



June 4, 2024

Chairman E. Joaquin Esquivel  
State Water Resources Control Board  
1001 I Street, 24th Floor  
Sacramento, CA 95814

Via Email: [commentletters@waterboards.ca.gov](mailto:commentletters@waterboards.ca.gov)

**Subject:** BACWA Comments on Proposed Regulation “Making Water Conservation a California Way of Life”

Dear Mr. Esquivel,

The Bay Area Clean Water Agencies (BACWA) appreciates the opportunity to provide comments on the proposed regulation regarding Making Conservation a California Way of Life (Conservation Regulation). BACWA is a joint powers agency comprised of 37 member agencies who own and operate publicly owned treatment facilities and sanitary sewer systems that collectively provide sanitary services to over 7.1 million people in the nine-county San Francisco Bay Area. Governed by elected officials and managed by professionals, BACWA's member agencies are dedicated to environmental protection and public health. Many of our member agencies are also recycled water producers. We host an active Recycled Water Committee, where both wastewater agencies and water agencies can discuss regulatory and technical issues relating to fostering the increased use of recycled water as a sustainable resource for the region.

The San Francisco Bay Regional Water Quality Control Board (Regional Water Board) is poised to adopt a Nutrient Watershed Permit (Permit CA 0038873), which would require significant reductions in the amount of nutrients that can be discharged to San Francisco Bay from our member agencies. If adopted, the public resources needed to meet the proposed nutrient regulations would be the most significant simultaneous investment of public resources in treatment upgrades across our region since the inception of the Clean Water Act in the 1970s. BACWA members are committed to protecting the Bay by taking an effective and strategic approach to reducing nutrient discharges while maximizing other ecological and regional community benefits.

BACWA is concerned that the proposed Conservation Regulation may have unintended consequences on the ability of our member agencies to pursue non-potable water recycling as a compliance pathway to meet the Water Board's proposed nutrient watershed permit for limiting nutrient discharges to San Francisco Bay. The proposed nutrient watershed permit encourages agencies to pursue multi-benefit projects, such as water recycling, as a strategy for reducing nutrients. However, the proposed Regional Water Board nutrient permit does not provide flexibility to account for factors outside of an agency's control (*e.g.* weather or customer behavior). At the same time, inclusion of sites irrigated with recycled water in the calculation of the Conservation Regulation urban water use objective could result in a decrease in recycled water use, which directly increases the amount of unused treated wastewater and nutrients that would be discharged to San Francisco Bay.

Many BACWA member agencies have established recycled water programs that have been successfully diverting nutrients from the Bay for decades, while providing a sustainable and climate-resilient supply for the region. BACWA urges the State Water Board to continue to support and encourage water recycling as a multi-benefit solution to water supply and environmental challenges by aligning the objectives and requirements in the Conservation Regulation with the proposed Regional Water Board nutrient permit and minimizing the potential for unintended consequences.

BACWA respectfully offers the following comment for consideration:

- Recycled Water Variances – BACWA strongly supports Governor Newsom’s signing message for SB 1157 (2022, Hertzberg) regarding the indoor water use standard, which stated “...*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.*”

The Conservation Regulation should include a clearly stated variance for water agencies that are using recycled water to comply with a permit requirement. This variance should provide flexibility for agencies to increase the Landscape efficiency factor (LEF) for sites irrigated with recycled water above the 1.0 LEF.

Thank you for consideration of our comments. If you have any questions or would like to discuss our comments, please contact BACWA Executive Director Lorien Fono at [lfono@bacwa.org](mailto:lfono@bacwa.org) or (510) 684-2993.

Best regards,



Lorien Fono, Ph.D., P.E.  
Executive Director  
Bay Area Clean Water Agencies

cc: BACWA Executive Board  
Thomas Mumley, San Francisco Bay Regional Water Quality Control Board  
Bill Johnson, San Francisco Bay Regional Water Quality Control Board