



**Action Item:** Update on the status of Emergency Process Water Regulations and initial approval to begin regular rulemaking process

### **Background**

In December 2010, the California Water Commission approved the Emergency Industrial Process Water Regulation. The regulation is necessary to implement the provision of SBX7-7 that “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.” (WC § 10608.24) The emergency regulation, which was submitted to the Office of Administrative Law, became effective on December 17, 2010 and will be in effect for 180 days.

### **Next Steps**

The Department of Water Resources (DWR) will now begin the formal Permanent Rulemaking process for the Industrial Process Water Regulation. California Water Commission approval is required to submit the draft regulation package to the Office of Administrative Law (OAL) and begin the public comment period. There will be at least one public hearing and a public comment period of 45 days, during which DWR will continue to incorporate public feedback and further refine the process water regulation. Commission approval will be required at the end of the public comment period before the permanent regulation is submitted to OAL for notice.

The proposed text of permanent regulation is substantially the same as the emergency regulation adopted by the Commission in December 2010. However, the regulation will reference two additional documents that were not cited in the emergency regulation package.

The first additional document is the Methodologies for Calculating Baseline and Compliance Urban Per Capita Water Use. This document, developed by DWR and the California Urban Water Conservation Council in a public and collaborative process, provides methodologies and criteria for calculating baseline daily per capita use; baseline commercial, industrial and institutional water use, gross water use, indoor residential water use, and other calculations to assist water agencies in determining their water use targets for the year 2015 and 2020 and meeting the statutory requirements for water conservation.

The second document provides an Alternate Target Method, also known as “method four” for calculating urban water use targets to meet the statewide 20 percent reduction by 2020.

*“A method that shall be identified and developed by the department, through a public process, and reported to the Legislature no later than December 31, 2010. The method developed by the department shall identify per capita targets that cumulatively result in a statewide 20-percent reduction in urban daily per capita water use by December 31, 2020.” (WC §10608.20)*

DWR staff is continuing to work with stakeholders on the alternate target method and anticipates having a final document for the Commission in February.

**Additional attachments related to this Agenda Item will be provided as soon as they are available.**

**Staff Recommendation**

Option 1: The Commission approves the draft Industrial Process Water Regulation package including, by incorporation by reference, the Methodologies for Calculating Baseline and Compliance Urban Per Capita Water Use. Upon approval, the rulemaking package would be submitted to the Office of Administrative Law to begin the public comment period. The Alternate Target Method would be submitted to the OAL and added to the rulemaking package when finalized and approved by the Commission in February. OAL allows addition of documents to the rule making package provided the public has an opportunity to comment on it. This option will allow for more time for public review and comment on the package to complete the rulemaking process before the emergency regulations expire.

Option 2: The Commission will not take action at its January meeting, but will wait until the February 2011 meeting when the draft Industrial Process Water Regulation package and both reference documents are completed. This will enable the Commission to review the rulemaking packet as a whole. Although this option would delay the start of the public comment period, DWR believes it can still complete the process before the current emergency regulations expire on June 15, 2011.

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