

## **Metropolitan Comments on ITP Recommendations**

### **Proposed Amendment to Simplify and Update the Demand Management Measures Section of the Urban Water Management Planning Act**

This proposal recommends that Water Code Section 10631(f)(1) be rewritten to consolidate the 14 demand management measures to 5 demand management measures. Rewriting only Section 10631(f)(1) would cause potential conflicts with subsequent Sections 10631(f)(2), (3), and (4). Metropolitan recommends rewriting Water Code Sections 10631(f)(1) through (4) so that they are consistent.

### **Proposed Recommendation 2.3 – Revised Recommendation to Legislature to Require Distribution System Water Loss Reporting in Urban Water Management Plans (UWMP)**

Existing Section 10631(e)(1) requires reporting for currently identified water use sectors in five year increments. However, the last sentence in the suggested statutory language for the proposed Section 10631(e)(3) would require the reporting of distribution system water loss for “each” of the five years preceding the plan update. This is in conflict with the reporting requirement of five year increments for the other water use sectors. Metropolitan recommends modifying the language of proposed Section 10631(e)(3) so that the frequency of the reporting requirement for the new sector “distribution system water loss” be in accordance with the five year increment reporting requirement described in subdivision (a) for the other existing water use sectors.

### **Recommendation 4.2 – Projected Water Savings from Codes, Standards, Ordinances, and Transportation and Land Use Plans Affecting an Urban Water Supplier’s Service Area - Voluntary**

Metropolitan requests that the word “shall” in the last two sentences of the suggested statutory language be changed to “may.” As the title of this Recommendation indicates, providing information on projected water savings resulting from adopted codes, standards, and ordinances, as well as transportation and land use plans, is purely voluntary. The proposed statutory language even states that such water savings “may” be provided “[w]hen available and applicable.” However, by using the word “shall” in the last two sentences, the suggested statutory language requires urban water suppliers to: (1) provide citations to the various codes, standards, ordinances, and transportation and land use plans utilized in making the projections; and (2) note projections of water use that do not account for such savings. See, e.g., In re Richard E., 21 Cal. 3d 349, 353-54 (1978) (“When the Legislature has . . . used both ‘shall’ and ‘may’ in close proximity in a particular context, we may fairly infer the Legislature intended mandatory and discretionary meanings, respectively. The ordinary import of ‘may’ is a grant of discretion.”) (citing Housing Authority v. Superior Court, 18 Cal. 2d 336, 337 (1941)). Accordingly, Metropolitan requests that the last two sentences in the suggested statutory language be revised as follows:

“The urban water supplier ~~shall~~ **may** provide citations of the various codes, standards, ordinances, and transportation and land use plans utilized in making the projections. Projections of water use that do not account for such savings ~~shall~~ **may** be noted as such.”

**Proposed Recommendation 6.2 – ITP Straw Proposal #6 v.2 (11/1/13) – Draft  
Recommendation: Authorize DWR to Require Electronic Filing of UWMPs Including  
Standardized Forms**

There is an inconsistency between the intent of recommendation and the suggested statutory language. The stated intent of this recommendation is for “urban water retail suppliers” to have standardized reporting for SB X7-7 to DWR. However, the proposed Section 10644(a) applies to all “urban water suppliers” – which would include “wholesale” urban water suppliers in addition to “retail” urban water suppliers. This should be clarified.

Additionally, the suggested statutory language states that the electronic submittal includes “...any standardized forms, tables, or displays specified by the department.” The words “any” and “specified” indicate broad discretion by DWR to potentially make unilateral changes to current standardized reporting. Previously, DWR has worked closely with the Urban Stakeholder Committee to devise the standardized reporting forms. If DWR chooses to expand or change current standardized forms, tables, or displays, Metropolitan recommends that DWR continue to work with this Committee and those preparing UWMPs on any proposed modifications to the standardized reporting. The suggested statutory language should be clarified accordingly. Metropolitan also recommends that any new or changed standardized forms be finalized at least 9 months before the deadline to submit UWMPs so that those preparing UWMPs have sufficient time to collect the necessary information and to complete the forms and meet all public notification, hearing, and adoption requirements before the deadline.