



June 4, 2021

WUEStandards@water.ca.gov

Water Use Efficiency Branch
 California Department of Water Resources
 P.O. Box 942836
 Sacramento, CA 95814

Re: IRWUS REPORT COMMENT LETTER

Dear Water Use Efficiency Branch,

The Association of California Water Agencies (ACWA), California Municipal Utilities Association (CMUA), California Water Association (CWA) and the undersigned agencies appreciate the opportunity to provide comments to the California Department of Water Resources (DWR) on the *Public Review Draft Report to the Legislature on Results of the Indoor Residential Water Use Study* (draft Report). ACWA represents over 460 public water agencies that deliver approximately 90 percent of the water used for residential, commercial and agricultural purposes in California. CMUA represents over 50 water agencies that deliver water to nearly 75 percent of Californians. CWA represents water agencies that provide drinking water to just over 15 percent of the State and are subject to the jurisdiction of the California Public Utilities Commission. The Water Code recognizes that our members, local urban retail water suppliers,

have the responsibility of meeting the urban water use objective which is comprised of the standard-based water use targets.

We recognize that DWR, in coordination with the State Water Resources Control Board (State Water Board), had a statutory deadline of January 1, 2021 to conduct necessary studies and investigations on indoor water use and **may** jointly recommend to the Legislature a standard for indoor residential water use (standard). However, we have significant concerns that DWR's current path has not complied with the statutory requirements of Water Code Section 10609.4 to:

- 1) collaborate with, and include input from, water and wastewater agencies on the studies, investigations and the ultimate report; and
- 2) analyze the impacts on water and wastewater management of changing the standard for indoor residential water use.

It is important that these statutory requirements are met in a meaningful way before DWR moves forward with jointly recommending standards for indoor water use. We propose that DWR:

- 1) withdraw the joint recommendation for the indoor residential water use standard (recommended standard) included in the *draft Report*; and
- 2) work collaboratively with stakeholders – including water, wastewater and recycled water agencies – over the next six to nine months to analyze and quantify the impacts of a changed standard. This analysis should help inform the basis for DWR and the State Water Board's revised recommendation to the Legislature, if there is one.

DWR's draft recommended standard would first effectuate a change in the standard in 2025 (following the enactment of authorizing legislation). Consequently, **our recommendation would have no impact on expected water savings in the interim, could avoid unnecessary adverse impacts to water and wastewater management and would allow DWR to meet the statutory requirements to collaborate and analyze the impacts on water management.** Additionally, we note that while the statutory requirement for DWR to conduct studies and investigations by January 1, 2021 is mandatory and has been missed, the requirement for DWR to develop a joint standard is permissive discretionary.

Absent a collaborative stakeholder process and adequate analysis that supports a recommended change in the standard, the indoor water use efficiency standard should remain at the current statutorily set standards of 55 gallons per capita daily (gpcd) until 2025, 52.5 gpcd until 2030 and 50 gpcd after 2030.

Specific Issues of Concern with the Draft Report, Recommendations and Process

We would like to work with DWR to address the following concerns:

1. REQUIREMENT TO COLLABORATE WITH WATER, WASTEWATER AND RECYCLED WATER AGENCIES

DWR's current efforts would not meet the legislative requirements to collaborate with, and include input from, water and wastewater agencies. AB 1668 requires:

The studies, investigations, and report described in paragraph (1) shall include collaboration with, and input from, a broad group of stakeholders, including, but not limited to,

*environmental groups, experts in indoor plumbing, and water, wastewater, and recycled water agencies.*¹

We appreciate that DWR held a day-long workshop on May 21 in response to concerns raised regarding collaboration with stakeholders. However, proposed draft standards were presented before stakeholder collaboration occurred. Stakeholders did not have an opportunity to review the results of the indoor water use studies and provide meaningful input to inform the draft standard prior to its release. Additionally, it is our understanding that participants in the water use studies have had mixed results in providing clarifications or updating the data ultimately used for the draft recommended standard.

Collaboration with stakeholders involves DWR and the stakeholders engaging in meaningful dialogue, providing input and feedback, and jointly working through issues. We are ready to work collaboratively with DWR and the State Water Board.

2. REQUIREMENT TO ANALYZE IMPACTS OF A CHANGED INDOOR STANDARD

DWR's current efforts would not meet the legislative requirement to analyze the impacts of changing a standard. AB 1668 requires:

*The studies and investigations shall also include an analysis of the benefits and impacts of how the changing standard for indoor residential water use will impact water and wastewater management, including potable water usage, wastewater, recycling and reuse systems, infrastructure, operations, and supplies.*²

DWR's draft Report indicates that "a quantitative analysis is beyond the scope of this study." Given the significant reductions in indoor residential water use that DWR is proposing, this is not acceptable. The draft recommendations could create significant adverse impacts on water and wastewater management. The legislative requirement was intended to ensure that adverse impacts are understood in order to inform DWR's recommendation, if there is one. **Before DWR moves forward with recommending a changed standard, it must conduct meaningful, quantitative analysis on the impacts of a changed standard.**

We have significant concern with DWR's conclusion that adverse impacts, such as stranded assets and water quality impacts, can simply be overcome with an undefined amount of time and money. Time and money are real constraints that must be given due weight in the recommendations. Further, expending time and money on meeting an indoor standard that is not based on sound data and analysis takes those resources away from other important water agency actions related to climate change, adaptation, affordability, compliance with water quality objectives, etc.

Additionally, these adverse impacts of a lowering of the indoor standard could impede the achievement of the State's other water goals – e.g., increase recycled water to 2.5 million acre-feet a year by 2030 and reduced reliance on the Delta – which should be considered as well.

DWR should analyze the impacts outlined below. Where impacts are unavoidable, the State should partner with water, wastewater and water recycling agencies to mitigate those impacts.

¹ *Water Code Section 10609.4 (b)(2)*

² *Water Code Section 10609.4 (b)(1)*

A. OPERATIONAL IMPACTS

Water and wastewater systems are designed, constructed and operated for a minimum level of flow. These systems require years, if not decades, of planning and millions of dollars of ratepayer investment to safely, reliably and affordably deliver and treat water for California's communities, economy, and ecosystems. California's water and wastewater agencies are planning now for future investments that will ensure water resilience with a changing climate, growing population and aging infrastructure. DWR noted that the draft standard can impose adverse impacts to water and wastewater management. **Given the significance of these adverse impacts, DWR should analyze various standards to understand how adverse impacts can be minimized while achieving water savings.**

- I. ADVERSE IMPACTS IDENTIFIED – DWR has identified that the draft standard would result in nine adverse impacts. We recognize that a quantitative analysis is difficult to conduct due to the statewide variability of systems. However, a reasonable analysis – e.g., regional assessments, case studies, building on existing studies – can and should be completed over the next year to better inform a final standard. We note that DWR is proposing no change in the standard from the current default until 2025. This recommendation could be implemented without impacting water savings and could minimize adverse impacts.
- II. ADDITIONAL IMPACTS NOT IDENTIFIED: ENVIRONMENTAL FLOWS – DWR should recognize the potential adverse impact of reduced environmental flows associated with decreased discharges from recycled water and wastewater treatment facilities. DWR did not recognize this as an adverse impact that could negatively impact other beneficial uses of water and any regulatory/permit conditions of those discharges.

B. COST IMPACTS

Climate change impacts – which include reduced snowpack, warming temperatures, shorter and more intense precipitation events and sea level rise – require water agencies to actively plan for shifts in precipitation, runoff and extreme events to meet the State's water needs. In addition to needed investments due to aging infrastructure and a growing population, water agencies are balancing the State's goal of achieving reliable access to safe and affordable water. We are concerned that DWR has not adequately analyzed the costs of its draft recommended standard to inform a cost-effective recommendation. We urge DWR to conduct a reasonable cost-effectiveness analysis to better understand the following impacts and inform its recommendation:

- I. COSTS OF ACHIEVING THE DRAFT STANDARD – The draft Report indicates that “water use efficiency is often less expensive than developing new water supplies and may help ensure equitable and affordable access to water.” Additionally, it anticipates that many agencies will be able to achieve the draft recommendation through passive savings, and that passive savings would account for a 0.5 gpcd per year. We have significant concern that DWR is overestimating the passive savings and therefore underestimating the need for active savings and the associated cost to meet the draft recommended standard.

The bulk of passive savings have already been captured in water agencies' baseline indoor water use levels. In California today, it is estimated that approximately 80 percent of all toilets are already efficient. Water agencies in California have invested more than \$285 million in toilet rebates and incentives replacing nearly 4 million toilets. Homeowners have replaced another 12 million toilets irrespective of water agency rebates.³ Because of the significant adoption of water efficient indoor devices, many water suppliers have shifted to outdoor water use efficiency efforts in order to maximize the cost-benefit. Additionally, because water agencies have been implementing robust indoor water use efficiency programs for decades, most of the cost-effective replacements have already been made. Water agencies will need to shift to more expensive options that are not cost-effective.

- ii. *COST OF ADVERSE IMPACTS* – The draft Report identified nine adverse impacts and adaptation strategies. According to the report, “any of the adaptation strategies cited do require increased investment from utilities,” or would result in increased cost or higher costs than originally planned or budgeted. Additional analysis is needed to quantify costs and cost-effectiveness, as well as resources necessary to mitigate those impacts.

C. FEASIBILITY

We have concerns that the feasibility considerations outlined below were not considered in DWR's draft Report. We urge DWR to consider these factors.

- i. *TIMELINE: 47 GPCD BY 2025* – The draft Report proposed a recommended standard of 47 gpcd by 2025. 46 percent of suppliers are currently above that draft recommended standard. While recognizing that the draft standard is not self-implementing and would require legislation to go into effect, this new standard provides only a few years for nearly half of all systems to achieve significant water savings from the current 55 gpcd statutory set standard. Many agencies do not believe this is enough time to meet the draft recommended standard.
- ii. *SATURATION AND DIMINISHING RETURNS* – As mentioned in the above section, *Cost of Achieving the Draft Standard*, indoor water use rebates have been part of suppliers' water efficiency programs for decades. One primary driver for these rebates was to accelerate the replacement of older, higher use fixtures like toilets beyond the natural replacement rate with high efficiency models as outlined in the national Energy Policy Act of 1994 and California's Title 20 (2015). Nearly three decades later, both rebates (active savings) and natural replacement (passive savings) have drastically shifted the indoor fixture inventory in homes and businesses toward efficient models. In fact, many suppliers no longer offer indoor rebates due to declining interest from customers and ample efficient fixture saturation in their service area. For example, the Regional Water Authority experienced a 57 percent decrease in indoor rebate applications over the last 10 years even though more funding was available. Current residential indoor

³ A Saturation Study of Non-Efficient Water Closets in Key States. Alliance for Water Efficiency and Plumbing Manufacturers International. April 2017.

water use represents decades of steady improvements in indoor water use efficiency, limiting the potential for additional savings.

While there are still older fixtures in use in varying amounts throughout the state, the reduced savings potential will come at a much higher cost. The remaining older fixtures are most likely in multifamily (renters) and low-income households. This population is not likely to respond to rebate programs in which upfront customer money is required. In order to capture indoor water savings in these households, suppliers would need to implement a (no customer cost) direct install program in which both the fixture and installation are provided. Direct installation programs typically cost 3-5 times more than rebates per fixture but achieve the same per fixture water savings. In addition, it would require significant additional outreach to get participation from this remaining group.

D. AFFORDABILITY AND IMPACTS TO DISADVANTAGED COMMUNITIES

The Water Resilience Portfolio recognizes the need to fulfill the Human Right to Water – that every human being has the right to safe, clean, affordable and accessible water adequate for human consumption, cooking and sanitary purposes. The draft Report acknowledges that the studies did not analyze affordability and impacts to disadvantaged communities. Due to cost impacts and the potential to impact rates, as well as the burden the standards will place on multi-family and low-income households to install more efficient devices, we recommend that DWR consider both the impacts and necessary resources to mitigate those impacts on low-income households and disadvantaged communities.

E. OTHER CONSIDERATIONS

- i. POPULATION DATA – Residential indoor water use estimations are highly dependent on population. However, 2020 U.S. census data was not available and so DWR calculated the population for the distribution analysis from persons per household DOF or ACS data and ACS tract data for the baseline analysis. We recommend that DWR update the studies to include 2020 U.S. census data that is now available. We note that DWR is proposing no change to the standard from the current default until 2025 and so this would not impact water savings and would provide a more accurate RI-gpcd.
- ii. INCREASED PERMANENT TELECOMMUTING – DWR should take account that many millions of Californians may not return to a regular in-office work schedule, resulting in a permanent increase in residential indoor water use not reflected in the draft standard. Currently it does not analyze this shift. In a recent study by Intermedia, 57 percent of small and medium size businesses plan to offer remote work plans to employees. California’s Little Hoover Commission is also examining the potential for a permanent shift to remote work. The draft Report indicates that the “models detect a strong, significant effect of the percentage of over 65 population on Rigpcd. For every 10 % increase in the over 65 population proportion, Rigpcd increases by 3-5 gpcd.” Since “the population over 65 is expected to capture situations where customers are home during the day,” we would expect that any increase in telecommuting would have the same effect. We note that DWR is proposing no change to the standard from

the current default until 2025 and so including telecommuting data would not impact water savings and would provide a more accurate RI-gpcd.

3. CONSIDERATION WITHIN MAKING CONSERVATION A CALIFORNIA WAY OF LIFE

We urge DWR to ensure that the final standard meets the intent of *Making Water Conservation a California Way of Life*. The design of the urban water use objective was intended to provide flexibility to urban retail water suppliers implementing water use efficiency measures.

Local urban retail water suppliers should have primary responsibility for meeting standards-based water use targets, and they shall retain the flexibility to develop their water supply portfolios, design and implement water conservation strategies, educate their customers, and enforce their rules.⁴

We have significant concern that the recommendation for a 42 gallon per capita day indoor standard – the 25th percentile of the current 2020 baseline – is not a reasonable efficiency standard and will undermine the intent of *Making Water Conservation a California Way of Life*, which was to allow agencies to cost-effectively and flexibly implement water use efficiency.

Water agencies are at the forefront of preparing for and managing the impacts of climate change, including longer and more intense droughts. As many of California's regions enter a second consecutive dry year and drought, much has been learned and improved on following California's historic 2012 – 2016 drought. Additionally, many agencies' demand has not fully returned to pre-drought levels indicating prolonged reduced use. Water agencies continue to make significant progress to reliably meet the water needs of California's communities, economy and the environment.

We appreciate your consideration of these recommendations and are committed to collaborating with DWR and the State Water Board to successfully implement *Making Water Conservation a California Way of Life*. To discuss these comments, please contact Chelsea Haines at chelseah@acwa.com.

Sincerely,

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⁴ Water Code Section 10609(c)(1)

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