
crestline village



Memo

To: Board of Directors
From: Karl Drew, General Manager
Date: May 13, 2016
Subject: Water Conservation and State Emergency Regulations

Attached for your review is a copy of the Proposed Emergency Regulations currently under review by the State Water Resources Control Board. These regulations are in the comment period and will be considered at the May 18, 2016 State Water Boards meeting.

Also attached is a worksheet showing the preliminary calculations for the Conservation Standard that would apply to the District. CLAWA will need to certify their supply of imported water for the District, but they have always been able to supply our supplemental water needs and with a 60% allocation this year, they should be able to meet our needs for the next few years.

The new regulation would supersede the current tier system as long as we self-certify our water supply. Some of the statewide use restrictions will remain in place.

Crestline Village Water District

Preliminary Calculation of Conservation Standard Supply Reliability

05/13/16

1. Total Potable Water Demand (in CCF)

a. Potable Water Production in Calendar 2013	324,443.08
b. Potable Water Production in Calendar 2014	<u>289,329.73</u>
Total Potable Water Demand ((a + b) / 2)	<u>306,886.41</u>

2. Calculate Total Potable Water Supply (CCF)

	2017	2018	2019
a. Groundwater	125,204.85	134,258.33	127,545.41
b. Imported Water	<u>181,681.56</u>	<u>172,628.08</u>	<u>179,341.00</u>
Total Potable Water Supply	<u>306,886.41</u>	<u>306,886.41</u>	<u>306,886.41</u>

3. Calculate Conservation Standard

a. Total Potable Water Demand (Step 1)	306,886.41
b. Total Potable Water Supply (Step 2)	<u>306,886.41</u>
Supply Shortfall in Year 3 (negative is surplus)	<u>-</u>
Conservation Standard (Shortfall / Total Potable Water Demand)	<u><u>0%</u></u>



Fact Sheet

Staff Proposal for Extended Emergency Regulation for Urban Water Conservation

Summary

A staff statewide water conservation proposal was released for public comment today that would amend the Feb. 2 emergency water conservation regulations, due to improved water supply conditions around most of the state.

Significant proposed changes include replacing the state developed standards with locally developed conservation standards based upon each agency's specific circumstances. The proposed regulation would require individual urban water suppliers to self-certify the level of available water supplies they have assuming three additional dry years, and the level of conservation necessary to assure adequate supply over that time.

This self-certification would include information provided by regional water distribution agencies (wholesale suppliers) about how regional supplies would fare during three additional dry years. Both urban water suppliers and wholesale suppliers would be required to report the underlying basis for their assertions, and urban water suppliers would be required to continue reporting their conservation levels.

Per the proposal, urban water suppliers will be required to reduce potable water use in a percentage equal to their projected shortfall in the event of three more dry years. In other words, if an individual water district projects it would, under the specified assumptions, have a 10 percent shortfall after the next three years at the current rate of use, their mandatory conservation standard would be 10 percent.

The staff recommendation keeps in place the monthly reporting requirements and specific prohibitions against certain water uses. Those prohibitions include watering down a sidewalk with a hose instead of using a broom or a brush, or overwatering a landscape to where water is running off the lawn, over a sidewalk and into the gutter. As directed by Governor Brown's [Executive Order B-36-15](#), these requirements and prohibitions will also become permanent. Prohibitions against [home owners associations](#) taking action against homeowners during a declared drought remain as well.

The [proposed regulatory package](#) and [technical fact sheet](#) are the result of review of many meetings, written and oral comments from a public workshop on [April 20](#) to receive input on conservation needs through the summer and fall, and lessons learned since the Water Board first adopted drought emergency water conservation regulations.

The workshop was conducted to solicit ideas for adjustments to the current emergency regulations given changes in water supply, storage, and snowpack as compared to last



year's historic statewide deficiencies. This staff proposal will be considered by the Board for comment and adoption on May 18. **The new conservation standards would take effect for June 2016 and remain in effect until the end of January 2017.**

Improved Water Supply and Conditions; and Conservation – Reason for Change

Winter 2016 saw improved hydrologic conditions in parts of California. More rain and snow fell in Northern California as compared to Central and Southern California; yet, due to California's water storage and conveyance systems, concerns over supply reliability have eased compared to last year throughout urban California. Consequently, the unprecedented mandatory state-driven conservation standards in place over the last ten months can transition to conservation standards based on supply reliability considerations at the local level. However, conservation standards are still needed in case this winter was a short reprieve in a longer drought.

Over the last several months the Board has been monitoring state hydrology, water supply conditions, including local supply reliability, and the conservation levels achieved by the State's 411 urban water suppliers. Hydrologic conditions in parts of California – particularly northern California – have markedly improved relative to 2014 and 2015. Many reservoirs are above historic averages for late spring, and water allocations are up in most cases for the State Water Project.

In addition, the water production reports submitted to the State Water Board have shown that the majority of urban water suppliers have successfully responded to mandatory conservation expectations over the last 20 months. Public awareness of drought conditions and the public's extraordinary response this past ten months should lead to continuing conservation.

Should severe drought conditions return, the Board stands ready to return to stronger conservation mandates if the approach proposed here does not prove successful.

Proposed changes to the drought emergency water conservation regulation would allow suppliers to define an individualized conservation standard on their specific water supply and demand conditions. Each water supplier would be required to evaluate its supply portfolio and self-certify the accuracy of its information while also providing the underlying information and assumptions; the State Water Board would assign each supplier a mandatory conservation standard equal to the percentage deficiency the supplier identifies in its supply under specified assumptions. Additionally, certain statewide requirements on small suppliers and businesses would be lifted.

Governor and Board Actions Achieved Historic Conservation Statewide

In his April 1, 2015 [Executive Order](#), Governor Brown mandated a 25 percent water use reduction by users of urban water supplies across California.

In May 2015, the State Water Board adopted an emergency regulation requiring a cumulative 25 percent reduction in overall potable urban water use over the following 9 months. The [May 2015 Emergency Regulation](#) uses a sliding scale for setting conservation standards, so that communities that have already reduced their residential gallons per capita per day (R-GPCD) through past conservation had lower mandates than those that had not made such gains since the last major drought. Conservation tiers for urban water suppliers were set between eight percent and 36 percent, based on residential per capita water use for the months of July - September 2014.

During this time, statewide water conservation was [unprecedented](#). In the last 10 months alone, the state realized nearly a 24 percent savings in water use as compared to same period 2013, resulting in some 1.30 million acre-feet of water conserved throughout California, enough to supply 6.5 million people with water for an entire year.

On Feb. 2, 2016, based on Governor Brown's [November 2015 Executive Order](#), the State Water Board approved an updated and extended emergency regulation that continued mandatory reductions through October.

The [February 2016 Emergency Regulation](#) responded to calls for continuing the conservation structure that has spurred savings, while providing greater consideration of some localized factors that influence water needs around the state: climate differences, population growth and significant investments in new local, drought-resilient water supplies such as potable wastewater reuse and desalination. Under the extended regulation, many water suppliers have somewhat lower water conservation standards, although statewide water conservation is expected to continue at high levels.

On May 9, Governor Brown [issued a new Executive Order](#) directing actions aimed at using water wisely, reducing water waste, and improving water use efficiency. The Executive Order, in part, directs the State Water Board to extend the emergency regulations for urban water conservation through the end of January 2017. These revised regulations are set for consideration May 18.

(This fact sheet was last updated May 9, 2016)



Fact Sheet

Technical Fact Sheet

Staff Proposal for Extended Emergency Regulation for Urban Water Conservation

Summary

Winter 2016 saw improved hydrologic conditions in parts of California. More rain and snow fell in Northern California as compared to Central and Southern California; yet, due to California's water conveyance systems, concerns over supply reliability have eased even in urban Southern California. Consequently, the mandatory demand-driven conservation standards in place over the last ten months should be adjusted. However, conservation standards are still needed in case this winter was a short reprieve in a longer drought.

Proposed changes to the drought emergency water conservation regulation would allow suppliers to define an individualized conservation standard based on their unique water supply and demand conditions. Each water supplier would be required to evaluate its supply portfolio and self-certify the accuracy of its information; the State Water Board would assign each supplier a mandatory conservation standard equal to the percentage deficiency the supplier identifies in its supply under certain specified assumptions. Additionally, certain statewide requirements on small suppliers and businesses would be lifted. **The new conservation standards would take effect for June 2016 and remain in effect until the end of January 2017.**

Background

In his April 1, 2015 [Executive Order](#), Governor Brown mandated a 25 percent water use reduction by users of urban water supplies across California. In May 2015, the State Water Board adopted an emergency regulation requiring an immediate 25 percent reduction in overall potable urban water use. The [May 2015 Emergency Regulation](#) uses a sliding scale for setting conservation standards, so that communities that have already reduced their residential gallons per capita per day (R-GPCD) through past conservation have lower mandates than those that have not made such gains since the last major drought. Conservation tiers for urban water suppliers were set between eight percent and 36 percent, based on residential per capita water use for the months of July - September 2014.

On Feb. 2, 2016, based on Governor Brown's [November 2015 Executive Order](#), the State Water Board approved an updated and extended emergency regulation that continued mandatory reductions through October. The [February 2016 Emergency Regulation](#) responded to calls for continuing the conservation structure that has spurred savings, while



providing greater consideration of some localized factors that influence water needs around the state: climate differences, population growth and significant investments in new local, drought-resilient water supplies such as potable wastewater reuse and desalination. Under the proposed extended regulation, many water suppliers have somewhat lower water conservation standards, although statewide water conservation is expected to continue at high levels.

On May 9, 2016, Governor Brown issued a new [Executive Order](#) directing actions aimed at using water wisely, reducing water waste, and improving water use efficiency. The Executive Order, in part, directs the State Water Board to extend the emergency regulations for urban water conservation through the end of January 2017.

Proposed Emergency Regulation - Key Provisions

The [proposed Emergency Regulation](#) would replace the state-developed standards with locally-developed conservation standards based upon each agency's specific circumstances. The proposed regulation would require individual urban water suppliers to self-certify the level of available water supplies they have assuming three additional dry years, and the level of conservation necessary to assure adequate supply over that time. Suppliers that would face a shortage after a third dry year would be required to comply with a conservation standard equal to the amount of that shortage. Water supply reliability after the 2018-19 winter would be calculated as follows:

- The supply projection for the next three years would be based on current supply conditions plus an assumed three-year hydrology mirroring the 2012-13, 2013-14, and 2014-15 water years. (A water year runs from October 1 through September 30).
- Demand over that same period would be based on each supplier's average total potable water production for 2013 and 2014.
- Suppliers would factor into their calculations all of their water sources that are capable of being treated to potable standard during the three-year projected period.
- Supplier's conservation standards would be calculated as a percentage and rounded to the nearest whole percentage point.
- Suppliers would self-certify accuracy of their conclusions and provide their analysis and supporting data. The State Water Board would post information provided by suppliers on its website and assign each supplier, as a mandatory conservation standard, reductions equal to the supplier's projected percentage deficiency in supply at the end of the third dry year.
- Wholesale water suppliers would be required to make projections about how much water they would deliver to retail water suppliers under the three-dry-years scenario.

Suppliers that do not submit a water reliability certification and supporting information would retain their current conservation standard in almost all cases.

Questions and Answers about the Water Supply Reliability Self-Certifications:

Q: Is recycled water included as a source of supply?

A: Recycled water for purple pipe systems is not a potable supply and is not included in the baseline. Advanced-treated recycled water for indirect potable reuse (e.g.,

groundwater augmentation or surface water augmentation) is included as a source of supply.

Q: Does a source of supply projected to come online in the next three years count?

A: Yes. The source and the amount of water it would produce must be documented, and can be applied only after the projected start date of the new supply.

Q: Do the adjustments that took effect in March 2016 still apply?

A: No, the entire conservation May 2015 emergency regulation tier system, including the adjustments that took effect in March 2016, would be superseded for suppliers that use the new water supply reliability self-certification method. The prior conservation standards, including the credits/adjustments, would only continue to apply if a supplier does not participate in the new self-certification system. There is one exception - the reserved four percent conservation standard, which was based on certain areas of the state not experiencing drought conditions, would no longer apply, as the new structure addresses local supply conditions more directly.

Q: If a supplier provides untreated water to some of its customers, does that water count as a source of supply?

A: If that untreated water could be treated and used for potable drinking water purposes, then that water would count as a source of potential supply.

Q: Why is demand based on 2013 and 2014?

A: 2013 and 2014 had drought conditions and residents were asked to step up and conserve, but no mandatory conservation standards were in place. Demand is not expected to remain at 2015 levels in the absence of a 25% conservation mandate.

Q: Why is the new approach based upon hypothetical conditions in 2019?

A: Suppliers need to assess their water supply reserves for the possibility the drought continues for another three years. (This would not be unprecedented given the hydrologic record and Australia's recent drought experience). Conservation during the next nine months would leave more water in the ground and in reservoirs, creating a buffer against the possibility of a prolonged drought and the shortages some suppliers would face in that eventuality. Security for major urban centers requires planning beyond a single year, and using three more challenging years gives an appropriate measure of conservatism.

The table below shows two examples for how the new conservation standards would be calculated under the proposed regulation.

Example Calculations of Urban Water Supplier's Conservation Standard Supply Reliability for Three Additional Years of Drought			
Step 1: Determine Total Potable Water Demand (used in Step 3)			
Potable Water Production in Calendar Year 2013		40 thousand acre-feet	
Potable Water Production in Calendar Year 2014		30 thousand acre-feet	
Total Potable Water Demand = $[(40 \text{ thousand acre-feet}) + (30 \text{ thousand acre-feet})] / 2$		35 thousand acre-feet	
Example Calculation 1: Sufficient Supply			
Step 2: Calculate Total Potable Water Supply			
Potable Water Supply	Year 1	Year 2	Year 3
Local Surface Water (thousand acre-feet)	10	9	8
Imported Water (thousand acre-feet)	9	8	8
Groundwater (thousand acre-feet)	15	17	20
Total Potable Water Supply (thousand acre-feet) = $[Local \text{ Surface Water}] + [Imported \text{ Water}] + [Groundwater]$	34	34	36
Step 3: Calculate Conservation Standard			
Total Potable Water Demand (from Step 1)	35	thousand acre-feet	
Total Potable Water Supply in Year 3 (from Step 2)	36	thousand acre-feet	
Supply Shortfall in Year 3 (negative amount indicates a surplus) = $[35 \text{ thousand acre feet}] - [36 \text{ thousand acre feet}]$	-1	thousand acre-feet	
Conservation Standard with Self-Certification of Supply Reliability $[Shortfall \text{ in Year 3}] / [Total \text{ Potable Water Demand}]^*$			0%

* There is no shortfall in Year 3, the conservation standard is 0%.

Example Calculation 2: Insufficient Supply			
Step 2: Calculate Total Potable Water Supply			
Potable Water Supply	Year 1	Year 2	Year 3
Local Surface Water (thousand acre-feet)	10	9	8
Imported Water (thousand acre-feet)	10	9	8
Groundwater (thousand acre-feet)	20	18	16
Total Potable Water Supply (thousand acre-feet) = $[Local \text{ Surface Water}] + [Imported \text{ Water}] + [Groundwater]$	40	36	32
Step 3: Calculate Conservation Standard			
Total Potable Water Demand (from Step 1)	35	thousand acre-feet	
Total Potable Water Supply in Year 3 (from Step 2)	32	thousand acre-feet	
Supply Shortfall in Year 3 (negative amount indicates a surplus) = $[35 \text{ thousand acre feet}] - [32 \text{ thousand acre feet}]$	3	thousand acre-feet	
Conservation Standard with Self-Certification of Supply Reliability $[Shortfall \text{ in Year 3}] / [Total \text{ Potable Water Demand}] = [3] / [35 \text{ thousand acre feet}]$			0.09 or 9%

Most of the other existing regulation requirements remain unchanged, except as noted below. The proposed emergency regulation:

- Lifts the prior conservation requirements for small suppliers but maintains the current one-time report; however, it now occurs in December 2016 instead of this September. Small suppliers are encouraged to maintain conservation measures.
- Lifts the prior statewide requirements for commercial properties pertaining to drinking water and laundered towels and linens. Eating and drinking establishments and the hospitality industry are encouraged to maintain appropriate conservation measures.
- Requires self-supplied commercial, institutional, and industrial entities to target conservation at a level equal to the conservation standard required of the nearest urban water supplier.

End-User Requirements

Aside from the statewide requirements for commercial properties pertaining to drinking water and laundered towels and linens, the proposed Emergency Regulation maintains the current prohibitions on potable urban water use.

Continued prohibitions include:

- Irrigating with potable water of ornamental turf on public street medians;
- Irrigating 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;
- 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; and
- Irrigating outdoors during and within 48 hours following measureable rainfall.

In addition, the regulation retains penalties for homeowners' associations or community service organizations that block, stifle, or threaten homeowners from reducing or eliminating the watering of vegetation or lawns during a declared drought emergency in violation of existing law.

Californians are urged to ensure 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 with self-certified conservation standards, or with existing conservation standards for those suppliers that do not self-certify, using the suppliers' monthly reported data. Each month, State Water Board staff will reassess compliance based on the supplier's water savings. For suppliers that do not self-

certify, compliance will be measured on a cumulative basis; the supplier's conservation savings are 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 work with water suppliers along the way that are not meeting their targets to implement actions to get them back on track. 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.

The alternative compliance process the State Water Board identified in Resolution No. 2015-0032 would remain available and current orders will be reviewed.

Prior Stakeholder Involvement

In addition to numerous meetings with stakeholders, the State Water Board conducted a public workshop on April 20, 2016, and used the input it received from that workshop and other available stakeholder input, along with insights gained since the February 2016 Emergency Regulation was adopted, to develop a proposed regulation adjusting the statewide conservation requirements. The State Water Board received input from more than 130 stakeholders - including water suppliers, local government, businesses, individuals, and non-governmental organizations.

What's Next?

The Board has set 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 May 18, 2016, public meeting. During this formal notice period, all **comments must be received by 12 noon on Monday, May 16, 2016, and will not be accepted after that time. However, submitting comments by the close of business on Friday May 13 is recommended to provide the State Water Board Members more time to consider your input.** Send submittals via e-mail to the Clerk to the State Water Board at commentletters@waterboards.ca.gov. Please indicate in the subject line, "May 18, 2016 BOARD MEETING (Conservation Extended Emergency Regulation)." All received comments will be provided to the Board Members and posted on the State Water Board's [webpage](#). The Board will issue formal Notice of Proposed Rulemaking pursuant to the requirements of the Government Code on or about May 13.

(This fact sheet was last updated May 9, 2016)

PROPOSED TEXT OF EMERGENCY REGULATION

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) On April 1, 2015, the Governor issued an Executive Order that, in part, directs the State Board to impose restrictions on water suppliers to achieve a statewide 25 percent reduction in potable urban usage through February, 2016; require commercial, industrial, and institutional users to implement water efficiency measures; prohibit irrigation with potable water of ornamental turf in public street medians; and prohibit irrigation with potable water outside newly constructed homes and buildings that is not delivered by drip or microspray systems;

(4) On November 13, 2015, the Governor issued an Executive Order that directs the State Board to, if drought conditions persist through January 2016, extend until October 31, 2016 restrictions to achieve a statewide reduction in potable usage;

(5) On May 9, 2016, the Governor issued an Executive Order that directs the State Board to adjust and extend its emergency water conservation regulations through the end of January 2017 in recognition of the differing water supply conditions for many communities;

~~(56)~~ The drought conditions that formed the basis of the Governor's emergency proclamations continue to exist; and

~~(67)~~ 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 prevent waste and unreasonable use of water and to further promote conservation.

Authority: Section 1058.5, Water Code.

References: Article X, Section 2, California Constitution; Sections 102, 104, 105, and 275, Water Code; *Light v. State Water Resources Control Board* (2014) 226 Cal.App.4th 1463.

Sec. 864. End-User Requirements in Promotion of Water Conservation.

(a) To prevent the waste and unreasonable use of water and 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;

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

(5) The application of potable water to outdoor landscapes during and within 48 hours after measurable rainfall;

~~(6) The serving of drinking water other than upon request in eating or drinking establishments, including but not limited to restaurants, hotels, cafes, cafeterias, bars, or other public places where food or drink are served and/or purchased;~~

~~(7)~~ The irrigation with potable water of ornamental turf on public street medians; and

~~(8)~~ The irrigation with potable water of landscapes outside of newly constructed homes and buildings in a manner inconsistent with regulations or other requirements established by the California Building Standards Commission and the Department of Housing and Community Development.

~~(b) To promote water conservation, operators of hotels and motels shall provide guests with the option of choosing not to have towels and linens laundered daily. The hotel or motel shall prominently display notice of this option in each guestroom using clear and easily understood language.~~

~~(e)~~ Immediately upon this subdivision taking effect, all commercial, industrial and institutional properties that use a water supply, any portion of which is from a source other than a water supplier subject to section 864.5 or 865 of this article, shall target water use reductions commensurate with those required of the nearest urban water supplier under section 864.5 or, if applicable, section 865. ~~shall either:~~

~~—— (1) Limit outdoor irrigation of ornamental landscapes or turf with potable water to no more than two days per week; or~~

~~—— (2) Reduce potable water usage supplied by sources other than a water supplier by 25 percent for the months of June 2015 through October 2016 as compared to the amount used from those sources for the same months in 2013.~~

~~(d)~~ The taking of any action prohibited in subdivision (a) or ~~(e)~~, or the failure to take any action required in subdivision (b) or (c), is an infraction punishable by a fine of up to five hundred dollars (\$500) for each day in which the violation occurs. The fine for the infraction is in addition to, and does not supersede or limit, any other remedies, civil or criminal.

~~(e)~~(1) To prevent the waste and unreasonable use of water and to promote water conservation, any homeowners' association or community service organization or similar entity is prohibited from:

(A) Taking or threatening to take any action to enforce any provision of the governing documents or architectural or landscaping guidelines or policies of a common interest development where that provision is void or unenforceable under section 4735, subdivision (a) of the Civil Code; or

(B) Imposing or threatening to impose a fine, assessment, or other monetary penalty against any owner of a separate interest for reducing or eliminating the watering of vegetation or lawns during a declared drought emergency, as described in section 4735, subdivision (c) of the Civil Code.

(2) As used in this subdivision:

(A) “Architectural or landscaping guidelines or policies” includes any formal or informal rules other than the governing documents of a common interest development.

(B) “Homeowners’ association” means an “association” as defined in section 4080 of the Civil Code.

(C) “Common interest development” has the same meaning as in section 4100 of the Civil Code.

(D) “Community service organization or similar entity” has the same meaning as in section 4110 of the Civil Code.

(E) “Governing documents” has the same meaning as in section 4150 of the Civil Code.

(F) “Separate interest” has the same meaning as in section 4185 of the Civil Code.

(3) If a disciplinary proceeding or other proceeding to enforce a rule in violation of subdivision (e)(1) is initiated, each day the proceeding remains pending shall constitute a separate violation of this regulation.

Authority: Section 1058.5, Water Code.

References: Article X, Section 2, California Constitution; Sections 4080, 4100, 4110, 4150, 4185, and 4735, Civil Code; Sections 102, 104, 105, 275, 350, and 10617, Water Code; *Light v. State Water Resources Control Board* (2014) 226 Cal.App.4th 1463.

Sec. 864.5. Self-Certification of Supply Reliability for Three Additional Years of Drought.

(a) To prevent the waste and unreasonable use of water and to meet the requirements of the Governor’s May 9, 2016 Executive Order, each urban water supplier shall:

(1) Identify and report on a form provided by the Board, no later than June 15, 2016, the conservation standard that the supplier will be required to meet under this section;

(2) Identify and report on a form provided by the Board, no later than June 15, 2016, the data relied upon by the supplier to determine the conservation standard reported pursuant to this subdivision including, but not limited to identification of each source of supply the supplier intends to rely on and the quantity of water available under that source of supply given the assumptions of this section;

(3) Certify, no later than June 15, 2016, that the conservation standard reported pursuant to this subdivision is based on the information and assumptions identified in this section; and

(4) Beginning June 1, 2016, reduce its total potable water production by the percentage identified as its conservation standard in this section each month, compared to the amount used in the same month in 2013.

(b) Each urban water supplier's conservation standard pursuant to this section shall be the percentage by which the supplier's total potable water supply is insufficient to meet the total potable water demand in the third year after this section takes effect under the following assumptions:

(1) The next three years' precipitation is the same as it was in water years 2013-2015;

(2) The supplier's total potable water demand for each of the next three years will be the supplier's average annual total potable water production for the years 2013 and 2014;

(3) The supplier's total potable water supply shall include only water sources of supply available to the supplier that could be used for potable drinking water purposes;

(4) Each urban water supplier's conservation standard shall be calculated as a percentage and rounded to the nearest whole percentage point.

(c) Beginning June 1, 2016, each urban water supplier shall comply with the conservation standard it identifies and reports pursuant to subdivision (a).

(d) Compliance with the conservation standard reported pursuant to subdivision (a) shall be measured monthly and assessed on a cumulative basis through January 2017.

(e) Each urban water wholesaler shall calculate, to the best of its ability, and no later than June 8, 2016, the volume of water that it expects it would deliver to each urban water supplier in each of the next three years under the assumptions identified in subdivision (b), and post that calculation, and the underlying analysis, to a publicly-accessible webpage.

(f) Submitting any information pursuant to this subdivision that the person who submits the information knows or should have known is materially false is a violation of this regulation, punishable by civil liability of up to five hundred dollars (\$500) for each day in which the violation occurs. Every day that the error goes uncorrected constitutes a separate violation. Civil liability for the violation is in addition to, and does not supersede or limit, any other remedies, civil or criminal.

(g) Any urban water supplier that does not comply with this section shall comply with the applicable conservation standard identified in section 865.

Authority: Section 1058.5, Water Code.

References: Article X, Section 2, California Constitution; Sections 102, 104, 105, 275, 350, 1846, 10617 and 10632, Water Code; *Light v. State Water Resources Control Board* (2014) 226 Cal.App.4th 1463.

Sec. 865. Mandatory Actions by Water Suppliers.

(a) As used in this ~~section~~article:

(1) "Distributor of a public water supply" has the same meaning as under section 350 of the Water Code, except it does not refer to such distributors when they are functioning solely in a wholesale capacity, but does apply to distributors when they are functioning in a retail capacity.

(2) "R-GPCD" means residential gallons per capita per day.

(3) “Total potable water production” means all potable water that enters into a water supplier’s distribution system, excluding water placed into storage and not withdrawn for use during the reporting period, or water exported outside the supplier’s service area.

(4) “Urban water supplier” means 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.

(5) “Urban water wholesaler” means a wholesaler of water to more than one urban water supplier.

(6) “Water year” means the period from October 1 through the following September 30. Where a water year is designated by year number, the designation is by the calendar year number in which the water year ends.

(b) In furtherance of the promotion of water conservation each urban water supplier shall:

(1) Provide prompt notice to a customer whenever the supplier obtains information that indicates that a leak may exist within the end-user’s exclusive control.

(2) Prepare and submit to the State Water Resources Control Board by the 15th 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. The monitoring report shall specify the population served by the urban water supplier, the percentage of water produced that is used for the residential sector, descriptive statistics on water conservation compliance and enforcement efforts, the number of days that outdoor irrigation is allowed, and monthly commercial, industrial and institutional sector use. The monitoring report shall also estimate the gallons of water per person per day used by the residential customers it serves.

(c)(1) To prevent the waste and unreasonable use of water and to meet the requirements of the Governor’s ~~November 13, 2015~~ May 9, 2016 Executive Order, each urban water supplier that does not submit a self-certification in compliance with section 864.5 shall reduce its total potable water production by the percentage identified as its conservation standard in this ~~subdivision~~ section. Each urban water supplier’s conservation standard considers its service area’s relative per capita water usage.

~~(2) Each urban water supplier whose source of supply does not include groundwater or water imported from outside the hydrologic region in which the water supplier is located, and that has a minimum of four years’ reserved supply available, may submit to the Executive Director for approval a request that, in lieu of the reduction that would otherwise be required under paragraphs (3) through (10), the urban water supplier shall reduce its total potable water production by 4 percent for each month as compared to the amount used in the same month in 2013. Any such request shall be accompanied by information showing that the supplier’s sources of supply do not include groundwater or water imported from outside the hydrologic region and that the supplier has a minimum of four years’ reserved supply available.~~

(32) Each urban water supplier whose average July-September 2014 R-GPCD was less than 65 shall reduce its total potable water production by 8 percent for each month as compared to the amount used in the same month in 2013.

(43) Each urban water supplier whose average July-September 2014 R-GPCD was 65 or more but less than 80 shall reduce its total potable water production by 12 percent for each month as compared to the amount used in the same month in 2013.

(54) Each urban water supplier whose average July-September 2014 R-GPCD was 80 or more but less than 95 shall reduce its total potable water production by 16 percent for each month as compared to the amount used in the same month in 2013.

(65) Each urban water supplier whose average July-September 2014 R-GPCD was 95 or more but less than 110 shall reduce its total potable water production by 20 percent for each month as compared to the amount used in the same month in 2013.

(76) Each urban water supplier whose average July-September 2014 R-GPCD was 110 or more but less than 130 shall reduce its total potable water production by 24 percent for each month as compared to the amount used in the same month in 2013.

(87) Each urban water supplier whose average July-September 2014 R-GPCD was 130 or more but less than 170 shall reduce its total potable water production by 28 percent for each month as compared to the amount used in the same month in 2013.

(98) Each urban water supplier whose average July-September 2014 R-GPCD was 170 or more but less than 215 shall reduce its total potable water production by 32 percent for each month as compared to the amount used in the same month in 2013.

(109) Each urban water supplier whose average July-September 2014 R-GPCD was 215 or more shall reduce its total potable water production by 36 percent for each month as compared to the amount used in the same month in 2013.

(d)(1) Beginning June 1, 2015, each urban water supplier that does not submit a self-certification in compliance with section 864.5 shall comply with the conservation standard specified in subdivision (c), with any modifications to the conservation standard pursuant to subdivision (f) applying beginning March 1, 2016.

(2) Compliance with the requirements of this subdivision shall be measured monthly and assessed on a cumulative basis through ~~October 2016~~ January 2017.

(e)(1) Each urban water supplier that provides potable water for commercial agricultural use meeting the definition of Government Code section 51201, subdivision (b), may subtract the amount of water provided for commercial agricultural use from its potable water production total, provided that any urban water supplier that subtracts any water provided for commercial agricultural use from its total potable water production shall:

(A) Impose reductions determined locally appropriate by the urban water supplier, after considering the applicable urban water supplier conservation standard specified in subdivision (c), for commercial agricultural users meeting the definition of Government Code section 51201, subdivision (b) served by the supplier;

(B) Report its total potable water production pursuant to subdivision (b)(2) of this section, the total amount of water supplied for commercial agricultural use, and shall identify the reduction imposed on its commercial agricultural users and each recipient of potable water for commercial agricultural use;

(C) Certify that the agricultural uses it serves meet the definition of Government Code section 51201, subdivision (b); and

(D) Comply with the Agricultural Water Management Plan requirement of paragraph 12 of the April 1, 2015 Executive Order for all commercial agricultural water served by the supplier that is subtracted from its total potable water production.

(2) Submitting any information pursuant to subdivision (e)(1)(B) or (C) of this section that is found to be materially false by the Board is a violation of this regulation, punishable by civil liability of up to five hundred dollars (\$500) for each day in which the violation occurs. Every day that the error goes uncorrected constitutes a separate violation. Civil liability for the violation is in addition to, and does not supersede or limit, any other remedies, civil or criminal.

(f) In consideration of 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 towards creating new, local, drought-resilient sources of potable water supply, an urban water supplier's conservation standard identified in subdivision (c) shall be reduced by an amount, not to exceed eight (8) percentage points total, as follows:

(1) For an urban water supplier whose service area evapotranspiration (ET_o) for the months of July through September exceeds the statewide average evapotranspiration, as determined by the Board, for the same months by five (5) percent or more, the supplier's conservation standard identified in subdivision (c) shall be reduced:

(A) By two (2) percentage points if the supplier's service area evapotranspiration exceeds the statewide average by five (5) percent or more but less than ten (10) percent;

(B) By three (3) percentage points if the supplier's service area evapotranspiration exceeds the statewide average by ten (10) percent or more but less than twenty (20) percent;

(C) By four (4) percentage points if the supplier's service area evapotranspiration exceeds the statewide average by twenty (20) percent or more.

(D) Statewide average evapotranspiration is calculated as the arithmetic mean of all urban water suppliers' service area default evapotranspiration values for the months of July through September. Default service area evapotranspiration will be based on the California Irrigation Management System (CIMIS) ET_o Zones Map zone for which the supplier's service area has the greatest area of overlap. In lieu of applying its default service area evapotranspiration, a supplier may use specific data from CIMIS stations within its service area that have at least a five-year period of record, or a three year continuous period of record, to identify a more specifically-applicable evapotranspiration for its service area. If no CIMIS station exists within the supplier's service area, a weather station of comparable accuracy, meeting the preceding period of record requirements, may be used. To qualify for the in-lieu climate adjustment, the supplier shall submit the following data to the Board by March 15, 2016 for each station: station ID; station location; and monthly average evapotranspiration, in inches per month, for July, August, and September for either the five-year period of record or the three-year continuous period of record.

(2) To account for water efficient growth experienced in the state since 2013, urban water suppliers' conservation standards shall be reduced by the product of the percentage change in potable water production since 2013 and the percentage reduction in potable water use required pursuant to subdivision (c), rounded to the nearest whole percentage point. Change in potable water production since 2013 shall be calculated as the sum of the following:

(A) The number of additional permanent residents served since January 1, 2013, multiplied by the average residential water use per person for that supplier's service area during the months of February through October, 2015, in gallons; and

(B) The number of new commercial, industrial and institutional connections since January 1, 2013, multiplied by the average commercial, industrial and institutional water use per connection for that supplier's service area during the months of February through October, 2015, in gallons.

(C) To qualify for the growth credit the supplier shall submit to the Board the following data by March 15, 2016: the number of additional permanent residents served since January 1, 2013 and the number of new commercial, industrial and institutional connections since January 1, 2013.

(3) For an urban water supplier that supplies, contracts for, or otherwise financially invests in, water from a new local, drought-resilient source of supply, the use of which does not reduce the water available to another legal user of water or the environment, the conservation standard identified in subdivision (c) shall be reduced:

(A) By one (1) percentage point if the supplier's qualifying source of supply is one (1) percent or more but less than two (2) percent of the supplier's total potable water production;

(B) By two (2) percentage points if the supplier's qualifying source of supply is two (2) percent or more but less than three (3) percent of the supplier's total potable water production;

(C) By three (3) percentage points if the supplier's qualifying source of supply is three (3) percent or more but less than four (4) percent of the supplier's total potable water production;

(D) By four (4) percentage points if the supplier's qualifying source of supply is four (4) percent or more but less than five (5) percent of the supplier's total potable water production;

(E) By five (5) percentage points if the supplier's qualifying source of supply is five (5) percent or more but less than six (6) percent of the supplier's total potable water production;

(F) By six (6) percentage points if the supplier's qualifying source of supply is six (6) percent or more but less than seven (7) percent of the supplier's total potable water production;

(G) By seven (7) percentage points if the supplier's qualifying source of supply is seven (7) percent or more but less than eight (8) percent of the supplier's total potable water production;

(H) By eight (8) percentage points if the supplier's qualifying source of supply is eight (8) percent or more of the supplier's total potable water production.

(I) To qualify for this reduction the supplier must certify, and provide documentation to the Board upon request demonstrating, the percent of its total potable water production that comes from a local, drought-resilient source of supply developed after 2013, the supplier's investment in that local, drought-resilient source of supply, and that the use of that supply does not reduce the water available to another legal user of water or the environment. To qualify for this reduction an urban water supplier shall submit the required certification to the Board by March 15, 2016.

(J) Certifications that do not meet the requirements of subdivision (f)(3)(I), including certifications for which documentation does not support that the source of supply is a local, drought-resilient source of supply, the use of which does not reduce the water available to another legal user of water or the environment, will be rejected. Submitting a certification or supporting documentation pursuant to subdivision (f)(3)(I) that is found to be materially false by the Board is a violation of this regulation, punishable by civil liability of up to five hundred dollars (\$500) for each day in which the violation occurs. Every day that the error goes uncorrected constitutes a separate violation. Civil liability for the violation is in addition to, and does not supersede or limit, any other remedies, civil or criminal.

(4) No urban water supplier's conservation standard pursuant to this section shall drop below eight (8) percent as a consequence of the reductions identified in this subdivision. ~~No reduction pursuant to this subdivision shall be applied to any urban water supplier whose conservation standard is four (4) percent based on subdivision (e)(2).~~

~~(g)(4)~~ To prevent waste and unreasonable use of water and to promote water conservation, each distributor of a public water supply that is not an urban water supplier shall ~~take one or more of the following actions:~~

(1) Provide prompt notice to a customer whenever the supplier obtains information that indicates that a leak may exist within the end-user's exclusive control; and

~~— (A) 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~~

~~— (B) Reduce by 25 percent its total potable water production relative to the amount produced in 2013.~~

~~(2) Each distributor of a public water supply that is not an urban water supplier shall submit~~ Submit a report by ~~September~~ December 15, 2016, on a form provided by the Board, that ~~either confirms compliance with subdivision (g)(1)(A) or identifies total~~ potable water production, by month, from December, 2015 through ~~August~~ November, 2016, ~~and total potable water production, by month, for the same months in 2013, and~~ any actions taken by the supplier to encourage or require its customers to conserve water.

Authority: Section 1058.5, Water Code.

References: Article X, Section 2, California Constitution; Sections 102, 104, 105, 275, 350, 1846, 10617 and 10632, Water Code; *Light v. State Water Resources Control Board* (2014) 226 Cal.App.4th 1463.

Sec. 866. Additional Conservation Tools.

(a)(1) To prevent the waste and unreasonable use of water and to promote conservation, when a water supplier does not meet its conservation standard required by section 864.5 or section 865 the Executive Director, or the Executive Director's designee, may issue conservation orders requiring additional actions by the supplier to come into compliance with its conservation standard.

(2) A decision or order issued under this article by the Board or an officer or employee of the Board is subject to reconsideration under article 2 (commencing with section 1122) of chapter 4 of part 1 of division 2 of the Water Code.

(b) The Executive Director, or his designee, may issue an informational order requiring water suppliers, or commercial, industrial or institutional properties that receive any portion of their supply from a source other than a water supplier subject to section 864.5 or 865, to submit additional information relating to water production, water use or water conservation. The failure to provide the information requested within 30 days or any additional time extension granted is a violation subject to civil liability of up to \$500 per day for each day the violation continues pursuant to Water Code section 1846.

(c) Orders issued under previous versions of this ~~subdivision~~section shall remain in effect and shall be enforceable as if adopted under this version. Changes in the requirements of this article do not operate to void or excuse compliance with orders issued before those requirements were changed.

Authority: Section 1058.5, Water Code.

References: Article X, Section 2, California Constitution; Sections 100, 102, 104, 105, 174, 186, 187, 275, 350, 1051, 1122, 1123, 1825, 1846, 10617 and 10632, Water Code; *Light v. State Water Resources Control Board* (2014) 226 Cal.App.4th 1463.

Executive Department

State of California

EXECUTIVE ORDER B-37-16 MAKING WATER CONSERVATION A CALIFORNIA WAY OF LIFE

WHEREAS California has suffered through a severe multi-year drought that has threatened the water supplies of communities and residents, devastated agricultural production in many areas, and harmed fish, animals and their environmental habitats; and

WHEREAS Californians responded to the drought by conserving water at unprecedented levels, reducing water use in communities by 23.9% between June 2015 and March 2016 and saving enough water during this period to provide 6.5 million Californians with water for one year; and

WHEREAS severe drought conditions persist in many areas of the state despite recent winter precipitation, with limited drinking water supplies in some communities, diminished water for agricultural production and environmental habitat, and severely-depleted groundwater basins; and

WHEREAS drought conditions may persist in some parts of the state into 2017 and beyond, as warmer winter temperatures driven by climate change reduce water supply held in mountain snowpack and result in drier soil conditions; and

WHEREAS these ongoing drought conditions and our changing climate require California to move beyond temporary emergency drought measures and adopt permanent changes to use water more wisely and to prepare for more frequent and persistent periods of limited water supply; and

WHEREAS increasing long-term water conservation among Californians, improving water use efficiency within the state's communities and agricultural production, and strengthening local and regional drought planning are critical to California's resilience to drought and climate change; and

WHEREAS these activities are prioritized in the California Water Action Plan, which calls for concrete, measurable actions that "Make Conservation a California Way of Life" and "Manage and Prepare for Dry Periods" in order to improve use of water in our state.

NOW, THEREFORE, I, EDMUND G. BROWN JR., Governor of the State of California, in accordance with the authority vested in me by the Constitution and statutes of the State of California, in particular California Government Code sections 8567 and 8571, do hereby issue this Executive Order, effective immediately.

IT IS HEREBY ORDERED THAT:

The orders and provisions contained in my January 17, 2014 Emergency Proclamation, my April 25, 2014 Emergency Proclamation, Executive Orders B-26-14, B-28-14, B-29-15, and B-36-15 remain in full force and in effect except as modified herein.

State agencies shall update temporary emergency water restrictions and transition to permanent, long-term improvements in water use by taking the following actions.

USE WATER MORE WISELY

1. The State Water Resources Control Board (Water Board) shall, as soon as practicable, adjust emergency water conservation regulations through the end of January 2017 in recognition of the differing water supply conditions across the state. To prepare for the possibility of another dry winter, the Water Board shall also develop, by January 2017, a proposal to achieve a mandatory reduction in potable urban water usage that builds off of the mandatory 25% reduction called for in Executive Order B-29-15 and lessons learned through 2016.
2. The Department of Water Resources (Department) shall work with the Water Board to develop new water use targets as part of a permanent framework for urban water agencies. These new water use targets shall build upon the existing state law requirements that the state achieve a 20% reduction in urban water usage by 2020. (Senate Bill No. 7 (7th Extraordinary Session, 2009-2010).) These water use targets shall be customized to the unique conditions of each water agency, shall generate more statewide water conservation than existing requirements, and shall be based on strengthened standards for:
 - a. Indoor residential per capita water use;
 - b. Outdoor irrigation, in a manner that incorporates landscape area, local climate, and new satellite imagery data;
 - c. Commercial, industrial, and institutional water use; and
 - d. Water lost through leaks.

The Department and Water Board shall consult with urban water suppliers, local governments, environmental groups, and other partners to develop these water use targets and shall publicly issue a proposed draft framework by January 10, 2017.

3. The Department and the Water Board shall permanently require urban water suppliers to issue a monthly report on their water usage, amount of conservation achieved, and any enforcement efforts.

ELIMINATE WATER WASTE

4. The Water Board shall permanently prohibit practices that waste potable water, such as:
 - Hosing off sidewalks, driveways and other hardscapes;
 - Washing automobiles with hoses not equipped with a shut-off nozzle;
 - Using non-recirculated water in a fountain or other decorative water feature;
 - Watering lawns in a manner that causes runoff, or within 48 hours after measurable precipitation; and
 - Irrigating ornamental turf on public street medians.
5. The Water Board and the Department shall direct actions to minimize water system leaks that waste large amounts of water. The Water Board, after funding projects to address health and safety, shall use loans from the Drinking Water State Revolving Fund to prioritize local projects that reduce leaks and other water system losses.
6. The Water Board and the Department shall direct urban and agricultural water suppliers to accelerate their data collection, improve water system management, and prioritize capital projects to reduce water waste. The California Public Utilities Commission shall order investor-owned water utilities to accelerate work to minimize leaks.
7. The California Energy Commission shall certify innovative water conservation and water loss detection and control technologies that also increase energy efficiency.

STRENGTHEN LOCAL DROUGHT RESILIENCE

8. The Department shall strengthen requirements for urban Water Shortage Contingency Plans, which urban water agencies are required to maintain. These updated requirements shall include adequate actions to respond to droughts lasting at least five years, as well as more frequent and severe periods of drought. While remaining customized according to local conditions, the updated requirements shall also create common statewide standards so that these plans can be quickly utilized during this and any future droughts.
9. The Department shall consult with urban water suppliers, local governments, environmental groups, and other partners to update requirements for Water Shortage Contingency Plans. The updated draft requirements shall be publicly released by January 10, 2017.

10. For areas not covered by a Water Shortage Contingency Plan, the Department shall work with counties to facilitate improved drought planning for small water suppliers and rural communities.

IMPROVE AGRICULTURAL WATER USE EFFICIENCY AND DROUGHT PLANNING

11. The Department shall work with the California Department of Food and Agriculture to update existing requirements for Agricultural Water Management Plans to ensure that these plans identify and quantify measures to increase water efficiency in their service area and to adequately plan for periods of limited water supply.
12. The Department shall permanently require the completion of Agricultural Water Management Plans by water suppliers with over 10,000 irrigated acres of land.
13. The Department, together with the California Department of Food and Agriculture, shall consult with agricultural water suppliers, local governments, agricultural producers, environmental groups, and other partners to update requirements for Agricultural Water Management Plans. The updated draft requirements shall be publicly released by January 10, 2017.

The Department, Water Board and California Public Utilities Commission shall develop methods to ensure compliance with the provisions of this Executive Order, including technical and financial assistance, agency oversight, and, if necessary, enforcement action by the Water Board to address non-compliant water suppliers.

This Executive Order is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity, against the State of California, its agencies, departments, entities, officers, employees, or any other person.

I FURTHER DIRECT that as soon as hereafter possible, this order be filed in the Office of the Secretary of State and that widespread publicity and notice be given of this order.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 9th day of May 2016.


EDMUND G. BROWN JR.
Governor of California

ATTEST:

ALEX PADILLA
Secretary of State