

Changes to the proposed regulation to make conservation a California way of life

Item 6



Office of Research, Planning, and Performance

Agenda

Overview of statutes “Making Conservation a California Way of Life”

Changes to proposed regulation

Economic impacts

Next steps



Context

In 2018, the Legislature passed Assembly Bill 1668 and Senate Bill 606, together referred to as California statutes “Making Conservation a California Way of Life.”

These created a framework requiring the establishment of “water use objectives” for urban retail water suppliers to achieve increased statewide conservation.

Legislation required DWR to provide recommendations for the State Water Board to consider.

Where we are in the formal rulemaking process

- ✓ August 18 – Oct 17, 2023 - The first public comment period.
- ✓ October 4, 2023 - Formal public hearing.
- ✓ November and December 2023 - Board hosted 21 meetings with five workgroups to address stakeholder concerns.
- ✓ March 8, 2024 – Notice of revised draft regulation workshop.
- ✓ March 12, 2024 – Notice of revised draft regulation text, inviting public comment on changes to the draft released in August 2023.

March 12, 2024 – March 27, 2024 - Second Public comment period and workshop.

- Summer 2024 – Proposed regulation to be considered for adoption by the State Water Board.
- January 2025 – If adopted, regulation goes into effect.

Engagement in that process

- On **March 22, 2023**, Board staff hosted **1** pre-rulemaking workshop during a public Board meeting.
- In **summer 2023**, Board staff held **2** workshops with small suppliers to better understand how the draft regulatory framework could specifically affect small water suppliers.
- On **August 18, 2023**, Board posted first draft of proposed regulation for comment.
- On **October 4, 2023**, Board staff held **1** public hearing during a Board meeting on the draft regulatory framework. Approximately 90 individuals provided public comment at this hearing.
- Throughout **November and December 2023**, Board staff hosted **21** meetings with five workgroups to better understand and address concerns raised about the draft regulatory framework.

Regulatory framework

A supplier will add up water *budgets* for:

- 1) **Indoor residential use** – Set in Water Code section 10609.4.
- 2) **Water loss** – set by existing Board regulation (Cal. Code Regs., tit. 23, §§980-86).
- 3) **Outdoor residential use** – set through this proposed rulemaking.
- 4) **Outdoor institutional and commercial use** – set through this proposed rulemaking.
- 5) **Variances/Temporary Provisions** (*if applicable*, water needed for community-specific unique uses, e.g., significant livestock or use of swamp coolers; set through this proposed rulemaking).
- 6) **Recycled water bonus** (*if applicable*, a bonus incentive for utilizing *potable* recycled water)

The sum of these budgets creates the overall water **objective**, which can be met any way the supplier chooses.

Other key components of the proposed regulation

- CII performance measures
 - Establishes customer classification system requirements
 - Establishes the requirements for offering best management practices to qualifying customers
 - Establishes the requirements for installing dedicated irrigation meters or employing in-lieu technologies on qualifying landscapes
- Reporting requirements

Changes made to the proposed regulation

Comparing the August and **March** drafts

1. **Compliance with the objectives moved to 2027.** Suppliers will still have to calculate and report their water use and objectives.
2. **Make alternative compliance pathways more accessible for certain suppliers facing large reductions.**
3. **Extend the ramp down of the outdoor standards.** This provides additional time for suppliers to meet increasingly more efficient water use objectives.
4. **Tie allowance of budget for 20% additional irrigable landscapes, for suppliers unable to meet their overall objective to data updates.** This reduces compliance obligations.

And other changes to simplify and streamline performance measures and reporting.

Compliance timeline

Compliance with objectives – §966(a)

DWR Recommendation	First Draft of Regulation (August)	Second Draft of Regulation (March)
N/A	Compliance assessed in 2025 and later	Compliance assessed in 2027 and later

Alternative compliance pathways

	Eligibility thresholds		Required effort	Result for eligible supplier
	Income of pop. served	Percent reduction		
Second Draft of Regulation	< MHI	≥ 20%	<ul style="list-style-type: none"> Reduce water use by ≥ 1% per year. Create plan to achieve its urban water use objective. 	Supplier deemed in compliance with the objective
	Any	≥ 30%	<ul style="list-style-type: none"> Reduce water use by ≥ 2% per year Verify adherence to G480 standard. Create plan to achieve its urban water use objective. 	Supplier deemed in compliance with the objective
First Draft	< 80% of MHI	≥ 20%	<ul style="list-style-type: none"> Reduce water use by ≥ 2% per year. 	Use of 0.63 for outdoor standards through 2040
	Any	≥ 20%	<ul style="list-style-type: none"> Reduce water use by ≥ 2% per year. Verify adherence to G480& Tree City USA standards. Have a program dedicated to climate-ready landscapes. 	
DWR Recommendation	The State Water Board consider a limited-time cap on the annual reductions that suppliers would be expected to make.			

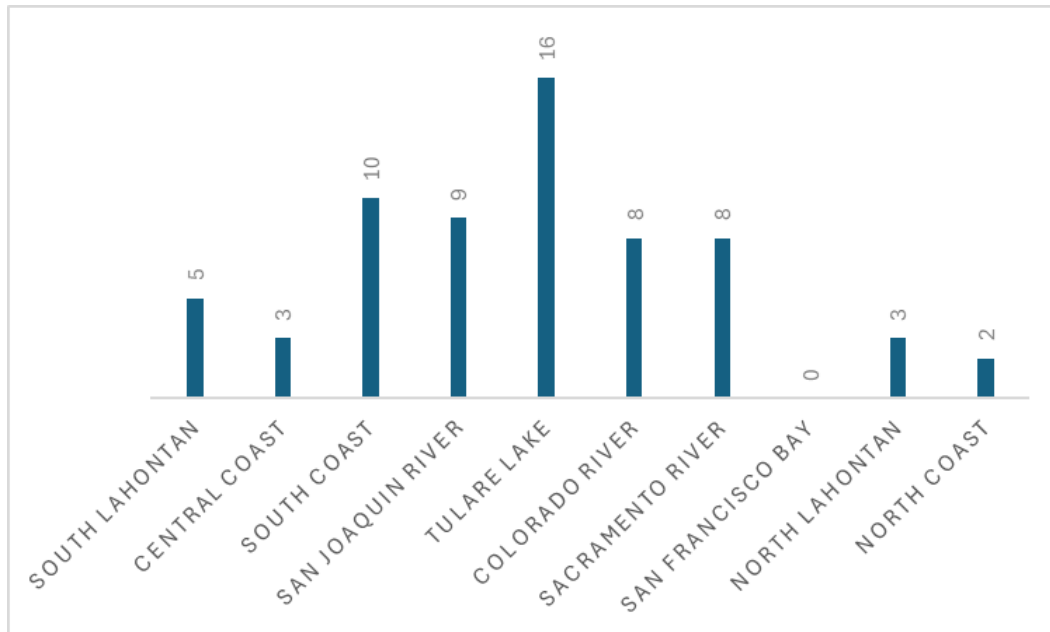
Alternative compliance: eligibility

(without accounting for unknown variances and special landscape areas)

Alternative Compliance Path 1

< statewide MHI & $\geq 20\%$ reduction

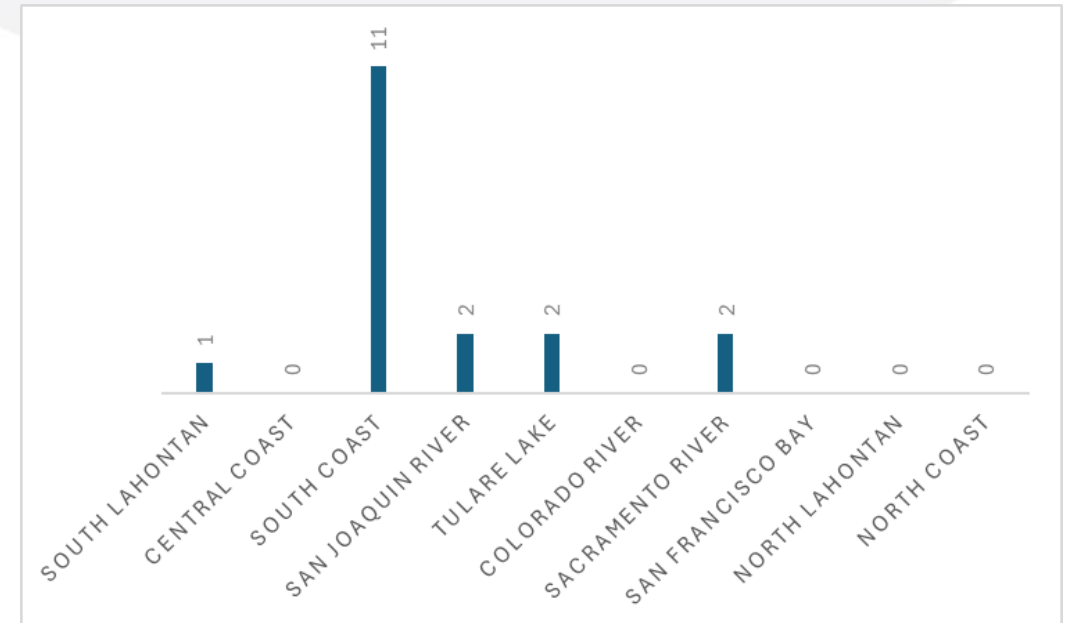
64 suppliers, representing 9% of population



Alternative Compliance Path 2

$\geq 30\%$ reduction

18 suppliers, representing 2% of population*



* These suppliers serve communities where MHI > statewide MHI

Outdoor standards:

Landscape efficiency factors,
which change over time

The LEF is a factor used to calculate the aggregate amount of water a supplier may need to deliver to customers so that they can maintain healthy and efficient landscapes across the supplier's service area.

Outdoor standards

Landscape efficiency factors over time – §968(a) & §969(a)

Landscape Efficiency Factor (LEF)		DWR Recommendation	First Draft of Regulation (August)	Second Draft of Regulation (March)
Residential	CII w/ DIMs			
0.80	0.80	From adoption until 2030	From adoption until 2030	From adoption until 2035
0.63	0.63	Starting in 2030	2030 - 2035	2035 - 2040
0.55	0.45	N/A	Starting in 2035	Starting in 2040

Water use standard for outdoor use is a **Landscape Efficiency Factor**



Native plant garden on drip and micro spray irrigation with majority low and very low water using plants and a few medium water using plants



0.55

A majority of yard is low water using plants irrigated with drip
+ warm season grass with overhead sprays

**This is the proposed 2040 standard
for residential outdoor use**



Warm season grass inefficiently irrigated (e.g., not properly tuned, running too long) with lawn sprinklers

Inclusion of irrigable, non-irrigated landscapes

Inclusion of 20% irrigable, non-irrigated landscape buffer – §968(b)

DWR Recommendation	First Draft of Regulation (August)	Second Draft of Regulation (March)
Always include for everyone	Include until 2027, for suppliers not meeting their objective	Include, until residential landscape data is updated, for suppliers not meeting their objective

Residential Pools

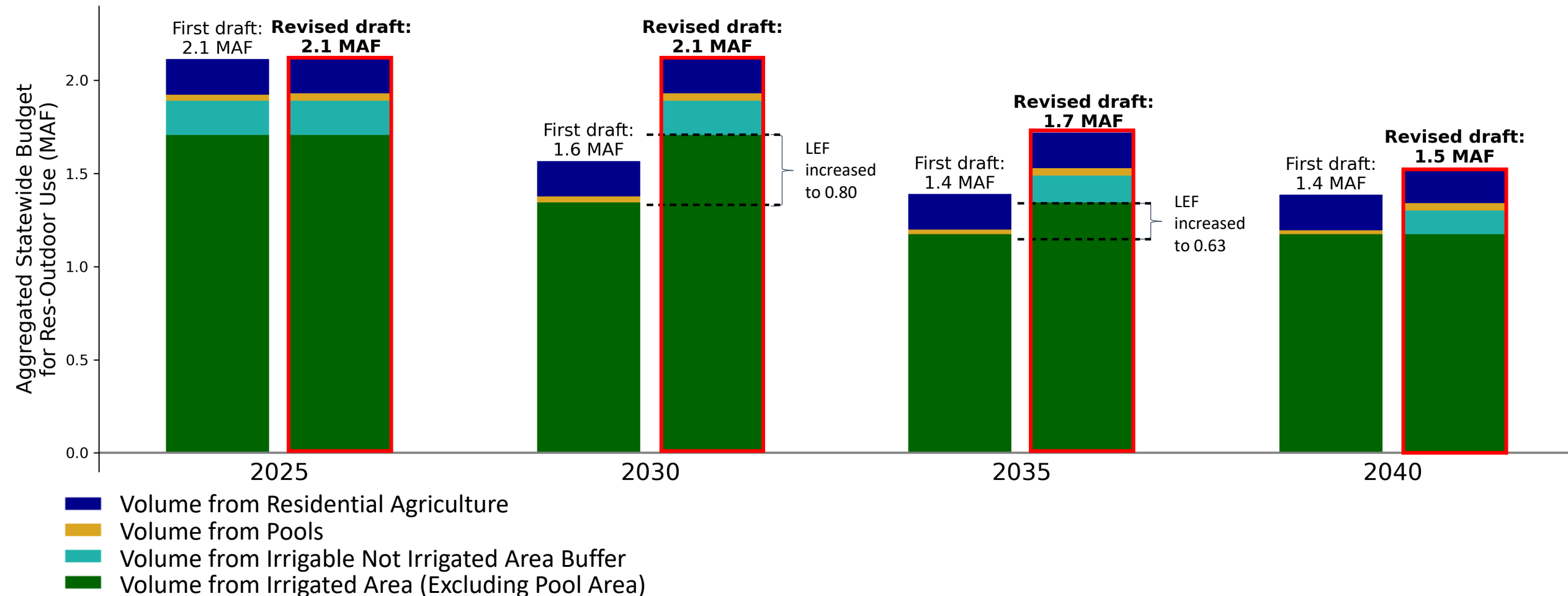
Incorporating residential pools in the outdoor budget – §965(bbb)

DWR Recommendation	First Draft of Regulation (August)	Second Draft of Regulation (March)
Part of residential landscape area	Provide temporary provision, allocating a LEF of 0.63 to residential pools for an additional 5 years	Define as Residential Special Landscape Areas, with a LEF of 1.0

Other changes related to the outdoor standards

- Modified how the regulation incorporates MWELO.
- SLA's need only be justified every 5 years, rather than annually. The same data may be reported for each of the 5 years unless otherwise stated.
- Additional methods for suppliers to include new residential landscape area.
- Clarified approval process for alternative data.

Impact of proposed changes on residential outdoor budget: budgets are larger, savings are smaller



Variations: Requesting & Reporting

Frequency for requesting variations & reporting – §967(e) & §968(j)

DWR Recommendation	First Draft of Regulation (August)	Second Draft of Regulation (March)
Not specified	Require suppliers to annually request variations and annually update data	Require suppliers to request variations every 5 years, and allow, unless otherwise specified or if updated by the supplier, the same data to be used for each year for the 5 years

Variations: Thresholds of Significance

Thresholds of significance to qualify for variations – §967(b), § 968(f), & §969(e)

DWR Recommendation	First Draft of Regulation (August)	Second Draft of Regulation (March)
<ul style="list-style-type: none"> • 5% of the objective, for most variations • 1% of the objective, when using more accurate calculation methods • 0% for ponds 	<ul style="list-style-type: none"> • 5% of the objective, for most variations • 1% of the objective, when using more accurate calculation methods • 0% for ponds 	<ul style="list-style-type: none"> • 5% of the relevant budget, for most variations • 1% of the relevant budget, when using more accurate calculation methods • 0% for ponds

Per statute, variations are for "unique uses" of water that have a "material effect" on the water objective.

Bonus Incentive

Direct Potable Reuse – §971(b)(3)

DWR Recommendation	First Draft of Regulation (August)	Second Draft of Regulation (March)
Defer until use of DPR is allowed	N/A	Includes method for calculating bonus incentive with direct potable reuse

CII Performance Measures: Section 972

CII Classification System Categories and Timeline

DWR Recommendation	First Draft of Regulation (August)	Second Draft of Regulation (March)
<p>18 categories, 14 of which align with ENERGYSTAR Portfolio Manager's broad categories.</p> <p>Suppliers meet interim milestones - classify customers in 20% intervals.</p>	<p>ENERGYSTAR Portfolio Manager categories + DWR-identified categories: laundries, large landscapes, water recreation, and car wash</p> <p>Suppliers meet interim milestones - classify customers in 20% intervals.</p>	<p>Same as initial draft except large landscapes replaced with <u>landscapes with Dedicated Irrigation Meters</u></p> <p>Requirement for suppliers to classify 100% of "existing" <u>connections</u> by June 2027 (in time for Jan 1, 2028, report)</p>

CI Performance Measures: Section 973

Requirements for qualifying "large landscapes"

DWR Recommendation	First Draft of Regulation (August)	Second Draft of Regulation (March)
<p>Threshold = 1 acre</p> <p>Interim milestones for either 1) installing DIMs or 2) employing in-lieu technologies and offering DIMs</p> <p>Require suppliers to meet interim milestones</p>	<p>Threshold = using 500,000 gallons/year</p> <p>Interim milestones, with 100% completion by 2030</p> <p>Additional BMPs</p> <p>Require suppliers to meet interim milestones</p>	<p>Threshold = 1/2 acre</p> <p>Provide suppliers with options for identifying "existing" large landscapes</p> <p>Clarify roles and responsibilities</p> <p>Remove interim milestones, change compliance obligations timeline</p>

CII Performance Measures: Section 974

Best Management Practices (BMPs) for Qualifying Customers

DWR Recommendation	First Draft of Regulation (August)	Second Draft of Regulation (March)
<p>Qualifying CII customers include:</p> <ul style="list-style-type: none"> • Top 20% of water users • Top 2.5% of water uses <p>Require suppliers to offer all qualifying customers at least 1 BMP (e.g., rebates) from 5 discrete BMP categories (e.g., Incentive BMPs)</p> <p>Require suppliers to meet interim milestones</p>	<p>Qualifying customers include: Top 20% of water users in each of the §972 categories. BMP Requirement: offer at least 1 BMP from each of the 5 BMP categories.</p> <p>Top 2.5% of water uses BMP Requirement: offer at least 2 BMPs from each of the 5 BMP categories.</p> <p>Owners of "Disclosable buildings" BMP Requirement: Provide water use data to the owner via ENERGYSTAR Portfolio Manager webservices or template.</p> <p>Those irrigating NFT with potable water BMP Requirement: Ban the irrigation of non-functional turf with potable water</p> <p>Require suppliers to meet interim milestones</p>	<p>Off-ramp for suppliers with little CII use</p> <p>Change BMP requirement for "disclosable buildings" and remove NFT BMP</p> <p>Provide suppliers with three options for identifying qualifying <u>connections</u>:</p> <ul style="list-style-type: none"> • Top 20% & 2.5% • Top 20% in each §972 category & top 2.5% • Inefficient per key business activity indicators developed by the supplier <p>Remove interim milestones and change compliance obligation timeline</p> <p>Clarify roles and responsibilities</p>

Reporting: Section 975

Annual Reporting Requirements

DWR Recommendation	First Draft of Regulation (August)	Second Draft of Regulation (March)
Recommendations detailed in October 2022 report available on DWR's website	Require reports to also be submitted to the Board, on a fiscal year basis Variance and provision data reported and updated annually Require reporting elements consistent with other sections	Provide greater clarity required reporting elements Require suppliers to report on Water Code section 10608.14(d) requirements (AB 1572, 2022) Specify what variance and provision data must be updated annually Update reporting elements to align with changes to other section changes (e.g., alternative compliance)

“No Backsliding” Provision (§10609.2(d))

Long-term standards to exceed statewide conservation targets – §966(h)

DWR Recommendation	First Draft of Regulation (August)	Second Draft of Regulation (March)
For each supplier “exceeding” its SB X7-7 target, individually adjust objective components to prevent backsliding	If “exceeding” its SB X7-7 target, a supplier's objective would be equal to its target, less “excluded demands.”	Same as First Draft, plus assessment begins in 2040 , based on a supplier's individual SB X7-7 target

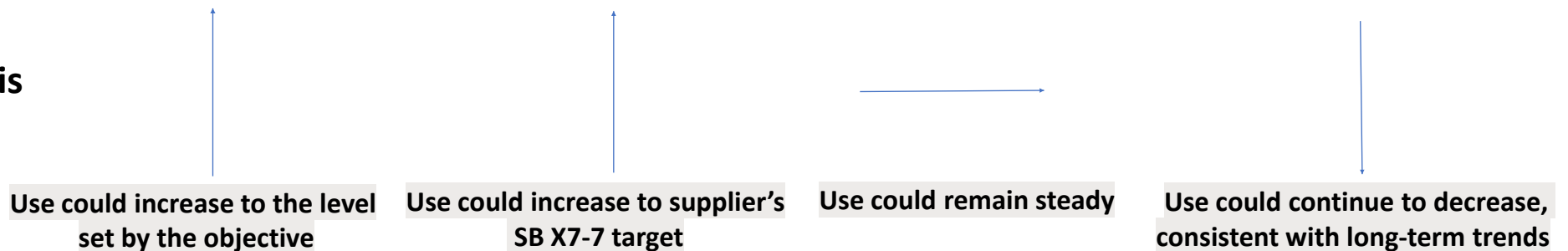
*The long-term standards shall be set at a level designed so that the water use objectives, together with other demands excluded from the long-term standards such as CII indoor water use and CII outdoor water use not connected to a dedicated landscape meter, **would exceed the statewide conservation targets....***

- Water Code Section 10609.2(d)

“No Backsliding” Provision (§10609.2(d))

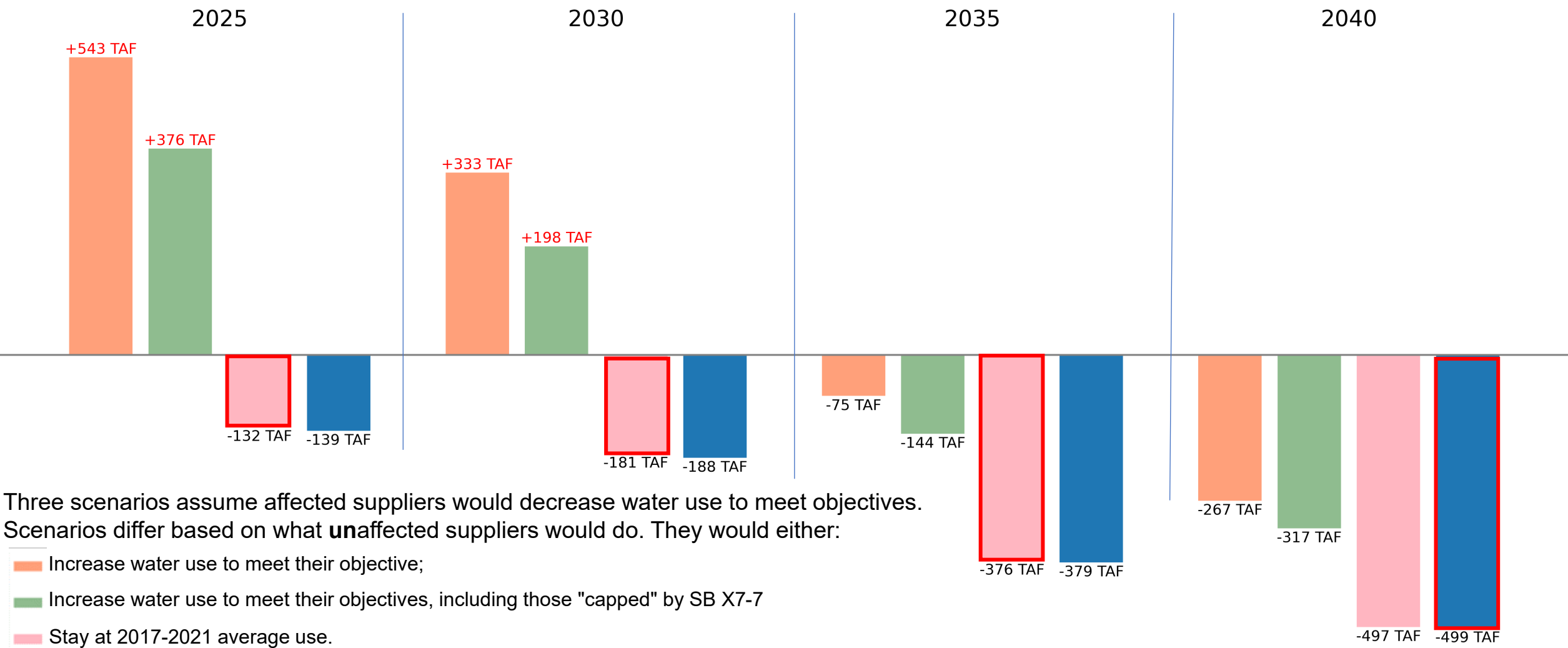
- Water Code section 10609.2(d) says *objectives* plus *excluded demands* can't exceed SB X7-7 targets.
 - Proposed change would apply the SB X7-7 "cap" in 2040
- Compared to their 2017-2021 average use, suppliers are already using less water than:
 - Objectives based on the 2025 standards (266 suppliers)
 - Objectives based on the 2030 standards (231 suppliers)
 - SB X7-7 target (356 suppliers)
- Unless state rules prevent it, a supplier's water use *could increase* to its water use objective or to its SB X7-7 target.

What if a supplier's objective is higher than current use?



Scenarios and effects of Water Code §10609.2(d)

Estimated change in statewide water use based on 2025, 2030, 2035, and 2040 standards



Three scenarios assume affected suppliers would decrease water use to meet objectives. Scenarios differ based on what **unaffected** suppliers would do. They would either:

- Increase water use to meet their objective;
- Increase water use to meet their objectives, including those "capped" by SB X7-7
- Stay at 2017-2021 average use.

Fourth scenario assumes affected suppliers would decrease use to meet objectives, including those "capped" by SB X7-7

- **Unaffected** suppliers stay at average 2017-2021 use

Conservation actions,
including those that suppliers take to comply
with objectives based on the 2040 standards,
are estimated to save as much as 500,000
acre-feet of water

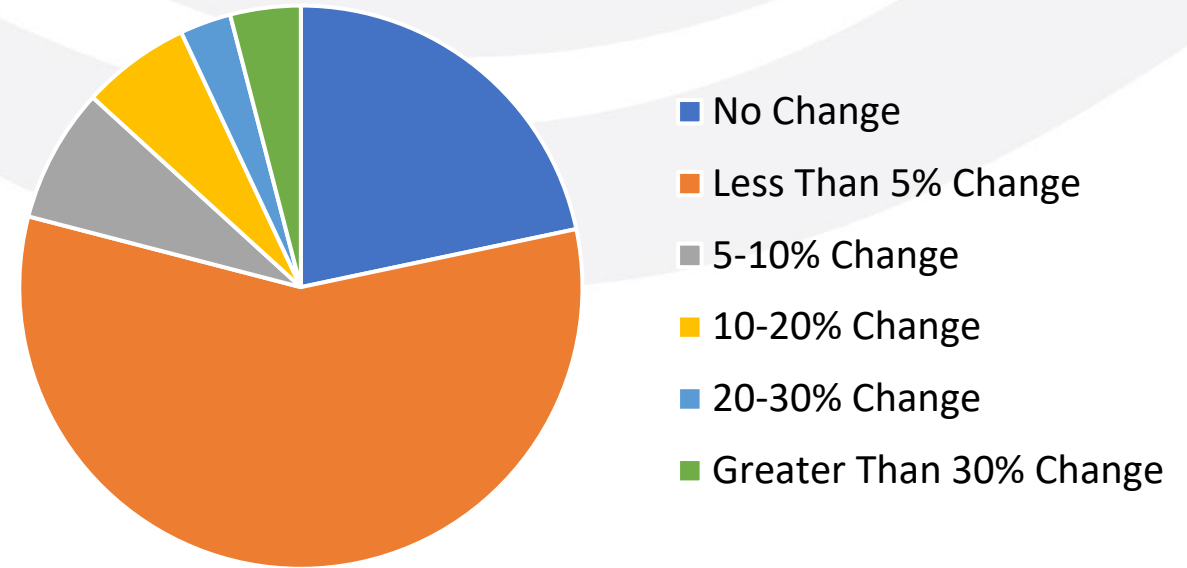
Estimated Reductions* based on the 2040 standards

Degree of reduction (relative to the subset of uses comprising the objective)	Number of Suppliers	Percent of Suppliers	Population Served	Percent of Covered Population
No Reduction required	122	31%	12,368,678	34%
Less Than 5% Reduction	32	8%	3,880,710	11%
5-10% Reduction	49	13%	8,291,634	23%
10-20% Reduction	85	21%	6,712,951	18%
20-30% Reduction	61	15%	3,636,986	10%
Greater Than 30% Reduction	47	12%	1,834,433	5%
Total	396	100%	36,715,496	100%

* For some suppliers, impacts will be smaller because of corrected data, the budgets associated with variances and special landscape areas, alternative compliance, and long-term trends.

Impact of adding Res-Ag budget

- DWR classified Residential-Agricultural (Res-Ag) areas as "Not Irrigated"
- In December 2023, DWR provided **NEW** data, enabling estimates for Res-Ag budgets
- Impact on 2040 objectives:
 - For majority of suppliers, objectives increased by less than 5% (orange)
 - For 19 suppliers, objectives increased by 20% or more (light blue + green)

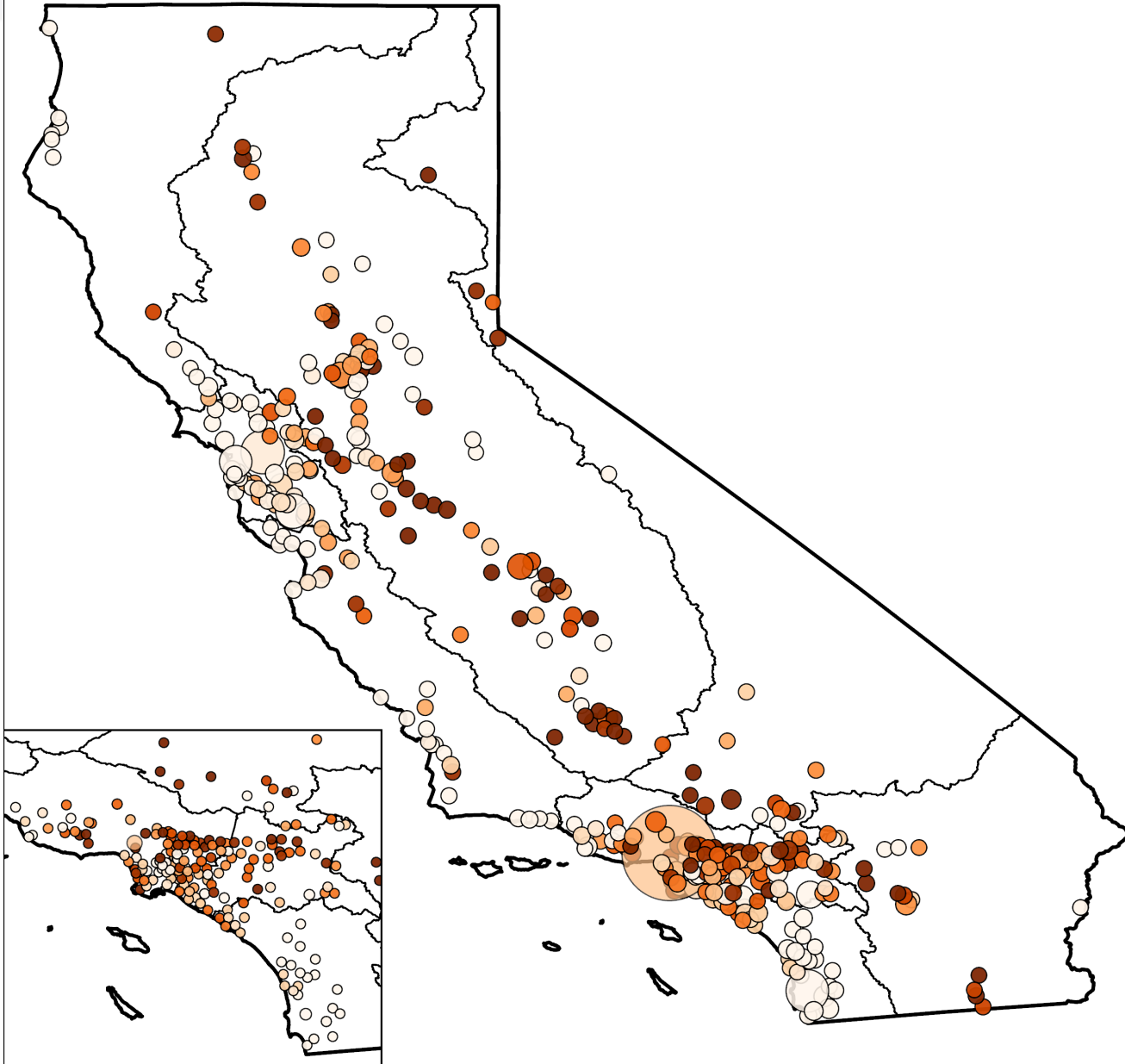


Distribution of Impacts Based on the 2040 standards

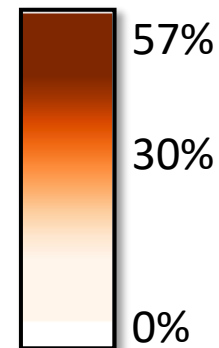
Assuming water use remains at the 2017-2021 average

For some suppliers, impacts will be smaller because of corrected data, the budgets associated with variances and special landscape areas, the alternative compliance pathways, and long-term trends.

- Average reduction is 12%
- Four suppliers are at or above 50%



Reductions



Color = Linear continuous % reduction
Size = Proportional service area population
Inset map population unscaled for clarity

Improved economic modeling

- Addressed main comments received:
 - a. Corrected unintentional “double-counting” of supplier avoided costs.
 - b. Accounted for both supplier-specific operational costs and average cost of alternative water sources in projections of supplier avoided costs.
 - c. Considered different annual real rates at which a supplier's cost of water, absent the proposed regulation, increases over time, for different supplier categories (water costs for inland, lower-income, or smaller suppliers now assumed to grow a bit faster).
 - d. Incorporated price elasticity in the determination of the assumed rate of decline, absent the proposed regulation, in residential outdoor use per capita.
 - e. Performed sensitivity analysis over main parameters in the model.
- Expanded period of analysis by ten years, to 2050.
- Incorporated water rate increases as an additional tool available to suppliers to achieve their residential budgets.
- NOT YET DONE: integration of updated non-residential impacts.

Residential aggregate quantified economic impacts (*provisional*)

Sector	Value (2025 to 2050, billions of dollars)	Category
All Suppliers	\$ 2.656	Avoided costs: water
	-0.848	Lost revenues
	-0.814	Costs of conservation measure rebates
	-0.307	Ratemaking cost-of-service studies (rate changes assumed to account for 25% of each affected supplier's required efficiency increases)
	-0.044	General program costs
All Households	0.848	Avoided costs: water (exactly offsets suppliers' lost revenues)
	0.370	Avoided costs: energy
	-0.594	Costs of conservation measures, after rebates
Net Benefit	\$ 1.265	billion, over the 2025 to 2050 period

Next Steps

End of Second Public Comment Period

March 27, 2024

Consideration of Adoption

Planned for Summer 2024

Submit to Office of Administrative Law

If adopted, August 2024

Rule becomes effective

If adopted, January 1, 2025

Submittal of Written Comments

- By email to **commentletters@waterboards.ca.gov**.
 - The State Water Board requests, but does not require, that email transmission of comments, particularly those with attachments, contain the regulation package identifier “**Comment Letter — Proposed Making Conservation a California Way of Life Regulation**” in the subject line.
 - Please include your email within your message.
- By fax transmission, mail, or hand-delivery.
- Comment period ends on 3/27/2024.