

mechanisms can be put in place before Phase III of the CALFED Bay-Delta Program is initiated. Technical analysis to support the Council's decision of endorsement will be provided by DWR.

If a program of planning, analysis, and implementation does not meet the criteria described above, then CALFED agencies will work to establish legislative and regulatory policies for agricultural water users that are patterned after those that apply to urban water users. This includes an Agricultural Water Management Planning Act patterned closely after the existing Urban Water Management Planning Act and policies of CALFED agencies, as well as additional assurance mechanisms patterned after those that are applied to urban agencies as part of the Bay-Delta Program, including the possibility of State Water Resources Control Board investigation for waste and unreasonable use violations. These assurance mechanisms will need to be enacted before any CALFED Phase III water supply activities can begin.

Urban Water Use Efficiency Approach

The urban areas of California currently use over seven million acre-feet of water each year. The majority of this demand is met by diverting water from the Bay-Delta system. As populations continue to grow, the demand will also grow. The CALFED Bay-Delta Program will help the urban sector meet its future water needs and improve supply reliability through a number of programs, one of which is to facilitate implementation of cost-effective water use efficiency measures.

Generally, over the past three decades, urban per capita water use has stabilized or even decreased in most areas of the State. The implementation of local water conservation programs, along with current housing development trends such as increased multiple-family dwellings and reduced lot sizes, have lowered per capita water use in many areas. However, even with current conservation programs, gross urban applied water demand is projected to grow. Part of this trend is due to increased urban growth in warmer inland areas where landscape irrigation needs are higher.

Developing new water supplies to meet increasing demands, treating this water to meet drinking water standards, and providing the infrastructure to deliver the water to customers is very expensive. In addition, most urban wastewater is typically released to salt sinks, such as the Pacific Ocean or San Francisco Bay, where it cannot be recovered for other uses. The high costs associated with new supplies and the limited opportunities for reuse after discharge tend to make many urban water conservation measures cost-effective and attractive to urban water suppliers.

Many of the more recent locally implemented conservation efforts have resulted from over 150 urban water agencies signing the 1991 *Memorandum of Understanding Regarding Urban Water Conservation in California* (MOU) and beginning to implement BMPs as outlined in the MOU. Efforts to reduce urban demand are projected to continue, creating a potential for very significant

water savings. However, the rate and extent of implementation by signatory agencies is currently far below the potential. In addition, many agencies have yet to sign the MOU or develop strong conservation programs. Higher levels of conservation need to be achieved as part of an overall CALFED solution.

Urban Water Conservation Actions

The urban approach recognizes a clear standard for implementation of cost-effective conservation measures and responsibility to carry out local water management planning. The approach establishes a process for recognition of adequate planning efforts and recommends a balanced process for recognition of adequate conservation implementation. The approach is supported by planning and technical assistance, financing assistance, and proposed assurances.

1. Conservation Implementation, Reporting, and Certification

Purpose: Rely on a stakeholder forum to provide a uniform, verifiable, locally-directed process for urban BMP implementation and reporting. Identify and implement opportunities for improved water use efficiency with a focus on water conservation.

The *Memorandum of Understanding Regarding Urban Water Conservation in California* (Urban MOU) provides a uniform, verifiable, locally directed process for implementation of cost-effective urban water conservation programs. All urban water suppliers should implement conservation programs that comply with the terms of the Urban MOU. This is consistent with public policy, state law, and public comments made during scoping for the CALFED Bay-Delta Program.

In contrast to the Agricultural MOU, the urban document does not provide a process for balanced review and endorsement of implementation efforts that meet the implementation levels and schedules of the MOU. CALFED recommends that the California Urban Water Conservation Council adopt a process for endorsement or certification of water supplier compliance with the terms of the Urban MOU. This would help CALFED agencies direct planning, technical, and financing assistance toward local agencies that need this help, and would facilitate the implementation of appropriate assurance mechanisms.

2. Certification of Water Management Planning

Purpose: Help urban suppliers prepare, adopt, and implement useful water management plans and comply with the requirements of the Urban Water Management Planning Act (California Water Code 10610 et. seq.).

California State law recognizes the importance of good water management planning. The State's Urban Water Management Planning Act requires urban water suppliers to prepare and adopt

Urban Water Management Plans and update them every 5 years. Provisions of the Act require agencies to:

- include information on an agency's past, current, and projected water supplies and demands,
- describe opportunities for exchanges or transfers,
- provide an analysis of demand management measures,
- provide a water shortage contingency analysis,
- describe the availability of, and potential for use of, recycled water, and
- assess the reliability of water service in all water year types.

Good-faith compliance with the Act helps agencies to improve water use efficiency, not only through analysis and implementation of BMPs but also through better analysis of water recycling, better long-term planning, and better drought contingency planning. Current efforts by some urban agencies to meet this planning requirement are adequate. However, of the nearly 400 agencies affected by the requirement, many currently fail to adequately address local water management issues and options or fail to produce any plan at all.

The Department of Water Resources currently assists urban water suppliers with the preparation and implementation of Urban Water Management Plans. This assistance will continue. Assistance programs will be expanded as necessary to ensure that lack of planning expertise does not impede preparation and implementation of effective Urban Water Management Plans.

In addition, DWR currently evaluates the Urban Water Management Plans submitted by the agencies. This evaluation process will be formalized to include a certification process for plans that comply with the terms of the Act. This will help DWR and other CALFED agencies direct planning, technical, and financing assistance toward local agencies that need this help, and will facilitate the implementation of appropriate assurance mechanisms.

3. Technical and Planning Assistance

Purpose: Ensure that lack of technical and planning expertise does not impede implementation of cost-effective measures by providing easily accessible assistance for planning and implementing local water management programs.

Technical and planning assistance is vital to the successful implementation of cost-effective conservation programs. Assistance can be directed either at *identification* of opportunities (water management planning, guidebook development, conservation program planning) or at *implementation* of opportunities (water audit training, mobile labs, technical review). Currently, both DWR and USBR provide this kind of assistance directly to their contractors as well as to other water suppliers. Under this action, both DWR and USBR will continue to provide technical

and planning assistance. Assistance programs will be expanded as necessary to ensure that lack of technical and planning expertise does not impede implementation of cost-effective measures.

Additional assistance may be provided through local programs operated by Resource Conservation Districts, the California Urban Water Conservation Council, or water suppliers themselves.

4. Funding Assistance

Purpose: Ensure that lack of financing ability does not impede implementation of cost-effective measures. Provide easily accessible funding for planning and implementing water management programs.

Funding assistance is an integral part of the successful implementation of water management programs. CALFED will facilitate the implementation of local water management improvements by making available flexible funding assistance programs. Funding assistance for water suppliers and end-users, such as existing cost-sharing programs available through DWR, USBR, EPA and others, will continue under this action. Determination of most appropriate programs and levels of funding will be made in coordination with CALFED agencies, consistent with the principle that lack of financing ability should not impede implementation of cost-effective measures. Examples of funding programs include low interest loans, grants, direct financing, rebate programs, and bond pooling.

5. Assurances for Urban Water Management and Conservation

Purpose: Provide assurance that urban water suppliers will carry out good water management planning and implement cost-effective conservation programs.

Two categories of assurances are proposed: general assurances, and additional assurance mechanisms tailored to the proposed CALFED approach for urban water conservation.

The general mechanisms provide assurance that appropriate water management planning is carried out by local agencies and that cost-effective efficiency measures are implemented.

Demonstration of appropriate planning and implementation will be necessary prerequisites for an agency to be eligible to receive any "new" water made available by a Bay-Delta solution, participate in a water transfer that requires approval by any CALFED agency or use of facilities operated by any CALFED agency, or receive water through the DWR Drought Water Bank (this is already a policy of DWR).

The Urban MOU provides a recognized standard for minimum implementation of cost-effective urban water conservation programs. CALFED recommends that the California Urban Water

Conservation Council adopt a process for endorsement or certification of water supplier compliance with the terms of the Urban MOU. A process of certification coupled with sanctions for failure to comply with the terms of the Urban MOU will help assure that appropriate cost-effective measures are being implemented. This proposed assurance mechanism will be considered together with all other Program assurance needs in developing a final package of assurances.

The assurance mechanism described below identifies a central role for the Council. CALFED recognizes that such an approach will require the explicit approval of the full Council in order to succeed. Furthermore, CALFED understands that California Urban Water Agencies and the Environmental Water Caucus are currently working on development of a proposed urban water use efficiency approach that may include recommendations for certification and assurances. Such an approach, carrying the broad support that comes with development by stakeholders, may eventually influence the content of the CALFED adopted approach

The proposed assurance mechanism includes a graduated set of non-compliance sanctions directed at urban water suppliers including retail and wholesale agencies. Proper authority to implement sanctions will likely require legislation. Sanctions will include non-compliance fees combined with the possibility of a State Water Resources Control Board (SWRCB) investigation for waste and unreasonable use violations.

CALFED recommends that the Urban Council periodically review the status of BMP implementation for each urban water supplier, including MOU signatories and others, and bestow or withhold certification that a supplier is complying with the terms of the Urban MOU. Technical analysis to support the Council's decision of certification could be provided by DWR. Each time certification is withheld, the agency could be subject to the next level of sanctions. Initially, if an agency is not certified, the agency could be given a limited time extension for revising and completing a certifiable report. However, if the agency continues to be denied certification because of lack of implementation efforts, a first tier non-compliance fee could be levied. Upon a second failure to be certified, which could occur as early as the next reporting period, a second tier non-compliance fee could be levied. If an agency fails to be certified a third time, even if not during consecutive reporting periods, the Council could recommend that the SWRCB investigate the agency for possible waste and unreasonable use violations.

The SWRCB currently has the authority to investigate such violations. Because of a lack of the necessary resources, the SWRCB does not typically initiate investigations but rather responds to complaints of waste and unreasonable use that can be substantiated by the complainant. To alleviate this problem, non-compliance fees could be directly deposited in a fund to be used by SWRCB for employing staff to perform investigations requested by the Council. Alternatively, the Council could hold funds in an account and make an allocation to the SWRCB each time a violation is referred. This will help ensure that the SWRCB has ample resources to exercise its