State of California
Office of Administrative Law

In re: State Water Resources Control Board

Regulatory Action:

Title 23, California Code of Regulations

Adopt sections: 995
Amend sections:
Repeal sections:

NOTICE OF APPROVAL OF EMERGENCY REGULATORY ACTION

Government Code Sections 11346.1 and 11349.6

OAL Matter Number: 2022-0105-03
OAL Matter Type: Emergency (E)

This emergency rulemaking by the State Water Resources Control Board adopts emergency regulations pursuant to Water Code section 1058.5, intended to promote conservation of water in response to the Governor's October 19, 2021, proclamation of a drought state of emergency.

OAL approves this emergency regulatory action pursuant to sections 11346.1 and 11349.6 of the Government Code.

This emergency regulatory action is effective on 1/18/2022 and will expire on 1/18/2023. The Certificate of Compliance for this action is due no later than 1/17/2023.

Date: January 18, 2022

Kevin D. Hull
Senior Attorney

For: Kenneth J. Pogue
Director

Original: Eileen Sobeck, Executive Director
Copy: Garrett Lenahan
STATE OF CALIFORNIA—OFFICE OF ADMINISTRATIVE LAW

NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 10/2013)

OAL FILE NUMBERS Z-

For use by Office of Administrative Law (OAL) only

NOTICE REGULATIONS

AGENCY WITH RULEMAKING AUTHORITY
State Water Resources Control Board

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE

2. REQUESTED PUBLICATION DATE

3. NOTICE TYPE

☐ Notice re Proposed Regulatory Action

☐ Other

4. AGENCY CONTACT PERSON

TELEPHONE NUMBER

FAX NUMBER (Optional)

OAL USE

ONL

Y

ACTION ON PROPOSED NOTICE

Approved as Submitted

Approved as Modified

Disapproved/Withdrawn

NOTICE REGISTER NUMBER

PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATIONS

Drought Conservation Emergency Regulation

2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)

SECTION(S) AFFECTED

(List all section number(s)

(Individually. Attach additional sheet if needed.)

TITLE(S)

ADOPT

AMEND

REPEAL

3. TYPE OF FILING

☐ Regular Rulemaking (Gov. Code §11346)

☐ Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11346.3, 11346.4)

☐ Emergency (Gov. Code, §11346.1(b))

☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.

☐ Emergency Readopt (Gov. Code, §11346.1(h))

☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)

☐ File & Print

☐ Print Only

☐ Effective on filing with Secretary of State (Gov. Code §11346.4(a))

☐ Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a)(3))

☐ $100 Changes Without Regulatory Effect

☐ Effective other (Specify)

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs., title 1, §44 and Gov. Code §11347.1)

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(b), Cal. Code Regs., title 1, §100)

☐ Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))

☐ Effective on filing with Secretary of State

☐ $100 Changes Without Regulatory Effect

☐ Effective other (Specify)

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

☐ Department of Finance (Form STD. 399) (SAM §6660)

☐ Fair Political Practices Commission

☐ State Fire Marshal

☐ Other (Specify)

7. CONTACT PERSON

Garrett Lenahan

TELEPHONE NUMBER

(916) 341-5179

FAX NUMBER (Optional)

E-MAIL ADDRESS (Optional)

SIGNATURE OF AGENCY HEAD OR DESIGNEE

Eileen Sobeck, Executive Director

DATE

January 4, 2022

TYPEPNA NAME AND TITLE OF SIGNATORY

Eileen Sobeck, Executive Director, State Water Resources Control Board

For use by Secretary of State only

ENDORSED - FILED

IN the office of the Secretary of State of the State of California

JAN 18 2022

1:36 PM
§ 995. Wasteful and Unreasonable Water Uses.

(a) As used in this section:

(1) “Turf” has the same meaning as in section 491.
(2) “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.

(b)(1) To prevent the unreasonable use of water and to promote water conservation, the use of water is prohibited as identified in this subdivision for the following actions:

(A) The application of potable water to outdoor landscapes in a manner that causes more than incidental runoff such that water flows onto adjacent property, non-irrigated areas, private and public walkways, roadways, parking lots, or structures;
(B) The use of a hose that dispenses water to wash a motor vehicle, except where the hose is fitted with a shut-off nozzle or device attached to it that causes it to cease dispensing water immediately when not in use;
(C) The use of potable water for washing sidewalks, driveways, buildings, structures, patios, parking lots, or other hard surfaced areas, except in cases where health and safety are at risk;
(D) The use of potable water for street cleaning or construction site preparation purposes, unless no other method can be used or as needed to protect the health and safety of the public;
(E) The use of potable water for decorative fountains or the filling or topping-off of decorative lakes or ponds, with exceptions for those decorative fountains, lakes, or ponds that use pumps to recirculate water and only require refilling to replace evaporative losses;
(F) The application of water to irrigate turf and ornamental landscapes during and within 48 hours after measurable rainfall of at least one fourth of one inch of rain. In determining whether measurable rainfall of at least fourth of one inch of rain occurred in a given area, enforcement may be based on records of the National Weather Service, the closest CIMIS station to the parcel, or any other reliable source of rainfall data available to the entity undertaking enforcement of this subdivision; and
(G) The use of potable water for irrigation of ornamental turf on public street medians.
(2) Notwithstanding subdivision (b)(1), the use of water is not prohibited by this section to the extent necessary to address an immediate health and safety need. This includes, 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.

(c)(1) To prevent the unreasonable use of water and to promote water conservation, any homeowners’ association or community service organization or similar entity is prohibited from:

(A) Taking or threatening to take any action to enforce any provision of the governing documents or architectural or landscaping guidelines or policies of a common interest development where that provision is void or unenforceable under section 4735, subdivisions (a) and (b) of the Civil Code;

(B) Imposing or threatening to impose a fine, assessment, or other monetary penalty against any owner of a separate interest for reducing or eliminating the watering of vegetation or lawns during a declared drought emergency, as described in section 4735, subdivision (c) of the Civil Code; or

(C) Requiring an owner of a separate interest upon which water-efficient landscaping measures have been installed in response to a declared drought emergency, as described in section 4735, subdivisions (c) and (d) of the Civil Code, to reverse or remove the water-efficient landscaping measures upon the conclusion of the state of emergency.

(2) As used in this subdivision:

(A) “Architectural or landscaping guidelines or policies” includes any formal or informal rules other than the governing documents of a common interest development.

(B) “Homeowners’ association” means an “association” as defined in section 4080 of the Civil Code.

(C) “Common interest development” has the same meaning as in section 4100 of the Civil Code.

(D) “Community service organization or similar entity” has the same meaning as in section 4110 of the Civil Code.

(E) “Governing documents” has the same meaning as in section 4150 of the Civil Code.

(F) “Separate interest” has the same meaning as in section 4185 of the Civil Code.

(3) If a disciplinary proceeding or other proceeding to enforce a rule in violation of subdivision (c)(1) is initiated, each day the proceeding remains pending shall constitute a separate violation of this regulation.

(d) To prevent the unreasonable use of water and to promote water conservation, any city, county, or city and county is prohibited from imposing a fine under any local maintenance ordinance or other relevant ordinance as prohibited by section 8627.7 of the Government Code.
(e) The taking of any action prohibited in subdivision (b), (c) or (d) is an infraction punishable by a fine of up to five hundred dollars ($500) for each day in which the violation occurs. The fine for the infraction is in addition to, and does not supersede or limit, any other remedies, civil or criminal.

(f) A decision or order issued under this section by the Board or an officer or employee of the Board is subject to reconsideration under article 2 (commencing with section 1122) of chapter 4 of part 1 of division 2 of the Water Code.

Authority: Section 1058.5, Water Code.