



# Fact Sheet

## **State Water Board Adopts Emergency Curtailment Regulations to Protect Water Rights**

The State Water Resources Control Board (State Water Board) adopted new regulations July 2 that will expedite compliance and eliminate much of the delay when junior water right holders are told to stop diverting water to protect senior water rights.

Junior water right holders that receive a curtailment order and do not stop diverting water could face immediate fines or administrative actions. While the action primarily affects junior water right holders, it also allows the Board to require some additional reporting by the most senior water right holders under certain circumstances.

This regulation requires water right holders with less seniority to immediately stop taking water after being ordered to do so by the State Water Board so that water remains for senior rights. These orders will be in full force for up to 270 days – the length of time the emergency regulation adopted by the State Water Board stays in effect.

The new regulation allows the board to require curtailment without a prior hearing. The diverter can request reconsideration of the curtailment order, and still can request a hearing after any enforcement actions have begun. If the hearing officer rules in favor of the state, the diverter could be subject to accrued fines from the date an order was sent by the State Water Board.

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 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 new regulation establishes a reporting requirement such that senior water-rights holders could be ordered to promptly provide information about their water right and water use if an allegation arises that they are taking more water than they have a right to.



This regulation could affect all water right holders exercising water rights issued by the Board [or its predecessor], including those who have already complied with notices issued by the State Water Board to stop diverting water since May.

The regulations were developed following passage of legislation [signed](#) by Governor Brown that expanded regulatory and enforcement powers during the drought emergency. It is responsive to direction by the Board, following a May 21 Board workshop where options for implementing curtailments and providing greater certainty to senior water rights holders were discussed.

With more than 7,910 curtailment notices issued by July 2, the Board must move quickly to enforce these water diversion restrictions or risk losing the ability to effectively manage the scarce water supply and prevent harm to senior water rights. Delays in enforcing curtailment orders also could mean that more curtailment orders than necessary would be needed to retain enough water in the system to protect senior water rights.

The regulation continues to support the development of local cooperative agreements among water right holders in their respective watersheds in an effort to share available water and avoid curtailment. The agreements must not result in injury to more senior water rights holders or unreasonably harm fish and wildlife.

When there is not enough water to meet all water rights holders' needs, State law requires that junior water rights holders stop diverting water so that there is water available to more senior water-rights holders: those with rights dating to before 1914 (pre-1914) and those on riparian land directly abutting a waterway. Diverting water when it is not available under a specific water right priority violates State law.

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.

*(This fact sheet was last updated July 8, 2014.)*