

**REGIONAL WATER AUTHORITY
SPECIAL MEETING OF THE BOARD OF DIRECTORS
Tuesday, January 18, 2022; 2:00 p.m.**

AGENDA

The purpose of this meeting is to update RWA members on the State of California's Water Conservation Rule Making

The public shall have the opportunity to directly address the Board on any item of interest before or during the Board's consideration of that item. Public comment on items within the jurisdiction of the Board is welcomed, subject to reasonable time limitations for each speaker. Public documents relating to any open session item listed on this agenda that are distributed to all or a majority of the members of the Board of Directors less than 72 hours before the meeting are available for public inspection in the customer service area of the Authority's Administrative Office at the address listed above. In compliance with the Americans with Disabilities Act, if you have a disability and need a disability-related modification or accommodation to participate in this meeting, please contact the Executive Director of the Authority at (916) 847-7589. Requests must be made as early as possible, and at least one full business day before the start of the meeting. The Board of Directors may consider any agenda item at any time during the meeting.

Note: this meeting will be held via teleconference.

Meeting Information:

Water Conservation Rule Making Update
Tues., Jan. 18, 2022 2:00 PM - 3:30 PM (PST)

Please join my meeting from your computer, tablet or smartphone.

<https://global.gotomeeting.com/join/832084501>

You can also dial in using your phone.

United States: [+1 \(872\) 240-3212](tel:+18722403212)

Access Code: 832-084-501

- 1. CALL TO ORDER AND ROLL CALL**
- 2. PUBLIC COMMENT:** Members of the public who wish to address the board may do so at this time. Please keep your comments to less than three minutes.
- 3. WATER CONSERVATION RULE MAKING UPDATE**
Information and Presentation: Amy Talbot, Water Efficiency Program Manager
Discussion: Jim Peifer, Executive Director
- 4. ADJOURNMENT**

AGENDA ITEM 3: WATER CONSERVATION RULE MAKING UPDATE

Please see attached memorandum regarding the status of Water Use Efficiency Regulation development

Attachments:

Memo: Status of Water Use Efficiency Regulation Development

MEMORANDUM

To: RWA Board of Directors

From: Amy Talbot, Water Use Efficiency Program Manager
Ryan Ojakian, Legislative and Regulatory Program Manager
Jim Peifer, Executive Director

Date: January 14, 2022

Subject: Status of Water Use Efficiency Regulation Development

OVERVIEW

On May 31, 2018, Governor Jerry Brown signed two new bills into law, Senate Bill 606 and Assembly Bill 1668 (collectively referred to in this memo as “Water Conservation Legislation”, or “WCL”), that require urban retail water suppliers throughout California to comply with new permanent water use targets for their service areas starting in 2023. One goal of the legislation is to produce more savings than the Water Conservation Act of 2009 (SB X7-7 or 20 X 2020). There are no immediate impacts to individual customers from these laws as compliance will be measured at the water supplier level not the household or business level. Enforcement against water suppliers will be overseen by the State Water Resources Control Board (SWB). Each supplier’s water use target will be a combination of the following water use standards calculated with supplier specific data to create the target:

1. **Residential Indoor Use** – set in the WCL at 55 gallons per person per day, dropping incrementally to 50 gallons beginning in 2030.
2. **Residential Outdoor Use** – based on single family and multifamily landscape areas (measured by the state using aerial imagery) and an estimated allowable irrigation budget.
3. **Commercial, Industrial and Institutional (CII) Dedicated Irrigation Metered Outdoor Use** – based on landscape areas served by CII dedicated irrigation meters (measured by the supplier using aerial imagery or another method) and an estimated allowable irrigation budget.
4. **Water Supply System Water Loss** – based an allowable level of water loss due to leaks in water system pipes. Allowable level of loss is determined by an economic model developed by the SWB using water supplier specific data or default values and universal fixed values.

Initial development of both outdoor standards is the responsibility of the Department of Water Resources (DWR) with final approval by the SWB. Development and final approval of the water loss standard is the responsibility of the SWB. All standards should be approved by June 2022 with suppliers required to report compliance to their target starting January 1, 2024 and every year afterwards. Compliance is determined by comparing the supplier’s target (adding up all the different calculated standards in gallons) to a supplier’s relevant customer meter data and water loss audit data for the 1 year time period. If a supplier’s actual water use is under or equal to a supplier’s target, the supplier is in compliance. If a supplier’s actual water use is over the supplier’s target, the supplier is out of compliance.

The intent of the legislation was to have built in flexibility with compliance, meaning that suppliers don’t have to comply with each individual standard by itself, only collectively as one budget. For example, a supplier could be over their residential outdoor use target but under on the residential indoor use

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standard and still be in compliance with the regulation overall. The one exception to this rule is that compliance with the water loss target can be enforced on individually because the water loss standard was developed under a different but related piece of legislation, Senate Bill 555. However, the SWB has expressed that they have discretion as to how the water loss standard will be enforced. Suppliers that do not meet their targets can be fined by the SWB (up to \$1,000 per day during non-drought years and \$10,000 per day during drought emergencies). Fines apply to the urban water provider and not to individuals.

STATUS UPDATE

RWA staff as well as representatives from water suppliers have been attending public meetings on an ongoing basis over the last several years to provide feedback and recommendations to the state during the development and/or assessment of these 4 standards. Below is a summary of the status for each of the standards:

1. **Residential Indoor Use** – This standard is already defined in current statute. However, DWR and SWB have produced a joint report recommending lower indoor standards and it is likely these recommendations will resurface next year in a bill aimed at changing the current statute to these lower standards.

Table 1: Indoor Standard (gallons/person/day)

Starting Year	Current Statute	DWR/SWB Recommendation
2020	55	55
2025	52.5	47
2030	50	42

2. **Residential Outdoor Use** – Proposed outdoor standard equation has been released for public comment. Some suppliers are still waiting on final/revised landscape areas measurements from DWR. Without these measurements, suppliers are unable to evaluate the proposed standard.
3. **Commercial, Industrial and Institutional (CII) Dedicated Irrigation Metered Outdoor Use** – Proposed outdoor standard equation has been released for public comment. Most suppliers have not measured CII dedicated irrigation metered landscape areas and are unable to fully evaluate the proposed standard.
4. **Water Supply System Water Loss** – A draft of an economic model, which produces a supplier's water loss target, has been posted to the SWB website for suppliers to evaluate the inclusion of supplier specific data into the model. Suppliers can submit changes to some of the model inputs to SWB staff for a target revision. However, the formal rulemaking process (including the final draft of the economic model and associated regulation text) did not begin until December 24, 2021 and is expected to last several months, ending with formal approval of the regulation.

OUTSTANDING CONCERNS

Despite continued engagement with the state, stakeholders and partners during the development of these standards including the submission of numerous comment letters, RWA staff still have several outstanding concerns with the standards including:

- The proposed DWR outdoor standards do not incorporate valid technical research and practical implementation experience, which may lead to deficit irrigation and potentially unhealthy

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landscapes. Potential negative impacts to the tree canopy may occur. Impacts may disproportionately fall on the region's disadvantaged community census blocks, potentially exasperating climate change impacts.

- The water loss economic model overestimates benefits and underestimates costs, producing potentially cost prohibitive water loss targets for some agencies. Providing supplier specific inputs to the model can help mitigate this issue but not in all cases as the issue is fundamental to the structure of the model. RWA staff recommend member agencies customize the model with their agency specific data. There is concern compliance with the water loss target may include extensive infrastructure replacement leading to increases in capital improvement budgets.
- Each proposed standard could be considered aggressive in terms of estimated water savings. Maxing out each standard reduces overall compliance flexibility.
- The enforcement process for compliance is largely undefined by the SWB creating an unclear picture of consequences for noncompliance for suppliers.
- New legislation to further reduce the indoor standard is problematic, especially noting that suppliers haven't had a chance to try and implement the current statute.

NEXT STEPS

RWA will continue to engage with the state during the final step of approval of these standards with an anticipated completion date of June 2022. RWA encourages all member agencies to also stay engaged during the process as well. RWA, through the Regional Water Efficiency Program, will be ready to assist suppliers with programs and public outreach messaging to work towards achieving each supplier's water use targets.