

**STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING SESSION – OFFICE OF RESEARCH, PLANNING & PERFORMANCE
JULY 15, 2014**

ITEM 10

SUBJECT

CONSIDERATION OF A PROPOSED RESOLUTION REGARDING DROUGHT-RELATED EMERGENCY REGULATIONS FOR URBAN WATER CONSERVATION

DISCUSSION

Background

On [January 17, 2014](#), Governor Brown declared a drought state of emergency. In an [April 25, 2014 Executive Order](#), Governor Brown announced that he was strengthening the State's ability to respond to ongoing drought conditions and directed the State Water Board to notify urban water suppliers not already implementing drought contingency plans to limit outdoor irrigation and other wasteful practices. The State Water Board was to ask urban water suppliers and agencies for an update on their actions to reduce water usage and the effectiveness of those efforts and adopt emergency regulations, based on this update, if necessary. In response, the Department of Water Resources, Department of Public Health, California Urban Water Conservation Council, California Urban Water Agencies, and the Association of California Water Agencies assisted in developing questions for a self-reported survey which was sent to all urban water suppliers and agencies. The survey's purpose was to gather information on actions that are currently being taken to reduce water demand and their relative effectiveness. The survey results, along with presentations by water suppliers and other public comment was the subject of an informational State Water Board agenda item on June 17, 2014.

The survey results presented on June 17 indicated a slight increase in conservation for the combined months of January through May. When examining the effects of conservation for the month of May alone, there was a larger reduction in water demand over the average demand reported for the month of May for the years 2011-2013. Water suppliers have continued to respond to the survey and update missing or incorrect data. Approximately 270 out of 440 urban water suppliers responded to the survey. Survey results indicate that 30 percent of urban water suppliers have mandatory water use cuts in place, while the remaining 70 percent of those who responded to the survey stated they have not instituted mandatory measures, such as limits on outdoor irrigation, vehicle washing, and filling of fountains and pools. Such measures can increase conservation significantly. Many communities in the state have successfully adopted mandatory water use restrictions and conserved water.

Regions of the state with less water available initiated conservation measures much earlier in the year. Large cities in various regions of the state supplied by wholesale water agencies have relied upon stored reserves, and therefore may not have instituted significant conservation efforts so far this year. Preliminary survey data suggests that urban water suppliers can do more to support water conservation by residents and businesses.

At the June 17 Board meeting, urban water suppliers discussed both the voluntary and mandatory actions that are now in place, or are planned, to accelerate conservation and further reduce demand. Information on longstanding conservation measures, in place for years if not decades, were also described. The Board carefully considered this information in determining whether or not to direct staff to develop proposed emergency regulations to assist water

agencies in achieving the provision of the Executive Order to limit outdoor irrigation and other wasteful practices.

The April 25 Executive Order specifically directed the State Water Board to do the following:

- Request, by June 15, an update from urban water agencies on their actions to reduce water usage and the effectiveness of these efforts.
- Direct urban water suppliers that are not already implementing drought response plans to limit outdoor irrigation and other wasteful water practices.
- Consider adopting emergency regulations pursuant to Water Code section 1058.5, if necessary.

Proposed Emergency Regulations

On [March 1, 2014](#), Governor Brown signed a drought relief package, SB 104, which, among other things, expanded the State Water Board's authority under Water Code section 1058.5. 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."

The proposed emergency urban conservation regulations are directed at reducing outdoor urban water use to promote conservation. These emergency conservation regulations target both individual water use, by identifying the practices from which every Californian should abstain during this drought emergency, as well as the steps that local water agencies should be taking to reduce water demand in their service areas.

There are three basic elements to the regulations: temporary water restrictions for all Californians, actions required by water suppliers serving urban needs, and reporting to measure progress.

- **Temporary Water Restrictions:**
All Californians will be affected by the ongoing drought conditions in one form or another and immediate action is necessary to address the drought emergency. To promote water conservation statewide, the emergency regulations would prohibit each of the following, except where necessary to address an immediate health or safety need or to comply with a term or condition in a permit issued by a state or federal agency:
 - Watering of 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 to wash an automobile, unless the hose is fitted with a shut-off nozzle.
 - The application of water to any hard surface, including, but not limited to, driveways, sidewalks, and asphalt.
 - Using potable water in a fountain or decorative water feature, unless the water is recirculated.
- **Actions By Urban Water Suppliers:**
To reduce water demand, the regulations would require urban water suppliers to implement their Water Shortage Contingency Plans at a level that triggers mandatory restrictions on outdoor water use. Almost all urban water suppliers (those with more than 3,000 water connections) have these plans; about 40 of these larger agencies do not.

If an urban water supplier does not have a Water Shortage Contingency Plan or its Plan does not meet the requirements of the water code, the supplier must, within 30 days, require customers to limit outdoor irrigation to no more than two days per week or implement another mandatory conservation measure to achieve a comparable reduction in water consumption by the people it serves relative to the amount consumed in 2013.

Water suppliers serving fewer than 3,000 connections must also, within 30 days, require customers to limit outdoor irrigation to no more than two days per week or implement another mandatory conservation measure to achieve a comparable reduction in water consumption by the people it serves relative to the amount consumed in 2013.

- **Measuring Progress:**
Each urban water supplier is required to submit a monitoring report to the State Water Board by the 15th of each month that includes the amount of potable water the supplier produced in the preceding month and an estimate of gallons of water per person per day used by its customers in the preceding month.

The proposed emergency regulations set a minimum level of effort in this time of emergency and everyone should do more voluntarily. Should the drought continue, the State Water Board may revisit these regulations and consider other measures?

Urban Wholesale and Retail Water Suppliers

The proposed emergency regulations currently do not distinguish between urban water wholesalers or retail water suppliers for purposes of implementing water shortage contingency plans or reporting. Staff has received input on the applicability of the proposed emergency regulations to water wholesalers due to their potential inability to enforce restrictions or other measures contained in water shortage contingency plans. Comment on wholesale water supplier reporting of water production data may also not be an accurate reflection of water conservation efforts because drought conditions may cause water retailers to draw more heavily on wholesale supplies because other sources of water are no longer accessible. In releasing the Notice of Proposed Rulemaking, the State Water Board particularly requested comment on the applicability of some or all of these requirements to water wholesalers.

POLICY ISSUE

Should the State Water Board adopt the proposed resolution and accompanying regulations? Should some of the requirements of the proposed emergency regulations not apply to wholesalers of water?

FISCAL IMPACT

This activity is budgeted within existing resources, and no additional fiscal demands will occur as a result of approving this item.

REGIONAL BOARD IMPACT

None.

STAFF RECOMMENDATION

Staff recommends that the State Water Board adopt the proposed resolution adopting the emergency regulation.

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STATE WATER RESOURCES CONTROL BOARD RESOLUTION NO. 2014-

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.

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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;

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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

THEREFORE BE IT FURTHER RESOLVED THAT:

8. 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;
9. 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;

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- 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/>).
10. 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.

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.

Jeanine Townsend
Clerk to the Board