

# Modified Non-Per Capita Conservation Program Background and Rationale for Program Development

## Introduction

In April 2007, legislation was passed to add a new regulatory program, the Modified Non-Per Capita Conservation Program (Modified NPCCP), to the Arizona Department of Water Resources (Department) Third Management Plan for Active Management Areas (AMAs). The Third Management Plan was successfully modified to include the Modified NPCCP on April 1, 2008, and the modifications became effective May 20, 2008. The Transcript of Hearing, Order of Adoption, and Modifications for each AMA can be found on the Department's website, in the section Laws, Rules, and Substantive policy statements<sup>1</sup>.

The Modified NPCCP, addresses large municipal water providers (cities, towns and private water companies serving more than 250 acre-feet per year) and was developed in conjunction with stakeholders from all AMAs. Participation in the program is required for all large municipal water providers that do not have a Designation of Assured Water Supply and that are not regulated as a large untreated water provider or an institutional provider.

The Modified NPCCP is a performance-based program that requires participating providers to implement water conservation measures that result in water use efficiency in their services areas. A water provider regulated under the program must implement a required Public Education Program and choose one or more additional Best Management Practices (BMPs) based on its size, as defined by its total number of water service connections. The provider must select the additional BMPs from the list included in the Modified NPCCP Program.

## History

Since the inception of municipal conservation requirements in the Department's management plans, public and private water utilities in the AMAs have been regulated largely in the same manner through the Total Gallons Per Capita Per Day (GPCD) Program. Private utilities, as well as some municipalities, have claimed that regulation under the Total GPCD Program restricts their ability to serve increasing non-residential water uses. While alternative municipal conservation programs that address this issue exist, private water companies have maintained that enrollment requirements for these programs would require significant additional expense, with no guarantee that the Arizona Corporation Commission (ACC) would allow them to recover the costs through increased

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<sup>1</sup> [http://www.azwater.gov/dwr/Content/Find\\_by\\_Category/Laws\\_and\\_Rules/default.htm](http://www.azwater.gov/dwr/Content/Find_by_Category/Laws_and_Rules/default.htm)

rates. Several years of internal consideration and discussion, as well as litigation brought by private water companies challenging the municipal conservation program, eventually resolved some of the issues raised by the utilities.

## Review & Stakeholder Process

In early 2005, the Department made the commitment to conduct a formal review of the municipal conservation program for large municipal providers in AMAs and assigned staff to organize and facilitate the review. Interviews were held with AMA Directors and other Department staff who had direct experience with the development and/or implementation of the municipal program. Additional interviews were held with twenty-two water providers in the Phoenix, Tucson, Pinal and Prescott AMAs, as well as staff from the Arizona Corporation Commission to introduce the review process, to request feedback on the existing regulatory program, and to ask for ideas regarding additional options that may be considered during the review process. A detailed summary of the comments and suggestions offered during these meetings can be found on the Department's website in the report, *Evaluation of the Third Management Plan Program for Large Municipal Water Providers in Active Management Areas: Summary of Interviews and Framework for the Stakeholder Process*.

Department staff and municipal water provider representatives reached a general consensus to continue the review process to consider the possibility of developing an alternative to the municipal provider regulatory programs then in existence. Those who were interviewed, including Department staff and water providers, suggested the following general approaches: (1) a program for municipal water providers to develop and implement a water conservation plan, (2) a prescribed conservation program, or BMP program, whereby all municipal providers would implement a basic set of water conservation measures, then choose additional measures to correspond with their service area characteristics, and (3) a modified Alternative Conservation Program (ACP), which would be similar to the ACP currently available pursuant to the Third Management Plan but with the requirement to obtain a Designation of Assured Water Supply instead of being assigned groundwater limitations.

Department staff met with a stakeholder group comprised of staff from regulated water providers, the ACC, the Department of the Interior, the Central Arizona Project (CAP) and other interested parties to review and discuss the municipal conservation requirements of the Third Management Plans. The intended outcome of this process was to develop a municipal conservation program that fosters water use efficiency and a long-term culture of conservation within the five AMAs of the state that can be effectively implemented by the Department, and that addresses concerns expressed by private water companies.

The formal stakeholder process was initiated in February 2006 to present information gathered to date and to present the possible options for a new municipal conservation program identified during the informal information gathering process. All large municipal water providers in all AMAs were invited to participate in the process. Stakeholder meetings were held throughout the year. Early in the process, stakeholders expressed their preference for developing a BMP program. The remainder of the stakeholder process was dedicated to this objective. Also during that time, a BMP subcommittee, comprised of volunteers from the larger stakeholder group, met to refine the general listing of BMPs

generated by the stakeholder group, prepare definitions for some of the BMPs and discuss possible components of a program framework. Through this stakeholder process, a general consensus was reached on the program framework and the list of BMPs.

## Legislation

During the fall and winter of 2006, Department staff prepared draft legislation to enable implementation of the program. Rather than adding language specifying an additional municipal conservation program, the draft legislation proposed modifying the existing Non-Per Capita Conservation Program to include provisions for the Modified NPCCP. The BMP program became officially entitled the Modified NPCCP. The legislation, SB 1557, was introduced and passed during the 2007 Legislative Session. The Third Management Plan was successfully modified to include the Modified NPCCP on April 1, 2008, and the modifications became effective May 20, 2008.

## Municipal BMP Advisory Committee

The enabling legislation for the Modified NPCCP allows for the establishment of an advisory committee to assist in evaluating the program. A Municipal BMP Advisory Committee was established in October 2008 to provide guidance to the Department in its efforts to review and evaluate the program's implementation and water use efficiency. The committee will review program developments, provide recommendations intended to improve implementation of the program, and participate in evaluations of the program.

## Program Benefits

With the help of the stakeholder group, the Department has developed a program that it believes will increase water use efficiency in the municipal sector; a program that is especially applicable to private water utilities and smaller municipalities. Department staff will assist water providers in identifying the most effective water conservation measures for their communities. It should be recognized that the largest water providers (Phoenix, Tempe, Mesa, Chandler, Glendale, Peoria, Scottsdale, Gilbert, Goodyear, Avondale and Surprise in the Phoenix AMA, and Tucson and Metropolitan Domestic Water Improvement District in the Tucson AMA) have been successfully implementing extensive water conservation programs over the past 25 years. The successful experience of these water providers was used in developing the program. In contrast to the Total GPCD program, the Modified NPCCP focuses more directly on the water use characteristics within a water provider's service area. It also focuses more directly on conservation of all water resources, not just groundwater.