmental community on the potable reuse bonus calculation which is contained in ["Recommendations for Bonus Incentive Methods of Calculation and Supporting Data Requirements, Appendix B"](#). When last discussed, there was agreement among all parties that the implementation of the potable reuse bonus incentive, as it appears in Appendix B, accurately reflects the statute.

We ask that the Proposed Regulatory Framework return to the bonus incentive calculation as was specifically negotiated with the NGO community, including the Natural Resources Defense Council (NRDC) and the Pacific Institute. This would be calculated over a five-year average. This approach was agreed upon to account for potential annual fluctuations in recharge volumes that could affect water suppliers' compliance from year to year.

- Provide a variance for recycled water landscapes with high Total Dissolved Solids (TDS) of up to .26 beyond 1.0 ETF. This variance was also specifically contained in the statute. As recommended by DWR, this proposed variance would start at 900 TDS. The extra water would apply to the leaching factor. The need for a high TDS recycled water variance and the appropriate levels for such a variance beyond 1.0 ETF was also contained in a 2018 study ["Accounting for Salinity Leaching in the Application for Recycled Water for Landscape Irrigation"](#), which was conducted by professors at the University of California, Riverside and commissioned by the National Water Research Institute and the Southern California Salinity Coalition.

Governor's Signing Message SB 1157 Indoor Water Use Standard

Further, we likewise encourage the development of a recycled water variance as stated in [Governor Newsom's signing message for SB 1157 \(2022, Hertzberg\)](#) regarding the indoor water use standard:

"...nothing in this bill prohibits the Board from creating variances, including a variance to reflect local investments in recycled water and infrastructure. I encourage the Board to do this."

WRCA urges the Board to include a separate variance for indoor water use if agencies can demonstrate that lowered wastewater flows are negatively impacting recycled water operations, infrastructure or compliance with regulatory permits as a result of the indoor water use

standards. WRCA submitted a proposal to SWRCB staff for such a variance and looks forward to further discussing this with them at their earliest availability.

Non-functional Turf

Page 7 of the Proposed Regulatory Framework states that: “For both residential areas and CII landscapes with DIMs, areas planted with nonfunctional turf would not be considered SLAs.”

This change directly contradicts the statute, which makes no mention of a nonfunctional turf carve out from the “principles of MWELO” for recycled water; nonfunctional turf is not defined in MWELO. During the almost two years of discussions in the DWR stakeholder working group on the implementation of this statute – this concept was never brought up. We urge you to remain consistent with the existing “principles of MWELO” as directed by statute.

There are also practical issues to consider.

1. As you know, recycled water can have higher TDS, so a full 1.0 ET is required to flush the salts from the soil to keep the plants alive.
2. This will be an onerous, perhaps impossible requirement to meet. One recycled water meter can serve a mixture of areas: some non-functional turf, some planter areas, some functional turf areas. It’s difficult enough for agencies throughout the state to measure all the dedicated irrigation meters (DIMs) –but with this, each agency must identify each valve and plant palette being watered, and potentially identify changes over time.
3. There are real challenges defining nonfunctional turf. It is potentially much broader than just grass median strips. It also includes nonfunctional turf areas within functional turf areas, such as parks where some turf is little used.
4. Landscapes irrigated with recycled water have been designed and facilities constructed based on projected demands consistent with a 1.0 factor. Water agencies have already made these investments into this drought resilient supply. Reduction of recycled water demand could result in increased ocean discharge (without new storage), and therefore increased costs and impacts to ratepayers.

Conclusion

The state of California through statutes and Water Board policies have long encouraged the development of recycled water and potable reuse as drought and climate resilient water supplies. Governor Newsom's 2022 *California's Water Supply Strategy: Adapting to a Hotter and Drier Future* further highlights the importance of developing these supplies and details a number of actions for increasing recycled water and potable reuse in the state. WRCA believes the Proposed Regulatory Framework for "Making Water Conservation a California Way of Life" can be complimentary to these state goals and polices. We believe the DWR recommendations capture the balance between using recycled water and potable reuse supplies efficiently, with the stated commitment to continue to develop new recycled water and potable reuse supplies.

We urge the Proposed Regulatory Framework to return to the DWR bonus incentive calculation, to remove the nonfunctional turf insertion, and to adopt a variance for indoor water use for recycled water as recommended by the Governor.

For questions or additional information, please contact me at rcortes@watereuse.org.

Sincerely,

A handwritten signature in cursive script that reads "R. Cortés". The signature is written in black ink on a light-colored background.

Rosario Cortés, Manager of Regulatory Affairs
WateReuse California

cc: Board Members, State Water Resources Control Board
Eric Oppenheimer, Chief Deputy Director