

**STATE WATER RESOURCES CONTROL BOARD  
RESOLUTION NO. 2014-0038**

TO ADOPT AN EMERGENCY REGULATION  
FOR STATEWIDE URBAN WATER CONSERVATION

WHEREAS:

1. On April 25, 2014, Governor Edmund G. Brown Jr. issued an executive order to strengthen the state's ability to manage water and habitat effectively in drought conditions and called on all Californians to redouble their efforts to conserve water. The executive order finds that the continuous severe drought conditions present urgent challenges across the state including water shortages in communities and for agricultural production, increased wildfires, degraded habitat for fish and wildlife, threat of saltwater contamination, and additional water scarcity if drought conditions continue into 2015. The National Integrated Drought Information System reported that nearly 80% of the state was reported to be under "extreme" drought conditions at the end of June;
2. The executive order refers to the Governor's Proclamation No. 1-17-2014, issued on January 17, 2014, declaring a State of Emergency to exist in California due to severe drought conditions. The January Proclamation notes that the state is experiencing record dry conditions, with 2014 projected to become the driest year on record. Since January, state water officials indicate that reservoirs, rainfall totals and the snowpack remain critically low. This follows two other dry or below average years, leaving reservoir storage at alarmingly low levels. The January Proclamation highlights the State's dry conditions, lack of precipitation and the resulting effects on drinking water supplies, the cultivation of crops, and the survival of animals and plants that rely on California's rivers and streams. The January Proclamation also calls on all Californians to reduce their water usage by 20 percent;
3. There is no guarantee that winter precipitation will alleviate the drought conditions that the executive orders address, which will lead to even more severe impacts across the state if the drought wears on;
4. Water Code section 1058.5 grants the State Water Board the authority to adopt emergency regulations in certain drought years in order to: "prevent the waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion, of water, to promote water recycling or water conservation, to require curtailment of diversions when water is not available under the diverter's priority of right, or in furtherance of any of the foregoing, to require reporting of diversion or use or the preparation of monitoring reports";
5. Over 400,000 acres of farmland are expected to be fallowed, thousands of people may be out of work, communities risk running out of drinking water, and fish and wildlife will suffer.

6. Many Californians have taken bold steps over the years and in this year to reduce water use; nevertheless, the dire nature of the current drought requires additional conservation actions from residents and businesses. Some severely affected communities have implemented water rationing, limiting water use in some cases to only 50 gallons per person per day, foregoing showers, laundry, toilet flushing, and all outdoor watering.
7. Water conservation is the easiest, most efficient and most cost effective way to quickly reduce water demand and extend supplies into the next year, providing flexibility for all California communities. Water saved this summer is water available next year, giving water suppliers the flexibility to manage their systems efficiently. The more water that is conserved now, the less likely it is that a community will experience such dire circumstances that water rationing is required ;
8. Most Californians use more water outdoors than indoors. In many areas, 50 percent or more of daily water use is for lawns and outdoor landscaping. Outdoor water use is generally discretionary, and many irrigated landscapes would not suffer greatly from receiving a decreased amount of water;
9. Public information and awareness is critical to achieving conservation goals and the Save Our Water campaign, run jointly by the Department of Water Resources (DWR) and the Association of California Water Agencies, is an excellent resource for conservation information and messaging that is integral to effective drought response (<http://saveourwater.com>).
10. Enforcement against water waste is a key tool in conservation programs. When conservation becomes a social norm in a community, the need for enforcement is reduced or eliminated;
11. The emergency regulations set a minimum standard requiring only modest lifestyle changes across the state. Many communities are already doing more and have been for years. They should be commended, but can and should do more. Others are not yet doing so and should at least do this, but should do much more given the severity of the drought;
12. On July 8, 2014, the State Water Board issued public notice that the State Water Board would consider the adoption of the regulation at the Board's regularly-scheduled July 15, 2014 public meeting, in accordance with applicable State laws and regulations. The State Water Board also distributed for public review and comment a Finding of Emergency that complies with State laws and regulations;
13. On April 25, 2014, the Governor suspended the California Environmental Quality Act's application to the State Water Board's adoption of emergency regulations pursuant to Water Code section 1058.5 to prevent the waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of water, to promote water recycling or water conservation;
14. As discussed above, the State Water Board is adopting the emergency regulation because of emergency drought conditions, the need for prompt action, and current limitations in the existing enforcement process;

15. Disadvantaged communities may require assistance in increasing water conservation and state agencies should look for opportunities to provide assistance in promoting water conservation;
16. Nothing in the regulations or in the enforcement provisions of the regulations, preclude a local agency from exercising its authority to adopt more stringent conservation measures. Moreover, the Water Code does not impose a mandatory penalty for violations of the regulations adopted by this resolution and local agencies retain their enforcement discretion in enforcing the regulations, to the extent authorized, and may develop their own progressive enforcement practices to encourage conservation.

THEREFORE BE IT RESOLVED THAT:

1. The State Water Board adopts California Code of Regulations, title 23, sections 863, 864, and 865, as appended to this resolution as an emergency regulation;
2. The State Water Board staff will submit the regulation to the Office of Administrative Law (OAL) for final approval;
3. If, during the approval process, State Water Board staff, the State Water Board, or OAL determines that minor corrections to the language of the regulation or supporting documentation are needed for clarity or consistency, the State Water Board Executive Director or designee may make such changes;
4. These regulations shall remain in effect for 270 days after filing with the Secretary of State unless the State Water Board determines that it is no longer necessary due to changed conditions, or unless the State Water Board renews the regulations due to continued drought conditions as described in Water Code section 1058.5;
5. The State Water Board directs staff to provide the Board with monthly updates on the implementation of the emergency regulations and their effect;
6. Directs State Water Board staff to condition funding upon compliance with the emergency regulations, to the extent feasible;
7. Directs State Water Board staff to work with the Department of Water Resources and the Save Our Water campaign to disseminate information regarding the emergency regulations; and
8. Directs State Water Board staff in developing an electronic reporting portal to include data fields so that local agencies may provide monthly reporting data on (i) conservation-related implementation measures or enforcement actions taken by the local agency and (ii) substitution during the drought of potable water with recycled water to extend water supplies.

THEREFORE BE IT FURTHER RESOLVED THAT:

9. The State Water Board commends water suppliers that have increased conservation messaging and adopted innovative strategies to enhance customer awareness of water use, such as applications that let customers compare their water use to water use by others; reduce system losses, such as fixing system leaks which can deplete supplies by 10 percent or more; and establish incentives to reduce demand, such as tiered or drought rate structures. The State Water Board also commends all Californians that have already been working to maximize their conservation efforts, both at home and at work;
10. The State Water Board calls upon water suppliers to take the following actions:

*Educate customers and employees*

- Retail water suppliers should provide notice of the regulations in English and Spanish in one or more of the following ways: newspaper advertisements, bill inserts, website homepage, social media, notices in public libraries;
- Wholesale suppliers should include reference to the regulations in their customer communications;
- All water suppliers should train personnel on the regulations;
- All water suppliers should provide signage where recycled or reclaimed water is being used for activities that the emergency regulations prohibit with the use of potable water, such as operation of fountains and other water features;
- All water suppliers should redouble their efforts to disseminate information regarding opportunities and incentives to upgrade indoor fixtures and appliances;
- All water suppliers should use education and the tools available through the Save Our Water website (<http://saveourwater.com>); and
- All water suppliers should educate and prepare their boards and councils on the drought response actions contained in the emergency regulations and in this resolution, and to make sure that drought response items are placed on agendas as early as possible;

*Increasing local supplies*

- All water suppliers should accelerate the completion of projects that will conserve potable water by making use of non-potable supplies, such as recycled water, "greywater," and stormwater collection projects;
- All water suppliers should improve their leak reporting and response programs and request that police and fire departments and other local government personnel report leaks and water waste that they encounter during their routine duties/patrols;
- Smaller water suppliers – those with fewer than 3,000 service connections – should take proactive steps to secure their communities' water supplies and educate their customers about water conservation and the status of their supply reserves;
- All water suppliers should conduct water loss audits and make leak detection and repair a top priority for the duration of the drought; and
- All urban water suppliers should evaluate their rate structures and begin to implement needed changes as part of planning for another dry year. Information and assistance on setting and implementing drought rates is available from the Alliance for Water Efficiency. (<http://www.allianceforwaterefficiency.org/>).

11. The State Water Board calls on all Californians to take the following additional actions:
  - Further reduce water demand, whether by using less water in daily routines indoors and out, retrofitting appliances and installing greywater and rainwater catchment systems; and
  - Check residential and business water bills to see if there are high charges that may indicate a leak and to fix the leak, if they are able, or contact their local water utility if they need assistance.
12. The State Water Board encourages its staff, the Department of Water Resources, the Public Utilities Commission, urban water suppliers, and other local agencies to look for opportunities to encourage and promote new technologies that reduce water usage, including through timely access to water usage information and behavioral response.
13. The State Water Board encourages all state and local agencies to look for additional opportunities to minimize potable water use in outdoor spaces.
14. The State Water Board encourages investor-owned utilities to expeditiously submit applications for implementation of the regulations to the California Public Utilities Commission.

#### CERTIFICATION

The undersigned Clerk to the Board does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on July 15, 2014.

AYE:            Chair Felicia Marcus  
                  Vice Chair Frances Spivy-Weber  
                  Board Member Steven Moore  
                  Board Member Dorene D'Adamo

NAY:            None

ABSENT:       Board Member Tam M. Doduc

ABSTAIN:      None

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Jeanine Townsend  
Clerk to the Board

# PROPOSED TEXT OF EMERGENCY REGULATIONS

## Article 22.5. Drought Emergency Water Conservation

### Sec. 863 Findings of Drought Emergency

(a) The State Water Resources Control Board finds as follows:

(1) On January 17, 2014, the Governor issued a proclamation of a state of emergency under the California Emergency Services Act based on drought conditions;

(2) On April 25, 2014, the Governor issued a proclamation of a continued state of emergency under the California Emergency Services Act based on continued drought conditions;

(3) The drought conditions that formed the basis of the Governor's emergency proclamations continue to exist;

(4) The present year is critically dry and has been immediately preceded by two or more consecutive below normal, dry, or critically dry years; and

(5) The drought conditions will likely continue for the foreseeable future and additional action by both the State Water Resources Control Board and local water suppliers will likely be necessary to further promote conservation.

Authority: Wat. Code, § 1058.5.

References: Wat. Code, §§ 102, 104, 105.

### Sec. 864 Prohibited Activities in Promotion of Water Conservation

(a) To promote water conservation, each of the following actions is prohibited, except where necessary to address an immediate health and safety need or to comply with a term or condition in a permit issued by a state or federal agency:

(1) The application of potable water to outdoor landscapes in a manner that causes runoff such that water flows onto adjacent property, non-irrigated areas, private and public walkways, roadways, parking lots, or structures;

(2) The use of a hose that dispenses potable water to wash a motor vehicle, except where the hose is fitted with a shut-off nozzle or device attached to it that causes it to cease dispensing water immediately when not in use;

(3) The application of potable water to driveways and sidewalks; and

(4) The use of potable water in a fountain or other decorative water feature, except where the water is part of a recirculating system.

(b) The taking of any action prohibited in subdivision (a) of this section, in addition to any other applicable civil or criminal penalties, is an infraction, punishable by a fine of up to five hundred dollars (\$500) for each day in which the violation occurs.

Authority: Wat. Code, § 1058.5.

References: Wat. Code, §§ 102, 104, 105.

## PROPOSED TEXT OF EMERGENCY REGULATIONS

### Sec. 865 Mandatory Actions by Water Suppliers

(a) The term “urban water supplier,” when used in this section, refers to a supplier that meets the definition set forth in Water Code section 10617, except it does not refer to suppliers when they are functioning solely in a wholesale capacity, but does apply to suppliers when they are functioning in a retail capacity.

(b)(1) To promote water conservation, each urban water supplier shall implement all requirements and actions of the stage of its water shortage contingency plan that imposes mandatory restrictions on outdoor irrigation of ornamental landscapes or turf with potable water.

(2) As an alternative to subdivision (b)(1), an urban water supplier may submit a request to the Executive Director for approval of an alternate plan that includes allocation-based rate structures that satisfies the requirements of chapter 3.4 (commencing with section 370) of division 1 of the Water Code, and the Executive Director may approve such an alternate plan upon determining that the rate structure, in conjunction with other measures, achieves a level of conservation that would be superior to that achieved by implementing limitations on outdoor irrigation of ornamental landscapes or turf with potable water by the persons it serves to no more than two days per week.

(c) To promote water conservation, each urban water supplier that does not have a water shortage contingency plan or has been notified by the Department of Water Resources that its water shortage contingency plan does not meet the requirements of Water Code section 10632 shall, within thirty (30) days, limit outdoor irrigation of ornamental landscapes or turf with potable water by the persons it serves to no more than two days per week or shall implement another mandatory conservation measure or measures intended to achieve a comparable reduction in water consumption by the persons it serves relative to the amount consumed in 2013.

(d) In furtherance of the promotion of water conservation each urban water supplier shall prepare and submit to the State Water Resources Control Board by the 15<sup>th</sup> of each month a monitoring report on forms provided by the Board. The monitoring report shall include the amount of potable water the urban water supplier produced, including water provided by a wholesaler, in the preceding calendar month and shall compare that amount to the amount produced in the same calendar month in 2013. Beginning October 15, 2014, the monitoring report shall also estimate the gallons of water per person per day used by the residential customers it serves. In its initial monitoring report, each urban water supplier shall state the number of persons it serves.

(e) To promote water conservation, each distributor of a public water supply, as defined in Water Code section 350, that is not an urban water supplier shall, within thirty (30) days, take one or more of the following actions:

(1) Limit outdoor irrigation of ornamental landscapes or turf with potable water by the persons it serves to no more than two days per week; or

(2) Implement another mandatory conservation measure or measures intended to achieve a comparable reduction in water consumption by the persons it serves relative to the amount consumed in 2013.

Authority: Wat. Code, § 1058.5.

References: Wat. Code, §§ 102, 104, 105; 350; 10617; 10632.



# Fact Sheet

## Mandatory Water Conservation Regulation Go Into Effect

An emergency regulation to increase conservation practices for all Californians became effective July 29, 2014. The new conservation regulation targets outdoor urban water use. In some areas of the State, 50 percent or more of daily water use is for lawns and outdoor landscaping. This regulation establishes the minimum level of activity that residents, businesses and water suppliers must meet as the drought deepens and will be in effect for 270 days unless extended or repealed.

### Prohibitions for ALL urban water users in California:

- The application of potable water to any driveway or sidewalk.
- Using potable water to water outdoor landscapes in a manner that causes runoff to adjacent property, non-irrigated areas, private and public walkways, roadways, parking lots or structures.
- Using a hose that dispenses potable water to wash a motor vehicle, unless the hose is fitted with a shut-off nozzle.
- Using potable water in a fountain or decorative water feature, unless the water is recirculated. Recycled water is not mandated, but encouraged for fountain use.

### Requirements for Urban Water Suppliers (serving >3000 connections):

- Implement water shortage contingency plans to a level where restrictions on outdoor irrigation are mandatory.
- Urban water suppliers without a plan, or without an adequate plan, must either mandate that outdoor irrigation be reduced to no more than twice a week or implement other mandatory use restrictions that provide a comparable level of savings.
- Report monthly water production beginning August 15. Include an estimate of the gallons per capita per day used by residential customers beginning with the October 15 report.

### Requirements for Other Water Suppliers (serving <3000 connections):

- Mandate that outdoor irrigation be reduced to no more than twice a week or implement other mandatory use restrictions that provide a comparable level of savings.



### **Assessing Compliance**

- Individual Prohibitions – evaluating alleged violations and taking enforcement action is primarily a local discretionary action.
- Water Suppliers – compliance will be evaluated based on multiple factors including implementation of the required actions, the content of the monthly reports (Urban Water Suppliers), and other relevant information.

### **Tips for Implementing the New Regulations**

- Notify and educate staff, ratepayers and the community at large about the prohibitions.
- Inform ratepayers of the requirements of the stage of the Water Shortage Contingency Plan required by the regulations.
- Access the water conservation resources clearinghouse, a partnership of the State of California and the Association of California Water Agencies at either <http://www.saveourh2o.org/> or <http://saveourwater.com/>

### **Contact Information**

- Report State Agency water waste at <http://www.saveourh2o.org/report-water-waste>
- Contact the State Water Board's drought hotline for questions on drought-related activities including general questions on the emergency regulations: (916) 341-5342.

More information on the emergency regulation can be found at the [Conservation Regulation Portal](#).

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*(This fact sheet was last updated July 29, 2014)*

## Water Conservation Emergency Regulations

# Frequently Asked Questions

### INDIVIDUAL PROHIBITIONS

**P.1. Who do the prohibitions apply to?**

A. The prohibitions apply to all Californians. The prohibitions against runoff in outdoor landscapes, washing motor vehicles with a running hose (no shut off), hosing down sidewalks and driveways, and running fountains that do not recirculate water are a minimum level of effort that every resident of the State is responsible for.

**P.2. Is there an exemption to the prohibitions to protect public health and safety?**

A. Yes, the regulations state that the prohibitions apply “except where necessary to address an immediate health and safety need or to comply with a term or condition in a permit issued by a State or federal agency.” The regulations do not include a specific definition of what constitutes an immediate health and safety need, but generally speaking, a health and safety exception should be applied in good faith where a reasonable person would conclude that the application of water is necessary to address public health and safety. Pressure washing a sidewalk or driveway for aesthetic purposes, for example, would not be a health and safety need.

**P.3. Are locals prevented from enacting or enforcing water prohibitions that are more stringent than the regulations?**

A. No, the regulations represent a minimum level of effort and everyone is encouraged to do more.

**P.4. What is meant by “sidewalk” in the prohibition section of the regulations?**

A. A sidewalk is commonly considered to be a walkway designated for pedestrian travel.

**P. 5 Are public water parks considered a water feature under the individual prohibitions?**

A. No, water parks themselves generally serve a recreational (play) purpose and are not decorative under the new regulation. Given the severity of the current drought, communities should strongly consider turning off water for spray parks and other functional recreational water features that do not recirculate water, however, their use is not strictly prohibited under the regulation.

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**P.6 Who do I report violations of the prohibitions to?**

A. Violations of the individual prohibitions can be reported to the local water supplier or other local agency. The State Water Board is currently developing a locator tool that will assist the public in identifying the water supplier serving the area of alleged violation. That tool will not be available for several weeks.

# Water Conservation Emergency Regulations

## Frequently Asked Questions

### WATER SUPPLIER ACTIONS

**S.1. What would be a sufficient “comparable” level of conservation under the regulations?**

A. The regulations anticipate that the outdoor irrigation restrictions can result in up to a 20% reduction in outdoor water use. The expectation is that the imposition of conservation measures, other than the 2-day per week default provision should achieve a similar or better level of savings.

**S.2. Do the regulations apply to wholesale water suppliers?**

A. No, the regulations do not apply to wholesale water suppliers. If a supplier provides both retail and wholesale services, the regulations would apply to the retail component of the service.

**S.3. Do the regulations override local conservation programs?**

A. The regulations do not override local conservation programs, but they may cause a water supplier to increase the level of effort to achieve water savings. The regulations specifically require water suppliers to implement their water shortage contingency plans to a level that imposes mandatory outdoor irrigation restrictions. Many communities are currently calling for voluntary restrictions. The regulations would increase this level of effort.

**S.4. If a water supplier has implemented a drought contingency plan that restricts outdoor irrigation to 3 days per week, are they in compliance with the regulations?**

A. Yes, the regulations require water suppliers to implement the stage of their water shortage contingency plans where outdoor irrigation restrictions are mandatory. The regulations recognize that everyone’s plans are different, reflecting unique local conditions and do not specify what the specific restrictions must be as long as they are mandatory.

**S.5 Do the regulations apply to Investor Owned Utilities that are regulated by California Public Utilities Commission?**

A. Yes, the regulations apply to Investor Owned Utilities in the same manner that they apply to public water agencies. Implementing certain aspects of the regulations will require approval from the California Public Utilities Commission (CPUC), but that approval will come in the form of letters from CPUC staff, which will be issued on a ministerial basis. As indicated above, the prohibitions apply to all Californians regardless of their source of water (recycled water excepted).

**S.6 Are water suppliers serving fewer than 3000 connections required to comply with the reporting requirements for water production data?**

A. No, the reporting requirements only apply to urban water suppliers that serve greater than 3000 connections.

## Water Conservation Emergency Regulations

### Frequently Asked Questions

#### ENFORCEMENT

**E.1. Can both law enforcement and water agencies issue citations for an offence under the regulations?**

A. The infraction citation may be issued by a peace officer or any employee of a local agency that is charged with enforcing statutes, regulations, and ordinances pertaining to water use, if the local agency has adopted an ordinance empowering them to do so. This means that the precise individuals within an agency authorized to issue the infractions would vary depending upon what, if any, relevant ordinance the agency has adopted.

**E.2. Who will be held responsible for non-compliance with the prohibitions in rental units?**

A. Just as with a traffic ticket, it is the person that is actually engaging in the prohibited activity.

**E.3 Are local agencies required to enforce the new prohibitions using the infraction authority authorized through the regulation?**

A. No, the infraction authority provides an additional tool available to local entities to use or not.

#### GENERAL

**G.1. How do the newly adopted regulations affect tribal lands?**

A. These regulations follow existing precedent on tribal/state relations. They do not apply to federally or tribally-owned water suppliers or users on tribal trust lands of federally recognized tribes. To the extent some tribal lands may be serviced by non-tribal public water suppliers, the suppliers must comply with the regulations.