

## Frequently Asked Questions Regulation on Waste and Unreasonable Water Uses

### General Questions

#### **Q: Why is the State Water Board permanently prohibiting these wasteful water use practices?**

A: California droughts are becoming more frequent and persistent, as warmer winter temperatures driven by climate change reduce water held in the Sierra Nevada snowpack and result in drier soil conditions. Recognizing these new conditions, Californians must use water more wisely and efficiently, and prepare for more frequent, persistent dry periods.

Towards that end, the proposed regulation would advance the [California Water Action Plan](#), which laid the roadmap to [Make Water Conservation A California Way of Life](#).

The proposed regulation would also realize directives of Executive Orders [B-37-16](#) and [B-40-17](#), which, to eliminate water waste, directed the State Water Board to permanently prohibit certain wasteful water use practices.

Finally, the proposed regulation would safeguard water supplies by minimizing the potential for the waste and unreasonable use of water. Article X, section 2 of the California Constitution states:

*...that because of the conditions prevailing in this State the general welfare requires that the water resources of the State be put to beneficial use to the fullest extent of which they are capable, **and that the waste or unreasonable use or unreasonable method of use of water be prevented**, and that the conservation of such waters is to be exercised with a view to the reasonable and beneficial use thereof in the interest of the people and for the public welfare.*

#### **Q: How are the prohibitions in the proposed permanent regulation different from the prohibitions in the drought emergency water conservation regulations?**

A: The drought emergency water conservation regulations have been in place, with some modest additions, since July 2014 and expire November 25<sup>th</sup>, 2017. The proposed regulation includes prohibitions that are the same or similar to those that the Board adopted and readopted during the drought emergency. There are several differences from the most recent drought emergency prohibitions, specifically:

- For the provision prohibiting the irrigation of medians [§ 963(b)(1)(G)], the State Water Board has proposed also prohibiting the irrigation of turf on “publically owned or maintained landscaped areas between the street and sidewalk.” Some communities refer to these areas as *verges* or *parkways*. For both medians and *parkways*, the State Water Board has proposed exempting the irrigation of turf “that serves a community or neighborhood function.”

Expanding the scope of this provision to prohibit the irrigation of turf on *parkways* would prevent the waste and unreasonable use of water on those landscaped areas, helping to safeguard water for reasonable and beneficial uses.

Exempting from this provision the irrigation of turf on medians and *parkways* “that serve a community or neighborhood function,” reflects the fact turf in medians is reasonable in some communities due to existing uses.

- For the provision prohibiting irrigation during and within 48 hours of measurable rainfall [§ 963(b)(1)(G)], the State Water Board has proposed defining “measurable” as 1/10 of an inch, consistent with the Clean Water Act [40 CFR 122.24, (c)(E)(6) and (d)(2)(iii)(2)].

Defining “measurable” as 1/10 of an inch would provide greater clarity, simplifying compliance with and enforcement of this particular provision.

- For the provisions affecting runoff, residential car washing, and the irrigation of turf on medians and parkways, the State Water Board omitted the word *potable*, proposing that these prohibitions prevent the waste and unreasonable use of *all* water including reclaimed water and captured stormwater.

Expanding the scope of this provision to prohibit the waste and unreasonable use of *all* water, not just potable water, recognizes the value of alternative sources in building resilience to climate change. Hence, using those sources reasonably and beneficially is also in the interest of the people and the public welfare.

**Q: Does the regulation affect all fountains?**

A: The regulation affects *ornamental* fountains and *decorative* water features. Recreational fountains and water features, such as splash parks, are not affected. Similarly, fountains and splash parks for which there is a legitimate health and safety need for non-recycled or recirculated water, such as fountains that the public are expected to come in contact with and may drink from, are not covered by the prohibition.

**Q: The regulation prohibits the irrigation of turf on medians and “the area between the street and sidewalk” (i.e., parkways), unless the turf serves a community or neighborhood function. Under what circumstances would irrigated turf on medians and parkways serve a community or neighborhood function?**

A: In some instances, irrigating turf on medians provides functional and recreational benefits.

For example, in Sacramento, the Capitol Mall is a wide median covered in turf. Concerts, public gatherings, and farmers’ markets occur on Capitol Mall. These events would be difficult to hold if the turf were replaced with other landscaping. Another example where irrigated turf on medians or parkways serves a community function is in pocket parks, where the turf provides a place for picnicking and sports, e.g., Electric Avenue Median Park in Seal Beach. The regulation would not *obligate* a public agency to irrigate such turf. If, for example, the City of Sacramento wanted to let the turf on either or both of these medians go “California gold” during the hotter months, the regulation would allow for irrigation necessary to maintain that turf in the discretion of the local public agency.

**Q: If turf is irrigated while watering trees, is that a violation of the regulation?**

A: 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. Based on comments the Board has already received, the Board will clarify the proposed regulation text to clearly reflect the Board's intention that incidental irrigation of turf by an irrigation system used primarily to maintain healthy trees is not prohibited.

**Q: What kind of trees should be planted in the medians and parkways?**

A: The proposed regulation would not require any particular landscaping changes, including planting new trees on medians or parkways. However, there are programs that provide funding for planting new trees (see, e.g. [CAL FIRE's Urban Forestry Grants](#)) that the State Water Board encourages public agencies to look into if they are contemplating landscape changes in response to the proposed regulation. Climate-appropriate trees not only provide the aforementioned benefits, they also, once established, generally require less water than other trees.

**Q: Can local jurisdictions enforce this regulation?**

A: Current law allows public agencies to enforce their own conservation ordinances and rules and drought emergency rules adopted by the State Water Board and, during the recent drought, public entities enforced prohibitions against wasteful water uses. Because the proposed regulation is not a drought emergency regulation, at this time enforcement of the proposed regulation could only come from the Board. Local public agencies can enforce their own conservation rules and modify those rules to mirror the proposed prohibitions, in which case they would be able to enforce those prohibitions. Proposed legislation ([SB 606](#)), however, would allow for public agencies to enforce certain rules, such as the prohibitions contained in the proposed regulation, in the same manner they could for the Board's drought emergency regulations.

**Q: The regulation prohibits the application of potable water directly to driveways and sidewalks. Does that particular provision apply to other hardscapes such as buildings?**

A: No, the regulation does not prohibit the washing of buildings, either with potable water or with recycled water. For example, power washing buildings is not prohibited.

**Q: Are there exemptions for the prohibitions under certain circumstances?**

A: Yes, there are three proposed exemptions for all of the prohibitions: 1) If there is a public health or safety reason to continue the activity, e.g. to wash down a sidewalk or driveway because human waste or other potentially hazardous bacteria is present; 2) If other state or federal permits require the activity; and 3) If water is used exclusively for commercial agricultural purposes.

**Q: What time will the public workshop on 11/21/17 start?**

A: Please consult the [Board Meeting Agenda](#).

**Q: Will the meeting be webcast?**

A: The meeting will be webcast. Please note that the webcast provides audio and visuals, but is not interactive. See [Meetings and Workshops](#) for more information.