

**TITLE 23. WATERS**

**DIVISION 2. DEPARTMENT OF WATER RESOURCES**

**CHAPTER 5.1 WATER CONSERVATION ACT OF 2009**

**ARTICLE 1. Industrial Process Water Exclusion  
In the Calculation of Gross Water Use**

**INITIAL STATEMENT OF REASONS**

**Certificate of Compliance Rulemaking  
Related to Emergency Rulemaking File #2010-1207-01E**

**SPECIFIC PURPOSE OF REGULATION CHANGE AND DETERMINATION OF REASONABLE NECESSITY**

The purpose of the regulation is to specify the criteria and methods whereby an urban retail water supplier may exclude process water from gross water use calculations. The particular code sections that are being implemented, interpreted, or made specific are Water Code Sections 10608.20(i)(1), 10608.12 (l), 10608.24 (e), and 10608.26(d).

The text of the proposed regulation provides urban water retailers with:

- Definitions needed to determine:
  - eligibility for process water exclusion from gross water calculations
  - quantification of process water and incidental water uses
- The criteria needed to determine eligibility for process water exclusion from gross water calculations
- Methods for quantifying and verifying process water and incidental water uses
- Provisions for implementing this regulation in regards to:
  - Existing industrial customers
  - New and retrofitted industries

**Section 596 Process Water**

- (a) This subsection is a restatement of the statute and sets forth the purpose of the proposed regulation.
- (b) This subsection provides notification that the Department may amend the proposed regulation based on its assessment of its implementation and the recommendations of the Commercial, Industrial, and Institutional Task Force.
- (c) This subsection incorporates by reference another document provided by the Department,

**Section 596.1 Applicability and Definitions**

- (a) This section is a restatement of the statute that is being made specific in the proposed regulation. This restatement is necessary because it provides the broad criteria for eligibility for the exclusion (*substantial percentage of industrial water use in its service area*) as well as reasoning that the exclusion is provided (*to avoid a disproportionate burden on another customer sector*).

(b) Definitions - This section is necessary to clarify terms used in the regulation. The justification for including the particular terms is listed below.

- (1) Commercial water user –it is used throughout the regulation.
- (2) Disadvantaged community –it is used in section 596.3 9 (d).
- (3) Distribution system –it is used in the definition of “gross water use”
- (4) Drought emergency – it is used in section 596.4 (c)
- (5) Gross water use – it is used in the statute, in the definition of non-industrial water use, section 596.2 and 596.3
- (6) Incidental water use – it is used in the definition of process water and in section 596.3
- (7) Industrial water use – it is used in sections 596, 596.3, and 596.4
- (8) Institutional water use – it is used in the definition of process water and section and section 596
- (9) Local agency – it is used in section 596.5
- (10) Non-industrial water use – it is used in section 596.2
- (11) Process water – it is used throughout the regulation
- (12) Recycled water – it is used in the definition of gross water use
- (13) Urban retail water supplier – it is used throughout the regulation
- (14) Urban water management plan – it is used in section 596.3

**Section 596.2 Criteria for Excluding Industrial Process Water from Gross Water Use Calculations** This section provides the explicit criteria by which a water provider will assess whether or not they are eligible to exclude process water. Determining this eligibility provides needed information for the calculation of gross water use, which is required by Water Code §10608.20 (a) (1) and (e).

**Section 596.3 Quantification and Verification of Total Industrial Process and Industrial Incidental Use** This section establishes the method for separating process water from water used for incidental use. It is deemed necessary because many water agencies account only for total industrial water use. They do not distinguish between industrial water used for process water and industrial water used for incidental uses. In order to determine the amount of process water for exclusion, it must be quantified separately from total industrial water use.

**Section 596.4 Existing Industrial Customers** This section restates language from the statute. This restatement is necessary because it provides specific direction to the urban retail water suppliers regarding the extent of their authority over existing industrial customers’ water use. Including this guidance to water suppliers within the text of the regulation provides ready access to this important information.

**Section 596.5 New and Retrofitted Industries** This section provides specific direction to local agencies and water suppliers. It requires them to encourage new and retrofitted industries to adopt industry-specific water conservation practices and technologies where such technologies exist. It is necessary to

include this requirement to clarify the distinction between the authority a water agency has over existing industrial customers versus new and retrofitted industries.

## **BACKGROUND**

### **20 Percent Water Use Reduction by the Year 2020**

Governor Schwarzenegger in his 20 x 2020 Plan determined that for California to continue to have enough water support its growing population, it needs to reduce the amount of water each person uses per day. This reduction of 20 percent per capita use by the year 2020 is supported by legislation passed in November 2009, SBX7-7 (Steinberg) Water Conservation. This legislation is codified in Water Code Sections 10608.16 – 10608.44.

To meet the statewide goal of 20 percent reduction in per capita water use by 2020, urban water suppliers are directed by the Water Code §10608.20 (a) (1) and (e) to calculate their baseline water use, and to calculate a target water use for the year 2020 .

### **Urban Water Management Plans**

These water use numbers will be reported from the urban water suppliers to the Department of Water Resources (hereafter Department) in the suppliers' Urban Water Management Plans, as set forth in the Urban Water Management Planning Act, Water Code §§10610 – 10656.

### **Process Water Exclusion**

As part of their water use calculations, urban water districts must calculate baseline industrial water use, a part of which is process water. Process water is the water used by industrial water users for producing a product or product content, or water used for research and development.

The Water Code allows some urban water suppliers to exclude process water from these calculations, as follows:

*Water Code §10608.24 (e) When developing the urban water use target pursuant to Section 10608.20, an urban retail water supplier that has a substantial percentage of industrial water use in its service area may exclude process water from the calculation of gross water use to avoid a disproportionate burden on another customer sector.*

## **AUTHORITY**

The Water Code directs the Department to adopt regulations for implementation of the process water provisions.

*Water Code §10608.20 (i) (1) The department shall adopt regulations for implementation of the provisions relating to process water in accordance with subdivision (l) of Section 10608.12, subdivision (e) of Section 10608.24, and subdivision (d) of Section 10608.26.*

## **MATERIAL RELIED UPON**

1. 2010 Wastewater Permit Application  
City of Modesto 2010  
[http://www.ci.modesto.ca.us/public/forms/env\\_comp/2006\\_ww\\_discharge.pdf](http://www.ci.modesto.ca.us/public/forms/env_comp/2006_ww_discharge.pdf)

2. California Green Building Standards Code – 2010  
California Code of Regulation Title 24, Part 11  
[http://www.documents.dgs.ca.gov/bsc/CALGreen/2010\\_CA\\_Green\\_Bldg.pdf](http://www.documents.dgs.ca.gov/bsc/CALGreen/2010_CA_Green_Bldg.pdf)
3. Carbon Footprint of Commercial New Construction  
California Business Property Association Oct 2008  
<http://www.cbpa.com/documents/CBPA%20AB%2032%20-%20Title%204%20Carbon%20Footprint%20Study.pdf>
4. Cooling Towers  
Center for Disease Control Updated April 2009  
[http://www.cdc.gov/healthywater/other/industrial/cooling\\_towers.html](http://www.cdc.gov/healthywater/other/industrial/cooling_towers.html)
5. Discussion Paper – Methods and Criteria for Excluding Process Water  
Department of Water Resources November 2010
6. Electronic Code of Federal Regulations 2010  
<http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=f8d1ea4b5ac69f51df3805e726760>
7. Handbook of Water Use and Conservation  
Amy Vickers 2001
8. Increasing Water Efficiency in California’s Commercial, Industrial, and Institutional (CII) Sectors  
NRDC May 2009  
<http://www.nrdc.org/water/cacii/files/cacii.pdf>
9. Industrial Wastewater Permit Application Form and Instructions  
City of Los Angeles 1995  
<http://www.ci.la.ca.us/san/wastewater/pdfs/prmapp.pdf>
10. Industrial Water Use  
USGS Modified March 2010  
<http://ga.water.usgs.gov/edu/wuin.html>
11. Median Income and Poverty Status, 2000 Census  
US Department of Commerce, Bureau of Census  
[http://www.dof.ca.gov/html/fs\\_data/stat-abs/documents/D21.pdf](http://www.dof.ca.gov/html/fs_data/stat-abs/documents/D21.pdf)
12. Methodologies for Calculating Baseline and Compliance Urban Per Capita Water Use,  
Department of Water Resources October 2010  
<http://www.water.ca.gov/wateruseefficiency/sb7/docs/methodologies-urban-per-capita-water-use-10042010.pdf>
13. National Handbook of Recommended Methods for Water Data Acquisition 11.F. Industrial  
USGS 1997  
<http://pubs.usgs.gov/chapter11/chapter11F.html>
14. North American Industry Classification System 2007  
<http://www.census.gov/cgi-bin/sssd/naics/naicsrch?chart=2007>
15. Sacramento Regional County Sanitation District Pretreatment Program

2009 Annual Report  
<http://www.srcsd.com/pdf/iws-2009annrpt.pdf>

16. Solutions for Sustainable Water Savings  
General Electric 2007  
[http://www.gewater.com/pdf/Capabilities%20Brochures\\_Cust/Americas/English/Bulletin1040en.pdf](http://www.gewater.com/pdf/Capabilities%20Brochures_Cust/Americas/English/Bulletin1040en.pdf)
17. Waste Not, Want Not: The Potential for Urban Water Conservation in California  
The Pacific Institute 2003  
Industrial and Commercial Water Use, Appendix C  
[http://www.pacinst.org/reports/urban\\_usage/appendix\\_c.pdf](http://www.pacinst.org/reports/urban_usage/appendix_c.pdf)  
Details of Industrial Water Use and Potential Savings by Sector, Appendix F  
[http://www.pacinst.org/reports/urban\\_usage/appendix\\_f.pdf](http://www.pacinst.org/reports/urban_usage/appendix_f.pdf)
18. Wastewater Discharge Permit  
East Bay Municipal Utility District 2003  
[http://www.ebmud.com/sites/default/files/pdfs/industry\\_0.pdf](http://www.ebmud.com/sites/default/files/pdfs/industry_0.pdf)
19. Watersmart Guidebook - Process Water  
East Bay Municipal Utility District 2008  
<http://www.ebmud.com/for-customers/conservation-rebates-and-services/commercial/watersmart-guidebook>
20. Methodologies for Calculating Baseline and Compliance Urban Per Capita Water Use for Consistent Implementation of the Water Conservation Act of 2009
21. Method 4 for Determining Water Use Targets  
Department of Water Resources February 2011

## **DESCRIPTION OF REASONABLE ALTERNATIVES**

The Department convened a workgroup prior to the submittal of the Proposed Emergency Regulation File #2010-1207-01 E. The workgroup provided alternatives to the Department and advised the Department's decision making.

The Department presented a series of draft proposals for this regulation to the workgroup. The draft proposals were based on data analysis and input from the workgroup. The fifth draft proposal became the text of the proposed regulation.

A detailed analysis of the consideration of alternatives is found in the document from "Materials Relied Upon" 5. Discussion Paper: Process, Criteria, and Methods for Process Water Exclusion DWR November 2010.

## **NO SIGNIFICANT IMPACT ON BUSINESS**

In accordance with section 10608.32 of the Water Code, all costs incurred pursuant to this part by a water utility regulated by the Public Utilities Commission may be recoverable in rates subject to review

and approval by the Public Utilities Commission, and may be recorded in a memorandum account and reviewed for reasonableness by the Public Utilities Commission.

Section 10608.26 (d) (1) of the Water Code states, “Any ordinance or resolution adopted by an urban retail water supplier after the effective date of this section shall not require existing customers as of the effective date of this section, to undertake changes in product formulation, operations, or equipment that would reduce process water use, but may provide technical assistance and financial incentives to those customers to implement efficiency measures for process water. This section shall not limit an ordinance or resolution adopted pursuant to a declaration of drought emergency by an urban retail water supplier.”

11346.2 (b)(4) Facts, evidence, documents, testimony, or other evidence on which the agency relies to support an initial determination that the proposed action will not have a significant adverse economic impact on business

#### **AVOIDANCE OF CONFLICT WITH FEDERAL REGULATIONS**

The Department conducted a review of the Code of Federal Regulations and found no regulation that duplicated or conflicted with this proposed regulation.