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State Water Resources Control Board

## NOTICE OF PUBLIC WORKSHOP & NOTICE OF OPPORTUNITY FOR PUBLIC COMMENT

### Water Conservation/Prohibited Water Uses

Tuesday November 21, 2017

Joe Serna Jr. - CalEPA Headquarters Building  
Coastal Hearing Room  
1001 I Street, Second Floor  
Sacramento, CA 95814

**NOTICE IS HEREBY GIVEN** that the State Water Resources Control Board (State Water Board or Board) will receive public comments on the proposed regulation to permanently prohibit certain wasteful water uses, and will consider all comments, objections, and recommendations regarding the proposed action. This will be an informational workshop only and the State Water Board will take no formal action.

#### **BACKGROUND ON PROPOSED REGULATORY ACTION**

California droughts are becoming longer and more severe as warmer winter temperatures, driven by climate change, reduce water held in the Sierra Nevada snowpack and result in drier soil conditions. The state is adapting to climate change through implementation of the [California Water Action Plan](#), which includes making conservation a [California Way of Life](#).

After severe drought experienced in winter of 2013-14, Governor Edmund G. Brown Jr. issued a proclamation on January 17, 2014, declaring a drought State of Emergency to exist in California. On April 25, 2014, Governor Brown issued an executive order (EO) to strengthen the State's ability to manage water and habitat effectively in drought conditions, directing the State Water Board to adopt emergency regulations. On July 16, 2014, the State Water Board adopted [Resolution No. 2014-0038](#), adding to the Board's regulations, through the emergency rulemaking process, requirements for monthly reporting of urban water use and prohibiting certain wasteful water use practices during the drought. As the drought progressed and later lessened, the Board modified and readopted the emergency water conservation regulation several times, most recently in February 2017. Governor Brown ended the drought State of Emergency in April 2017. In response, the Board eliminated most of the drought emergency water conservation rules that had applied during the drought emergency. However, several provisions of the February 2017 emergency regulation, specifically those prohibiting certain wasteful water practices and urban water supplier reporting, continue until the emergency regulation expires on November 25, 2017.

On May 9, 2016 Governor Edmund G. Brown Jr issued EO B-37-16 to *Make Conservation a California Way of Life*. EO B-37-16 sets forth actions designed to ensure water is used more wisely, eliminate water waste, strengthen local drought resilience, and improve agricultural water use efficiency and drought planning. To eliminate water waste, it directs the Board to 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.*

The proposed regulation would establish in California Code of Regulations, title 23, division 3, a new chapter 3.5 on Conservation and the Prevention of Waste and Unreasonable Use; and within chapter 3.5, a new article 2 pertaining to Wasteful and Unreasonable Water Uses. The proposed regulation would make permanent, with some minor modifications and clarifications, the prohibitions adopted by the Board during the drought emergency, specifically those identified in California Code of Regulations, title 23, section 864 that is expiring November 25, 2017.

## **DISCUSSION**

To promote water conservation and prevent the waste and unreasonable use of water, the proposed regulation would prohibit several activities and practices, with exemptions to address immediate health and safety needs or to comply with a term or condition in a permit issued by a state or federal agency.

The proposed regulation prohibits the following wasteful water use practices:

- The application of water to outdoor landscapes in a manner that causes runoff;
- The use of a hose to wash an automobile except where the hose is equipped with a shut-off nozzle;
- The application of potable water to hardscapes;
- The use of potable water in non-recirculating ornamental fountains or other decorative water features;
- The application of water to outdoor landscapes during or within 48-hours after measurable rainfall; and
- The irrigation of turf on public street medians and verges unless the turf serves a community or neighborhood function.

The proposed regulation also prohibits serving water except when requested in restaurants and bars, and requires the operators of hotels and motels to offer patrons the option of not having their towels and linens washed daily. Finally, the regulation authorizes penalties for homeowners' associations that block, stifle, or threaten homeowners from reducing or eliminating the watering of vegetation or lawns during a declared drought emergency, or installing or being forced to reverse or remove water-efficient landscaping, in violation of existing law. The proposed regulation similarly prevents any city, county, or city and county from imposing fines as prohibited by section 8627.7 of the Government Code.

## **WORKSHOP OVERVIEW**

The workshop will be informational only. While a quorum of the State Water Board may be present, the Board will not take formal action at the workshop. There will be no sworn testimony or cross-examination of participants, but the State Water Board and its staff may ask clarifying questions. The workshop is an opportunity for interested persons to provide input to the State Water Board. To ensure a productive and efficient workshop, and provide all commenters with an opportunity to participate, oral comments may be limited to three (3) minutes or otherwise limited at the discretion of the Board Chair or any Board member present.

As part of the workshop, participants are encouraged to consider and comment on the following questions:

- *Are there additional wasteful and unreasonable uses the State Water Board should consider prohibiting?*
- The drought emergency conservation regulations and the proposed regulation include a prohibition against “the serving of drinking water other than upon request in eating or drinking establishments...” and a requirement that “hotels and motels...provide guests with the option of having towels and linens laundered.” - Are the hospitality prohibitions still necessary--or are they more effective during a drought, when used as both a conservation and messaging tool?
- The drought emergency water conservation regulations and the proposed regulation restrict “the irrigation of turf on public street medians....” The proposed regulation would exempt turf that “...serves a community or neighborhood function.” - *Are there other ways this particular prohibition could be phrased so that it would minimize the irrigation of turf-only medians; avoid unintended consequences (e.g., dust and tree mortality); allow for well planned landscape transformations; and encourage the irrigation of turf that provides social, recreational and/or environmental benefits? Is turf in these areas a good candidate for recycled water and should the regulation be limited to potable water?*

Examples of turf that provide social, recreational and/or environmental benefits include large medians, such as Sacramento’s capitol mall, which effectively function as mini-parks, or medians/verges where turf is commonly used for picnicking, sports, etc.

Watering trees should continue. The proposed regulation is aimed at unnecessary turf and every effort should be made to maintain trees and the multiple benefits they provide.

## **DOCUMENT AVAILABILITY**

The draft proposed regulation is available on the State Water Board’s website at the following address:

[https://www.waterboards.ca.gov/water\\_issues/programs/conservation\\_portal/regs/wasteful\\_water\\_uses.html](https://www.waterboards.ca.gov/water_issues/programs/conservation_portal/regs/wasteful_water_uses.html)

## **PROCEDURAL MATTERS**

The workshop will be informational only. While a quorum of the State Water Board may be present, the Board will not take formal action at the workshop. There will be no sworn testimony or cross-examination of participants, but the State Water Board and its staff may ask clarifying questions. The workshop is an opportunity for interested persons to provide input to the State Water Board. To ensure a productive and efficient workshop, oral comments may be limited to three (3) minutes or otherwise limited at the discretion of the Board Chair or any Board member

present. So that all commenters have an opportunity to participate, presentations and questions may be time-limited.

### **SUBMISSION OF WRITTEN COMMENTS**

Interested persons must submit written comments by **12 noon on Tuesday, December 26, 2017**. Please indicate in the subject line **“Comment Letter – Prohibiting Wasteful Water Use Practices.”**

Written comment letters must be submitted to the attention of:

Jeanine Townsend, Clerk to the Board  
State Water Resources Control Board  
1001 I Street, 24th floor  
Sacramento, CA 95814

Comment letters may be submitted to the Clerk of the Board via email at: [commentletters@waterboards.ca.gov](mailto:commentletters@waterboards.ca.gov) (15 megabytes, or less, in size) or by fax at (916) 341-5620.

Comments may also be hand delivered. Couriers delivering comment letters must check in with lobby security personnel on the first floor of the CalEPA Building at the above address. Questions on comment submittals may be directed to Ms. Townsend, at (916) 341-5600.

### **NOTIFICATIONS**

To be added to the mailing list for this rulemaking and to receive notification of updates of this rulemaking, you may subscribe to the listserv for **“Water Conservation Regulations”** by going to [http://www.waterboards.ca.gov/resources/email\\_subscriptions/swrcb\\_subscribe.shtml](http://www.waterboards.ca.gov/resources/email_subscriptions/swrcb_subscribe.shtml) (look under “General Interests”, select “Water Conservation Regulations”).


For directions to CalEPA, visit: <https://calepa.ca.gov/headquarters-sacramento/location/>

Notices and submittals are available electronically at: [http://www.waterboards.ca.gov/board\\_info/calendar/index.shtml](http://www.waterboards.ca.gov/board_info/calendar/index.shtml)

All visitors must check-in upon arrival to CalEPA and then proceed to the meeting room. Individuals who require special accommodations are requested to contact the Clerk to the Board at (916) 341-5600.

Please direct other questions about this notice to Kathy Frevert at (916) 322-5274 or [kathy.frevert@waterboards.ca.gov](mailto:kathy.frevert@waterboards.ca.gov).

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November 1, 2017  
Date

  
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Jeanine Townsend  
Clerk to the Board