



Media Release

State Water Board Approves Emergency Regulation to Assure Compliance with Water Rights Curtailment Orders

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In response to the ongoing severe drought, the State Water Resources Control Board Wednesday approved an emergency regulation to assure compliance with curtailment orders issued to protect senior water rights throughout the state.

The new regulation will require junior water right holders to immediately stop taking water upon receipt of a curtailment order reflecting the fact that water is not available under that diverter's priority of right, so that water remains for those with more senior water rights.

This emergency regulatory package allows the State Water Board to act quickly, while preserving the right of appeal by water rights holders who are ordered to curtail. Water rights holders who fail to comply with the regulations face immediate fines or administrative actions.

"This emergency regulation provides certainty to our existing water rights system, and allows the Board to move quickly to assure that the senior water rights holders have the water they need as this very dry summer progresses," said State Water Board Chair Felicia Marcus.

As the demand for water exceeds the available supply in this third year of drought, junior water rights holders are being ordered to curtail, or stop, their diversions from the state's rivers and tributaries so that the water reaches those who are entitled to it, in accordance with State law.

The new regulation was developed following passage of legislation signed by Governor Brown that expanded regulatory and enforcement powers during the drought emergency.

The State Water Board has issued more than 7,910 curtailment notices so far this year, but just over 31 percent have responded that they are in compliance. The regulatory action makes clear how important it is to immediately comply with an order to curtail. Delays in compliance with the curtailment notices could cause additional curtailments that would have been unnecessary otherwise, thereby further harming those entitled to the water under the law.

The curtailment of water diversions follows the "first in time, first in right" water right system in California. Junior water rights holders are generally those with water rights granted after 1914, when the current water right system was put in place. Senior water rights holders are generally those whose water rights existed before 1914, and those whose property abuts a water course.



Many water right holders have a mix of water rights as well as a mix of sources for water, such as contract water, surface water rights, groundwater and in some cases recycled water.

Junior water rights holders are told to stop taking water (curtailment notice) in a drought to assure that the rights of more senior water right holders are protected. In a severe drought, curtailments may even be necessary for more senior water rights holders.

Rather than a curtailment notice, the regulation allows the Board to issue an enforceable curtailment order to limit or stop diversions and require reports to assure compliance.

The regulation supports local cooperative agreements among water rights holders in a watershed to share available water and avoid curtailment. Such agreements must not result in injury to other water right holders or cause unreasonable harm to fish and wildlife.

In taking this action, the Board also directed its staff to work with stakeholders to improve the information that is relied on to make decisions on water right priority and water availability and to assess the effectiveness of its drought response efforts in preparation for a possible dry 2015.

The regulation will likely go into effect on or about July 14, following submittal to the Office of Administrative Law. Please visit this [link](#) to see the draft regulation for item # 5 and final change sheet that the Board voted on.

In April, the State Water Board launched a web page to assist water right holders in several important watersheds to plan for possible limits on water supply availability. The web page, titled "[Watershed Analysis](#)," details projected water supply, demand and availability for the watersheds most likely to face restrictions during the drought as demand outstrips available water supply.

A [Curtailment Fact Sheet](#) provides additional details on the curtailment process. Please visit our [curtailment notification website](#) to see what watersheds have received curtailment letters. Governor Brown has called on all Californians to reduce their water use by 20 percent and prevent water waste – visit [SaveOurH2O.org](#) to find out how everyone can do their part, and visit [Drought.CA.Gov](#) to learn more about how California is dealing with the effects of the drought.