

Preliminary Draft Emergency Regulation for Klamath Watershed

November 13, 2023



Division of Water Rights



Translation Services

Zoom is **automatically** set to English as the default language.

If you would like to hear a Hmong (white) translation of today's meeting, please use the Globe icon and select Hmong.

For those without access to Zoom, translation services to Hmong (white) are available as follows:

- Conference Line: 888-273-3658
- Code: 300828

Meeting Logistics

- This meeting is being recorded
- Please make sure your screen name reflects your actual name and affiliation, if applicable
- Participants will be muted until asked to unmute themselves once called upon
- Zoom "chat" is available to message hosts with questions or comments
- You can also email comments or questions to:

ScottShastaDrought@waterboards.ca.gov

Ground Rules

1. This is a public discussion.

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Questions on Preliminary Draft Regulation



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Meeting Outline

- Background of Drought Proclamation and State Water Board's Authorities
- Preliminary Proposed Changes to Emergency Regulation, including brief overview of previous provisions without significant changes
- Opportunity for Questions
- Opportunity for Public Comments

Background: Drought Proclamations

- May 10, 2021: Governor Newsom declared a drought emergency for 41 counties, including Siskiyou County
 - Directs State Water Board to consider emergency regulations to curtail water diversions when water is not available at water right holders' priority
 - Ensure critical instream flows for species protection
 - State Water Board and CDFW to evaluate minimum instream flows and other actions to protect salmon, steelhead, and other native fishes
 - Work with water users and other parties on voluntary measures
 - To the extent voluntary actions are not sufficient, the State Water Board, in coordination with CDFW, is to consider emergency regulations to establish minimum drought instream flow requirements
 - Suspends California Environmental Quality Act
- Water year 2022-2023: Klamath River watershed received above-average precipitation, but less than in other parts of California
- March 24, 2023: Governor Newsom signed executive order removing emergency drought provisions in select watersheds (N-5-23)
 - Klamath River watershed not included and still subject to 2021 drought proclamation and emergency provisions

Additional Water Board Authorities

- State Water Board may take enforcement action to prevent unauthorized diversions of water or violations of terms and conditions of water rights permits and licenses (Wat. Code, § 1052.)
- State Water Board also may initiate administrative proceedings to prevent waste or unreasonable use of water (Wat. Code, § 275.)
- Establishes a human right to sufficient, affordable water to meet basic needs for human consumption and sanitation (Wat. Code, §106.3.)
- Establishes requirement for livestock owners to provide sufficient water for their animals (Penal Code, §597.)

Timeline of Past Drought Emergency Regulations in Klamath Watershed

- Drought Emergency Regulation adopted by Board on August 17, 2021; effective August 31, 2021
- Revised Drought Emergency Regulation readopted on June 21, 2022; effective July 29, 2022
- Drought Emergency Regulation expired July 31, 2023
- Hearing on Petition for Rulemaking to Set Minimum Instream Flows in Scott River, expanded to cover Shasta River – August 15, 2023
 - Board directed staff to move forward with an Emergency Regulation for Scott River and Shasta River watersheds

Proposed Emergency Regulation Sections

- **Section 875*: Emergency Curtailments Where Insufficient Flows are Available to Protect Fish in Certain Watersheds**
- Section 875.1: Non-Consumptive Uses
- **Section 875.2*: Minimum Human Health and Safety Needs**
- Section 875.3: Minimum Diversions for Livestock Watering
- Section 875.4: Emergency Curtailments Due to Lack of Water Availability in the Klamath River Watershed

Proposed Emergency Regulation Sections (cont.)

- Section 875.5: Priority for curtailments in the Scott River and Shasta River Watersheds
- Section 875.6 Curtailment Order Reporting
- **Section 875.7*: Inefficient Livestock Watering**
- Section 875.8: Information Orders
- Section 875.9: Penalties

Preliminary Updates and Changes

- Groundwater local cooperative solutions
- Clarification of Scott River flow requirements
- Inefficient livestock watering prohibition
- Minimum human health and safety exception

Groundwater Local Cooperative Solutions (LCSs) – Apply to all groundwater LCSs

- Proposals must be submitted by April 15 and must be implemented for entirety of irrigation season (including prior to approval)
- Proposal must include metering of groundwater well extractions with monthly reporting unless Deputy Director determines that metering is in a particular instance is not feasible
- Agree to compliance inspections with 24-hour notice
- Goal of posting pending proposals online for at least one week

Groundwater Local Cooperative Solutions (LCSs) – Proposed Updates

- Preliminary Draft Emergency Regulation solicits comments on three potential groundwater LCS options:
 - Percent-Based Pumping Reduction LCS
 - Graduated Overlying Groundwater Cessation LCS
 - Best Management Practices LCS

Prelim. Draft Regs. §875, subdivisions (f)(4)(D)(v),(iii), and (iv) – pages 9-12

Groundwater Local Cooperative Solutions (LCSs) – Proposed Update

Option A: Percent-based reduction in pumping

- Available baseline years: 2020, 2021, 2022, or 2023
- Baseline water use must be equal to or less than the acre-feet per acre values assigned to each crop per the following reference:
 - Appendix 5.D of *Siskiyou County Agricultural Economics Analysis Considering Groundwater Regulation – Supplementary Information for the Groundwater Sustainability Plan* (UC Merced)
 - Scott: Table 3
 - Shasta: Table 4

Groundwater Local Cooperative Solutions – Proposed Update

Option B: Graduated Overlying Groundwater Diversion Cessation

- Option 1: Diversion to irrigate the following percentages of irrigated acres shall cease by the dates below:
 - 15% by July 15;
 - 50% by August 15; and
 - 90% by August 31, with a maximum of 8 inches of water to be applied to remaining 10% of irrigated acres during remainder of irrigation season

Groundwater Local Cooperative Solutions (LCSs) – Proposed Update

Option B: Graduated Overlying Groundwater Diversion Cessation

- Option 2: Diversion to irrigate following percentages of irrigated acres shall cease by dates below:
 - 20% by July 20;
 - 50% by August 20; and
 - 95% by September 5, with a maximum of 6 inches of water to be applied to the remaining 5% of irrigated acres during remainder of irrigation season

Groundwater Local Cooperative Solutions (LCSs) – Proposed Update

Option C: Best Management Practices

- All irrigated acres must use low-energy precision application (LEPA) system with no end guns or corner irrigation on pivot fields
- Soil moisture sensors must be in place and used to inform irrigation timing
- On April 1, if snowpack is 80% of average or less (Scott) or dry or very dry (Shasta):
 - Cease irrigation on 90% of irrigated acreage by August 31
 - Limit on applied water for remaining 10% of irrigated acreage
 - Maximum 2 inches of water/acre (alfalfa/grain) or 4 inches water/acre (pasture)

Scott River Flows – Proposed Update

- Flow requirement is the natural flow, up to the drought emergency minimum flows previously required

Minimum Human Health & Safety Needs

– Proposed Update

- Government entity or nonprofit organization:
 - May “stand in the shoes of” a diverter and file a certification or petition for minimum human health and safety water
 - Must have ability to assess health and human safety water needs for communities without service from a public water system
- Additionally, provisions for human health and safety imported from curtailment-related emergency regulations used in the Klamath and other watersheds (Russian River, Delta, etc.)

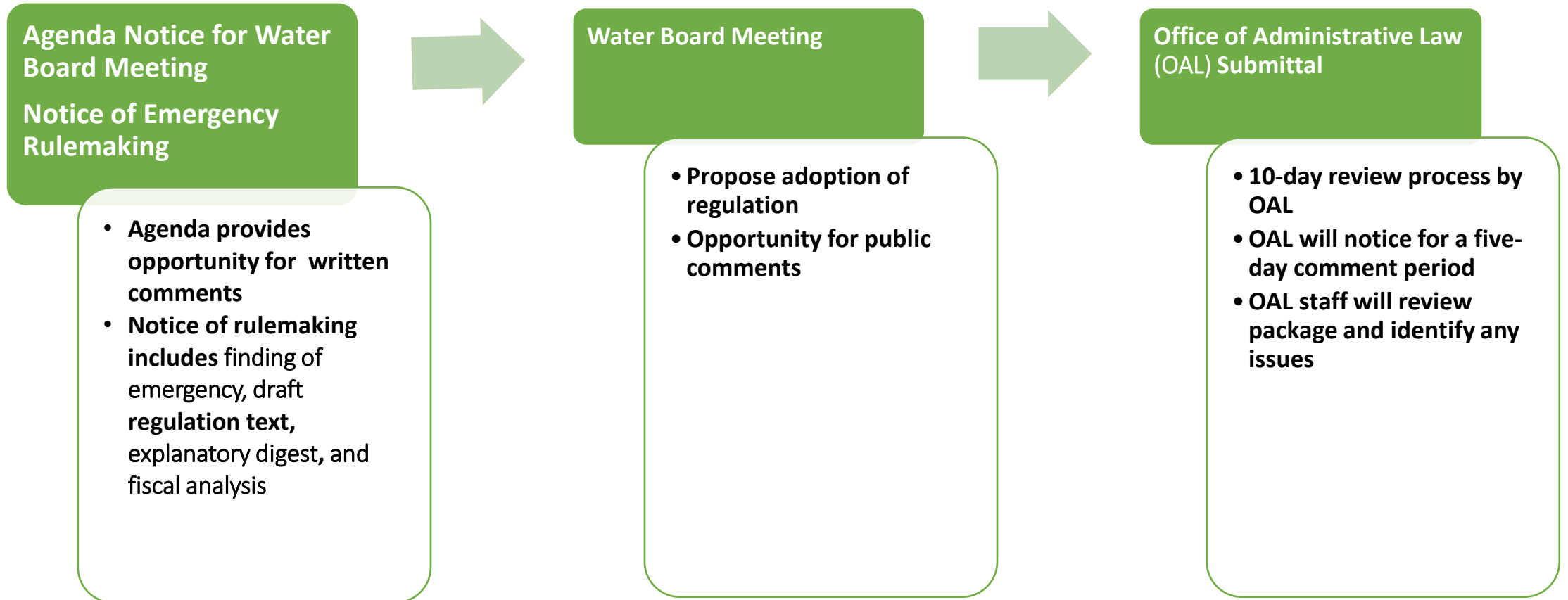
Inefficient Livestock Watering – Proposed Update

- Provides for when inefficient but otherwise valid diversions for livestock may occur
- First Change: High Flows - Consistent with conditions under which the livestock watering prohibition was suspended in January 2023 (500 cfs Scott, 220 cfs + min. storage in Shasta, tributary connectivity)
- Under this change, a valid livestock diversion could divert if:
 - The specified hydrologic conditions are present
 - CDFW finds that adult coho salmon peak migration season has concluded
 - Diversion is no greater than 20 percent of streamflow at point of diversion
 - Diversion avoids disturbing redds
 - A pulse flow greater than required flows has occurred
 - Diverters notify State Water Board and maintain records

Inefficient Livestock Watering – Proposed Update

- Second Change: Tributary-wide local cooperative solutions for inefficient livestock diversions may be proposed if:
 - Specific requirements are met:
 - Total diversions for livestock less than 10 percent of flow at diversions or tributary, whichever is less
 - Tributary remains connected to mainstem
 - Diversion will not impact anadromous fish migration or redds
 - Adequate method to ensure redds not disturbed, including monitoring
 - No curtailments in effect
 - Diversions cannot begin until pulse flow in current water year
 - CDFW finds the proposal will adequately protect fishery resources *(same as last regulation)*
- Deputy Director finds sufficient water for HHS and environmental needs
- To extent appropriate, must include redd monitoring and protection

Overview of Remaining Process



How to Stay Informed

Visit: Scott and Shasta Drought webpage:
https://www.waterboards.ca.gov/drought/scott_shasta_rivers/

Visit: Groundwater Storage Permitting webpage:
https://www.waterboards.ca.gov/waterrights/water_issues/programs/applications/groundwater_recharge/

Subscribe: State Water Board Email Subscription List under “Water Rights” and titled “*Scott-Shasta Drought*”
https://www.waterboards.ca.gov/resources/email_subscriptions/swrcb_subscribe.html

Contact us by email to:
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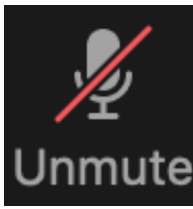
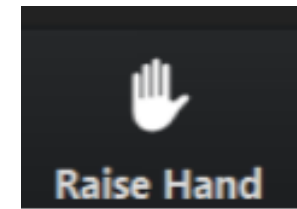
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Comments on Preliminary Draft Regulation

Comments limited to 3 minutes
to ensure everyone can be heard.



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On the Zoom with your phone number?

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2. Email comments by 5:00 pm Thurs. (11/16) to:

ScottShastaDrought@waterboards.ca.gov

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Written Comments

Comments on preliminary draft emergency regulation due **by 5:00 pm on November 16, 2023**

- **Email (preferred option):**

ScottShastaDrought@waterboards.ca.gov

- **Hard copy* mail:**

State Water Resources Control Board, Division of Water Rights

P.O. Box 2000, Sacramento, CA 95812 (mail)

1001 I Street, 14th Floor, Sacramento, CA 95814 (hand-delivery)

* Hard copies must be received (not postmarked) at the State Water Board office by the close of the comment period.