

SWRCB Issues Draft Regulations to Achieve 25% Water Use Reduction

As anticipated, in reaction to Governor Brown's [April 1, 2015, Executive Order](#), the State Water Resources Control Board ("State Board") announced the release of the Draft Emergency Regulation for Urban Water Conservation on April 18, 2015 that will appear in 23 California Code of Regulations, section 863 *et seq.* The draft regulation would be in addition to, and in some cases replace, the [emergency regulation adopted by the State Board on March 27, 2015](#).

The State Board is soliciting comment on the draft regulation by April 22, 2015. The formal Notice of Proposed Emergency Rulemaking will be released on April 28, 2015 for written public comment and will be considered by the State Board for adoption at its May 5-6, 2015 meeting. After adoption, the specific prohibitions in the emergency regulation will take effect immediately upon approval by the Office of Administrative Law, which is anticipated on May 15, 2015. Urban water suppliers will be expected to begin implementing measures to meet their mandatory reduction targets by June 1, 2015 to ensure maximum conservation during the summer months, with the first report on water production and conservation measures due July 15, 2015.

Urban Water Suppliers

The draft regulation provides new conservation standards for urban water suppliers (i.e. those that serve more than 3,000 customers). These standards will essentially replace the existing requirement to initiate water shortage contingency planning at a stage that imposes mandatory restrictions on the number of days of outdoor irrigation. The draft regulation assigns urban water suppliers to a tier of water reduction based upon three months of summer residential gallons-per-capita-per-day data (R-GPCD). However, the number of tiers has increased from four tiers in the proposed regulatory framework to nine tiers in order to more equitably allocate the conservation savings necessary to reach the statewide 25 percent reduction mandate. This approach is designed to lessen the disparities in reduction requirements between agencies that have similar levels of water consumption, but fall on different sides of dividing lines between tiers. The change in tiers recognizes past conservation efforts because water suppliers that have reduced use prior to the drought will have a lower R-GPCD and a lower conservation standard than

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water suppliers with similar climate and density factors where R-GPCD remains high. A listing of each urban water supplier and its corresponding tier can be found [here](#).

The draft regulation describes two situations where urban water suppliers could request to modify their total water use or be placed into a lower conservation tier:

1. Urban water suppliers delivering more than 20 percent of their total water production to commercial agriculture may be able to modify their total water use upon written certification to the State Board.
2. Urban water suppliers that have a reserve supply of surface water that could last multiple years may be eligible for placement into a lower conservation tier. These criteria relate to the source(s) of supply (i.e. no groundwater or imported water), precipitation amounts from 2014, and the number of years that those supplies are anticipated to last.

The proposed emergency regulation does not address the Governor's directive requiring that urban water suppliers develop rate structures and other pricing mechanisms to maximize water conservation efforts. Further, there are no specific use reduction targets for commercial, industrial, and institutional users served by urban water suppliers. Water suppliers have the flexibility to decide how to meet their conservation standard themselves, but are encouraged to look at their commercial, institutional and industrial properties that irrigate outdoor ornamental landscapes with potable water for potential conservation savings.

All Other Water Suppliers

Smaller water suppliers (i.e. those that serve fewer than 3,000 connections) will be required to either achieve a 25% conservation standard or restrict outdoor irrigation to no more than two days per week. Commercial, industrial, and institutional users with independent supplies (not served by a water supplier) will also be required to reduce usage by 25% or restrict outdoor irrigation to no more than two days per week.

End-User Requirements

New requirements that would apply to all Californians, in addition to those added on March 27, 2015, include the prohibition of irrigation with potable water of: 1) ornamental turf on public street medians; and 2) outside of newly constructed homes and buildings not delivered by drip irrigation or microspray.

New Reporting Requirements

Monthly water production and specific reporting of urban water suppliers will remain in effect, but the draft regulation expands the reporting to include information on water use in the commercial, industrial, and institutional sectors. Small water suppliers will be required to submit a single report on December 15, 2015 that provides their water production from June-November 2015 and June-November 2013. In addition, they must report on the number of days per week outdoor irrigation is allowed. Failure to provide such reports may result in fines of up to \$500 per day per violation.

The draft regulation also provides the executive director of the State Board with the additional authority to issue conservation orders and informational orders to ensure that water suppliers are in compliance with the conservation standards set forth in the proposed emergency regulation.

Please feel free to contact us with any questions related to the drought regulations.