

Extending the Emergency Water Conservation Regulation

Proposed Regulatory Changes to Achieve Statewide Reductions in Urban Potable Water Usage

On November 13, 2015, Governor Edmund G. Brown Jr. issued [Executive Order B-36-15](#) calling for an extension of urban water use restrictions until October 31, 2016, should drought conditions persist. Given the severity of the water deficits over the past four years many of California's reservoirs and groundwater basins remain depleted and the need for continued water conservation persists. The November executive order directs the State Water Resources Control Board (State Water Board) to consider modifying the restrictions on water use and incorporate insights gained from the existing restrictions.

The State Water Board's adoption of [Resolution No. 2015-0032](#) and its May 2015 Emergency Regulation addressed specific provisions of [Executive Order B-29-15](#), including mandating a 25 percent statewide reduction in potable urban water use between June 2015 and February 2016. To reach the statewide 25 percent reduction mandate and consistent with Executive Order B-29-15, the Emergency Regulation identified a conservation tier for each urban water supplier, between four percent and 36 percent, based on residential per capita water use for the months of July - September 2014. As directed under Resolution No. 2015-0032, State Water Board staff worked with stakeholders to develop and consider a range of factors that contribute to water use, including climate, growth and investment in drought-resilient supplies, to devise options for refining the proposed extended emergency regulation.

The proposed Emergency Regulation extends the requirements of the existing May 2015 Emergency Regulation and offers modest adjustments to help to respond to some of the reasonable concerns suppliers have raised to the State Water Board since it first considered the May 2015 Emergency Regulation.

Executive Order B-36-15 directs the State Water Board to extend restrictions to achieve a statewide reduction in urban potable water usage through October 2016, based on drought conditions known through January 2016. While the state has experienced some much-needed snow and rainfall in December and January, surface storage remains at or near historic lows, precipitation has been inconsistent, and snowpack is about average.

It is too early to tell whether or not additional rain and snowfall will put the State in the position where the existing restrictions are no longer necessary, or could be further tempered. State Water Board staff is committed to monitoring and evaluating available data on snowpack, reservoir storage levels and groundwater basin levels, and intends report back to the State Water Board in March and April 2016. If conditions warrant, State Water Board staff will promptly bring a proposal before the State Water Board to adjust or eliminate the Emergency Regulation.

Stakeholder Involvement

In the summer and fall of 2015, State Water Board staff convened a small workgroup, comprised of representatives from the water community, to receive preliminary input on issues to be considered should the emergency conservation regulation be extended due to continuing drought conditions into 2016. The State Water Board subsequently conducted a public workshop on December 7, 2015, and used the input it received from that workshop, the workgroup, and other available stakeholder input and insights gained since the May 2015 Emergency Regulation was adopted, to release a proposed regulatory framework for extending and adjusting the Emergency Regulation on December 21, 2015. The State Water Board solicited and received further public input on that framework; stakeholders - including water suppliers, local government, businesses, individuals, and non-governmental organizations - submitted more than 200 comments on the framework. The text of the proposed Emergency Regulation released on January 15, 2016, is part of a Notice of Proposed Emergency Regulation that will be released on January 22, 2016, which initiates the formal emergency rulemaking process. Formal public comments are due by January 28 and may be submitted as explained below. If approved, the State Water Board expects suppliers and their customers will save more than one million acre-feet of water, or about as much water as is currently in Lake Oroville, in response to the regulation. This savings will be in addition to the 1.2 million acre-feet the State is on track to have saved from June 2015 through February 2016.

What's Next

Release of the Notice of Proposed Emergency Rulemaking begins a formal comment period that will conclude just prior to the State Water Board's consideration of adoption of the proposed Emergency Regulation at its February 2, 2016, public meeting. During this formal notice period, all **comments must be received by 12 p.m. on Thursday, January, 28, 2016, and will not be accepted after that time.** Submittals are to be sent via e-mail to the Clerk to the State Water Board at commentletters@waterboards.ca.gov. Please indicate in the subject line, "*2/2/16 BOARD MEETING (Conservation Extended Emergency Regulation)*." All received comments will be immediately provided to the Board Members and posted on the State Water Board's [webpage](#).

Proposed Emergency Regulation - Key Provisions

The proposed Emergency Regulation will essentially extend the existing May 2015 Emergency Regulation and maintain many of the same requirements that apply now.

Proposed changes to the May 2015 Emergency Regulation include, but are not limited to:

- Credits and adjustments to urban water suppliers' conservation standards that consider the differences in climate affecting different parts of the state; growth experienced by urban areas; and significant investments that have been made by some suppliers toward creating new, local, drought-resilient sources of potable water supply;
- Penalties for homeowners' associations or community service organizations impeding homeowners from reducing or eliminating the watering of vegetation or lawns during a declared drought emergency, as described in existing Civil Code provisions;
- Further defining what agricultural uses may be subtracted from a supplier's potable water production total; and
- Updates to compliance and reporting timelines.

Conservation Standard for Urban Water Suppliers

As drought conditions persist, all water suppliers will need to continue to meet their individual conservation standards. Since June 2015, cumulative statewide conservation has eclipsed the 25 percent target. Everyone must continue to conserve, and the greatest opportunities to meet the conservation standards are in the warmer months when outdoor landscape irrigation typically increases. Often, but not always, water suppliers with higher per capita users are located in areas where the majority of water use is directed to outdoor irrigation due to lot size, climate and other factors; thus outdoor irrigation will continue to present the greatest opportunity for the highest reductions. The proposed Emergency Regulation maintains the current tiers of required water reductions, though with additional adjustments in response to stakeholders' concerns.

Overview of Conservation Tiers

The conservation standards for all urban water suppliers continue to be allocated across nine tiers of increasing levels of residential gallons per capita per day (R-GPCD) water use. This approach considers the relative per capita water usage of each water suppliers' service area and requires that those areas with high per capita use achieve proportionally greater reductions than those with low use, while lessening the disparities in reduction requirements between agencies that have similar levels of water consumption but fall on different sides of dividing lines between tiers. Suppliers have been assigned a conservation standard that ranges between eight percent and 36 percent based on their R-GPCD for the months of July - September, 2014. These three months reflect the amount of water used for summer outdoor irrigation, which provides the greatest opportunity for conservation savings. The proposed Emergency Regulation continues the reserved

four percent conservation tier for those suppliers meeting specific criteria relating to not experiencing drought conditions.

The larger urban water suppliers (serving more than 3,000 customers or delivering more than 3,000 acre feet of water per year), which account for more than 90 percent of urban water use, have previously been assigned a conservation standard, as shown in the following table:

| Tier | R-GPCD Range | | # of Suppliers in Range | Conservation Standard |
|------|--------------|-------|-------------------------|-----------------------|
| | From | To | | |
| 1 | reserved | | 4 | 4% |
| 2 | 0 | 64.9 | 27 | 8% |
| 3 | 65 | 79.9 | 22 | 12% |
| 4 | 80 | 94.9 | 42 | 16% |
| 5 | 95 | 109.9 | 61 | 20% |
| 6 | 110 | 129.9 | 45 | 24% |
| 7 | 130 | 169.9 | 81 | 28% |
| 8 | 170 | 214.9 | 62 | 32% |
| 9 | 215 | 612.0 | 67 | 36% |

Adjustments to the Conservation Standards

The proposed Emergency Regulation allows urban water suppliers to update their conservation standards under certain situations, as explained below.

1. Climate Adjustment

The proposed Emergency Regulation allows a climate adjustment that, where applicable, will reduce a water supplier's conservation standard by up to four percentage points for those water suppliers located in the warmer regions of the State. The climate adjustment will be based on each urban water supplier's average service area evapotranspiration (ET_o) for the months of July through September, as compared to the statewide average for the same months. Statewide average ET_o will be calculated as the arithmetic mean of all urban water suppliers' service area ET_o for those months. The adjustment will range from a two to four percentage point decrease in an urban water supplier's conservation standard as follows:

| Deviation of Urban Water Supplier Service Area's ET _o from the Statewide Average ET _o | Reduction in Conservation Standard |
|---|------------------------------------|
| >20% | 4% |
| 10 to 20% | 3% |
| 5 to <10% | 2% |

Default service area average ETos are based on the California Irrigation Management Information System (CIMIS) [Mapped ETo Zone](#) for which the supplier’s service area has the greatest overlap. In lieu of using the default service area ETo, each urban water supplier will have the opportunity to refine its service area ETo by using data from CIMIS stations within its service area, provided that each station used has a continuous period of record of at least five years. To qualify for the in-lieu climate adjustment, the supplier will be required to submit the following data for each CIMIS station used to the State Water Board by March 15, 2016: CIMIS station ID, CIMIS station location, and monthly ETo in inches per month for July, August and September, for the five-year continuous period of record. The table below provides an example of the climate adjustment calculation, using the default service area average ETo.

| Example Calculation of Climate Adjustment | |
|---|-------------|
| Original Conservation Standard | 32% |
| Statewide Average ETo July-September | 6.33 inches |
| Service Area Average ETo July-September (Zone 17) | 8.4 inches |
| Service Area % Deviation from Average ETo = $(8.4-6.33)/6.33$ | 0.33 or 33% |
| Climate Adjustment | -4% |
| Adjusted Conservation Standard | 28% |

2. Growth Adjustment

The proposed Emergency Regulation provides a mechanism to adjust urban water supplier conservation standards to account for water efficient growth since 2013. The adjustment is calculated as the product of the supplier’s conservation standard and the supplier’s reasonable percentage change in total potable water production since 2013, using a specific formula to calculate the percentage change, rounded to the nearest whole percentage point. To qualify for the growth adjustment a supplier will have to provide, at a minimum, the following data to the State Water Board by March 15, 2016: the number of new permanent residents added since January 1, 2013; the area of new residential landscaping, in square feet, served since January 1, 2013; the number of new commercial, industrial and institutional (CII) connections added since January 1, 2013; and the average volume of water served to each CII account from February 1, 2015 to October 31, 2015.

The volume of water added due to growth is calculated as the sum of:

1. Number of new permanent residents added since 2013 multiplied by 55 (the currently-identified per-person reasonable indoor water use standard) multiplied by 270 days; (the duration of the regulation);
2. Area of new residential landscaped area (square feet) served by new residents since 2013 multiplied by 55 percent of total service area Eto (inches) for the months of February through October multiplied by a conversion factor of 0.623 (converting inches to gallons); and

3. Number of new CII connections added since 2013 multiplied by the average CII water use per connection during February through October 2015.

The table below provides an example of the growth adjustment calculation.

| Example Calculation of Growth Adjustment | |
|--|------------------------|
| Step 1: Gather information needed for calculation | |
| a. Number of new permanent residents added since January 1, 2013 | 1,300 |
| b. Residential landscaped area served by new residents since January 1, 2013 | 10,000,000 sq. feet |
| c. Total ETo February 2015 through October 2015 | 44 inches |
| d. Number of new CII connections added since January 1, 2013 | 700 |
| e. Average use per CII connection February-October 2015 | 900,000 gallons |
| Step 2: Calculate volume of water attributable to new permanent residents | |
| = [1,300 * 55 * 270] + [10,000,000 * 44 * 0.55 * 0.623] | 170,071,000 gallons |
| Step 3: Calculate volume of water from new CII connections | |
| = 700 * 900,000 | 630,000,000 gallons |
| Step 4: Calculate total volume of water attributable to growth since 2013 | |
| Add together results from steps 2 + 3: = 170,071,000 + 630,000,000 | 800,071,000 gallons |
| Step 5: Percentage of water attributable to growth since 2013 | |
| Baseline 2013 total water production February-October | 16,000,000,000 gallons |
| Gallons of water attributable to growth | 800,071,000 gallons |
| Percentage change in potable water production due to growth | 5% |
| Step 6: Adjust conservation standard | |
| Original Conservation Standard | 36% |
| Adjusted Conservation Standard = 0.36 * [1 - 0.05] | 34% |

3. New Local Drought-Resilient Supply Credit

Under the proposed Emergency Regulation, any urban water supplier that obtains at least four percent of its total potable water production from a qualifying new local, drought-resilient water supply will be eligible for a four to eight percent reduction to its conservation standard. This credit will be equal to the urban water supplier's actual percentage of total potable water production that comes from a qualifying new local, drought-resilient water supply up to a maximum of eight percent.

The State Water Board continues to encourage every effort by suppliers to ensure a safe and reliable water supply for their customers, especially through improving security of local water supply sources. However, under the proposed Emergency Regulation, the credit will apply only to urban water suppliers that certify the percentage of their total potable water production comes from a local, drought-resilient source of supply developed after 2013, and that the use of that supply does

not reduce the water available to another legal user of water or the environment (e.g., indirect potable reuse of wastewater in coastal regions where the water would not have otherwise been discharged into a water body that others use as a source of supply). To qualify for the drought-resilient source credit a supplier will have to submit its certification to the State Water Board by March 15, 2016. The table below provides an example of the local drought-resilient supply credit calculation.

| Example Local Drought-Resilient Supply Credit | |
|--|------------------------|
| Original Conservation Standard | 32% |
| Baseline 2013 total water production February-October | 16,000,000,000 gallons |
| Total potable water production comes from a drought resilient-source of supply (developed after January 1, 2013) | 1,120,000,000 gallons |
| Percent of total potable water production from a drought-resilient source of supply | 7% |
| Adjusted Conservation Standard | 25% |

The maximum reduction in a water supplier’s conservation standard through combined climate, growth and new resilient drought supplies adjustments described above is proposed to be capped at an eight percentage point reduction from any one supplier’s otherwise applicable conservation standard, with no suppliers dropping below an eight percent conservation standard.

Total monthly water production and specific reporting on residential use and enforcement as laid out in the May 2015 Emergency Regulation will remain in effect.

Commercial Agriculture Exclusion

Under the May 2015 Emergency Regulation, urban water suppliers are allowed to subtract water delivered for commercial agriculture from total potable water production if the supplier meets certain conditions and submits the agricultural water use certification to the State Water Board. The proposed Emergency Regulation extends and modifies the eligibility requirements for the commercial agricultural exclusion. Suppliers will be allowed to subtract the water delivered for commercial agriculture from total potable water production only for those users that produced at least \$1,000 of revenue in the previous year, or who would have but for circumstances beyond their control.

Self-Supplied Commercial, Industrial and Institutional (CII) Users

The proposed Emergency Regulation continues to require self-supplied CII users to either reduce their usage by 25 percent or restrict outdoor irrigation to no more than two days per week. CII facilities with an independent source of supply (i.e., not served by a water supplier) are still not required to submit a report. However, these facilities should be prepared to demonstrate their compliance with the two day per week watering restriction, or the 25 percent reduction in water use if requested to do so by the State Water Board.

Conservation Standard for All Other Water Suppliers

The proposed Emergency Regulation continues to require small water suppliers (serving 3,000 or fewer customers) to either achieve a 25 percent conservation standard, or restrict outdoor irrigation to no more than two days per week through October 2016. These suppliers will again be required to submit a small water supplier report that either (a) identifies total potable water production, by month, from December 2015 through August 2016, or (b) confirms compliance with the maximum two day per week outdoor irrigation restriction. The small water supplier report will be due to the State Water Board by September 15, 2016.

End-User Requirements

The proposed Emergency Regulation maintains the current prohibitions on water use. These include:

- Irrigation with potable water of ornamental turf on public street medians is prohibited; and
- Irrigation with potable water outside of newly-constructed homes and buildings not in accordance with emergency regulations or other requirements established in the California Building Standards Code is prohibited.
- Using potable water to wash sidewalks and driveways;
- Allowing runoff when irrigating with potable water;
- Using hoses with no shutoff nozzles to wash cars;
- Using potable water in decorative water features that do not recirculate the water;
- Irrigating outdoors during and within 48 hours following measureable rainfall; and
- Restaurants from serving water to their customers unless the customer requests it.

Additionally, hotels and motels must offer their guests the option to not have their linens and towels laundered daily, and prominently display this option in each guest room.

It continues to be very important that while these provisions are in effect existing trees remain healthy and do not present a public safety hazard. Trees and other non-turf vegetation within street medians may continue to be watered. Information on how to maintain trees while reducing outdoor water use is available at:

www.saveourwater.com/trees.

Compliance Assessment

The State Water Board will continue to assess compliance on a cumulative basis, using suppliers' monthly reported data. Each month, State Water Board staff will reassess compliance based on the supplier's cumulative savings since June 2015. Cumulative tracking means that conservation savings will be added together from one month to the next and compared to the amount of water used during the same months in 2013.

The State Water Board will continue to use informational orders to request information from suppliers not meeting their conservation standards and, as appropriate, conservation orders that direct specific actions to correct non-compliance. Both tools are tailored to the

emergency circumstances that the State finds itself in as a result of continuing drought conditions. Violation of an informational order or conservation order carries a penalty of up to \$500 per day.

The State Water Board will continue to work with water suppliers along the way that are not meeting their targets to implement actions to get them back on track. These actions could include changes to rates and pricing, restrictions on outdoor irrigation, public outreach, rebates and audit programs, leak detection and repair and other measures. The State Water Board may use its enforcement tools to ensure that water suppliers are on track to meet their conservation standards at any point during the 270 days that the emergency regulation is in effect.

The alternative compliance process the State Water Board identified in Resolution No. 2015-0032 is not proposed to be modified.

Conclusion

No one knows how the future will unfold. While the State may return to “normal,” or even to above average hydrologic water conditions in 2016 or 2017, such an outcome is far from certain, nor is it certain that one year of average or above-average water conditions will relieve the State from these historic drought conditions. Continued water conservation is imperative. Moving forward, the State Water Board is committed to working with water suppliers on implementing the Emergency Regulation, assessing water conditions throughout the spring, and adapting requirements as appropriate based on water supply conditions in April.

The State is meeting the Governor’s 25 percent cumulative statewide conservation goal because Californians have risen to the occasion. As the State Water Board acts on the Governor’s Executive Order B-36-15, it will consider the lessons learned from the implementation of the current executive order and make adjustments to the Emergency Regulation as needed. The State Water Board will also begin to work with other agencies and stakeholders to develop longer term measures to ensure water continues to be used efficiently.

(This fact sheet was last updated on January 15, 2016)