



Fact Sheet

Drought Conservation Emergency Regulation – January 2022: Frequently Asked Questions

Updated: January 6, 2022

What wasteful water uses are prohibited?

To promote water conservation, the use of potable water is prohibited in this emergency regulation for the following:

- Applying water to outdoor landscapes resulting in more than incidental runoff
- Washing vehicles without an automatic shutoff nozzle
- Washing impervious areas
- Street cleaning or construction site prep
- Decorative fountains, lakes, or ponds
- Irrigating turf within 48 hours of one fourth of an inch ($\frac{1}{4}$ ") of rainfall
- Irrigating turf on public medians

Are there exemptions from the prohibitions?

Yes. The use of water is not prohibited to the extent use is necessary to address an immediate health and safety need. This may include, but is not limited to, the use of potable water in a fountain or water feature when required to be potable because human contact is expected to occur.

What are examples of health and safety needs?

The State Water Resources Control Board has included a "health and safety" exemption to allow the otherwise prohibited water use practices to address reasonable and legitimate healthy and safety needs. Examples of activities where water applications may be necessary to address a health or safety need include controlling nuisance dust, suppressing fires, removing pathogenic waste from sidewalks (such as animal waste), and using potable water that is likely to have direct human contact necessitating drinkable water. When feasible, however, a broom or similar method of cleaning that doesn't use potable water should be used.

What is "incidental runoff" and what are some examples?

"Incidental runoff" means unintended amounts (volume) of runoff, such as unintended, minimal overspray from sprinklers that escapes the area of intended use. Water leaving an intended use area is not considered incidental if it is part of the facility or system design, if it is due to excessive application, if it is due to intentional overflow or application, or if it is due to negligence.



Should I skip irrigation due to rain?

Yes. If it rained recently or is going to rain soon, you should change your lawn irrigation schedule. You can check the weather online to plan for and confirm the amount of rainfall in your area. Also, it is important to keep watering trees.

Why does the regulation prohibit irrigation during or within 48 hours of one fourth of an inch (1/4") of rainfall specifically?

The similar prohibition that was in place during the last drought was triggered by "measurable rainfall." The Board received a number of comments that it should use a numeric volume that is easily understood and implemented, and that reasonably serves the intended purpose, i.e., that it should reflect an amount of precipitation that allows irrigation systems to be turned off without harming landscapes. One fourth of an inch was proposed by a number of commenters.

It's been raining. Why do we need a drought emergency regulation?

During October and November 2021, there were significant water savings at least in part due to communities not watering lawns during and immediately after rain events. Although the greatest opportunities for water savings are still the warmer months, those savings come predominantly from reductions in outdoor water use, which also occurs during the cooler months in California. Major water savings have been observed during times of rainfall. Furthermore, strong snowpack and rainfall in December does not guarantee enough water supply for the year. For example, snowpack levels in December 2012 were similar to those in December 2021, but a dryer than normal January through March 2013 led to drought levels in April 2013 that persisted until 2017.

Will the prohibition on using potable water for irrigating turf on public street medians allow communities to irrigate trees?

Yes. The prohibition applies only to turf (lawn) on public street medians. Trees provide many social and environmental benefits, such as shade, carbon sequestration, and habitat. Urban trees also reduce energy use by shading buildings, reduce heat island effects and associated health impacts, absorb and filter storm runoff and urban flooding, and protect air quality. For more information on taking care of trees while saving water, go to [Save Our Trees](#) on the SaveOurWater.com website.

Where can someone report water waste or violations of these prohibitions?

The easiest and most helpful way a person may file a complaint of water waste is by accessing [SaveWater.CA.Gov](#), which is an online portal that is easily accessible from smartphones and other devices through a web browser. Anyone may file a water waste complaint. After submitting the complaint, it is automatically directed to the local water supplier and the State Water Resources Control Board. The website also allows you to upload photos of the activity, which helps with enforcement decision making. It is likely

most water suppliers will prefer to use their own enforcement strategies and apply their own existing water use restrictions, though they will have discretion in how they deal with complaints.

Who is subject to enforcement (warnings, fines, etc.) for engaging in prohibited water uses?

Most of the prohibitions apply to individual water users, which in some cases includes cities, counties, and businesses to the extent those entities engage in prohibited activities. The prohibition against watering turf on public street medians, for example, is more likely to apply to local governments than to individual homeowners. The prohibition relating to using potable water in decorative fountains may apply to individual homeowners, state and local government, and some commercial properties. The homeowners' association (HOA) provision would also prohibit HOAs from fining residents who are taking some appropriate drought responses.

Who may enforce the emergency regulation's prohibitions?

In addition to being enforceable by the State Water Resources Control Board, any local agency, city, or county (or city and county) that has authority to enforce infractions will be able to enforce these prohibitions at their discretion. The regulation would give local government/agencies the ability to pursue their own enforcement but does not constrain their discretion in how they use their enforcement resources. Enforcement may include warning letters, mandatory water use audits (for large commercial or institutional properties), and fines (up to \$500 per day). Before imposing monetary penalties, the Board has directed staff, and encouraged other enforcing entities, to provide one or more warnings, to consider peoples' ability to pay, to consider payment plans of at least 12 months without a tax lien, and to not cause peoples' water service to be shut off for nonpayment. The Board also encourages agencies to provide assistance to disadvantaged communities, including translation of water conservation announcements into various languages.

May HOAs or cities enforce landscaping rules that restrict homeowners' drought responses?

Many homeowners have wanted to change their landscaping to conserve water during or in response to drought emergencies. The most common complaints the State Water Resources Control Board receives during drought are from homeowners frustrated by homeowners' associations (HOAs) attempting to enforce their landscaping rules in a manner that may violate the Davis-Stirling Act. The Board or a local agency could impose penalties on any HOA that violates the Act. Likewise, cities and counties are prohibited from restricting certain drought responses.

Are local agencies required to use the emergency regulation's enforcement authority?

Local government/agencies retain their discretion in how they use their enforcement resources; nothing about this regulation gives water waste infractions priority over other infractions or requires any specific enforcement. Local government/agencies also may choose to enforce their own drought conservation rules in their discretion, including those in their Water Shortage Contingency Plans (WSCPs), as opposed to the emergency regulation. The emergency regulation gives local agencies additional options to deal with water waste.

How is the State Water Board addressing social equity in this emergency regulation?

The Board encourages agencies to provide assistance to disadvantaged communities, including translation of water conservation announcements into various languages. Also, before imposing monetary penalties, the Board directed staff, and encouraged other enforcing entities, to provide one or more warnings before imposing monetary penalties, to consider peoples' ability to pay and payment plans for monetary penalties, and to not cause peoples' water service to be shut off for nonpayment.

How long will this emergency regulation be in effect?

An emergency regulation becomes effective when filed with the Secretary of State by the Office of Administrative Law (OAL). This emergency regulation will most likely take effect on or about January 15, 2022, depending on the OAL process. The emergency regulation will remain in effect for one year from the effective date, unless the State Water Board determines that it is no longer necessary, modifies it, or renews the regulation.

What changes have been made from the initially-proposed regulation text to the final adopted regulation text?

On November 30, 2021, State Water Board staff proposed initial text for the emergency regulation. On January 4, 2021, State Water Board staff proposed minor changes to the language of two prohibitions, which the Board incorporated into the regulation text it adopted, as follows:

Clarifying changes were made to the street cleaning/construction site preparation prohibition (section 995, subdivision (b)(1)(D)) such that the adopted regulation prohibits only the "use of potable water for street cleaning or construction site preparation purposes." This change clarifies that the prohibition on using potable water does not apply to all uses of water for construction activities (such as mixing concrete) and that it only applies to construction site preparation if no other method is available.

The prohibition on using potable water for irrigating turf on public medians (section 995, subdivision (b)(1)(G)), which refers to the area between two portions of a roadway, was also modified in the final adopted regulation to remove “landscaped areas between the street and sidewalk” and to include “ornamental.” Thus, the regulation prohibits only the “use of potable water for irrigation of ornamental turf on public street medians.” The change removes the prohibition against using potable water to irrigate turf on parkways, which are generally the area between the sidewalk and the street. These changes remove a significant source of confusion and uncertainty, making the prohibition easier to implement. Water agencies likely made changes in the last drought regarding irrigating medians, so limiting the prohibition in this manner should not lead to significant new costs or have a notable potential impact on trees.