The State Water Resources Control Board (Board) submitted this emergency action to adopt three sections and a new article in title 23 of the California Code of Regulations pertaining to drought emergency water conservation. The proposed action addresses severe impacts on California’s water supplies and its ability to meet all water demands in the state due to the current drought, which was declared to be a state of emergency by Governor Brown in two executive orders issued in 2014. The second executive order, issued April 25, 2014, directed the Board to adopt emergency regulations, pursuant to Water Code section 1058.5, to ensure that urban water suppliers implement drought response plans to limit outdoor irrigation and other wasteful water practices.

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 7/28/2014 and, pursuant to section 1058.5 of the Water Code, will expire on 4/25/2015. The Certificate of Compliance for this action is due no later than 4/24/2015.
STATE OF CALIFORNIA—OFFICE OF ADMINISTRATIVE LAW
NOTICE PUBLICATION/REGULATIONS SUBMISSION

For use by Office of Administrative Law (OAL) only

For use by Secretary of State only

OAL FILE NUMBERS

NOTICE FILE NUMBER

REGULATORY ACTION NUMBER

EMERGENCY NUMBER

2014-0718-O/E

For use by Secretary of State only

2014 JUL 18 PM 12:09

OFFICE OF ADMINISTRATIVE LAW

DEBRA BOWEN
SECRETARY OF STATE

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

Drought Emergency Water Conservation

2. REQUESTED PUBLICATION DATE

2014

3. NOTICE TYPE

Notice re Proposed Regulatory Action

4. AGENCY CONTACT PERSON

Carlos Mejia

TELEPHONE NUMBER

(916) 341-5184

FAX NUMBER (Optional)

(916) 341-5199

OAL USE ONLY

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❑ Disapproved/ Withdrawn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 Emergency Water Conservation

1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)

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

SECTION(S) AFFECTED

(List all section number(s) individually. Attach additional sheet if needed.)

(23 863 864 865

23)

TITLE(S)

AMEND

3. TYPE OF FILING

❑ Regular Rulemaking (Gov. Code §11346)

❑ Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)

❑ Emergency (Gov. Code, §11346.1(d))

❑ 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))

❑ File & Print

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

❑ Print Only

❑ Other (Specify) Emergency (Wet. Code, §1058.5)

❑ 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)

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(d) 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

❑ Additional agency (Form STD. 399) (SAM 666)

❑ Other (Specify)

7. CONTACT PERSON

Carlos Mejia

TELEPHONE NUMBER

(916) 341-5184

FAX NUMBER (Optional)

(916) 341-5199

E-MAIL ADDRESS (Optional)

carlos.mejia@waterboards.ca.gov

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

DATE

Caren Trgovcich, Chief Deputy Director, State Water Resources Control Board

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

JUL 28 2014

Office of Administrative Law
PROPOSED TEXT OF EMERGENCY REGULATIONS


Section 863. Findings of Drought Emergency.

(a) The State Water Resources Control Board finds as follows:

(1) On January 17, 2014, the Governor issued a proclamation of a state of emergency under the California Emergency Services Act based on drought conditions;

(2) On April 25, 2014, the Governor issued a proclamation of a continued state of emergency under the California Emergency Services Act based on continued drought conditions;

(3) The drought conditions that formed the basis of the Governor’s emergency proclamations continue to exist;

(4) The present year is critically dry and has been immediately preceded by two or more consecutive below normal, dry, or critically dry years; and

(5) The drought conditions will likely continue for the foreseeable future and additional action by both the State Water Resources Control Board and local water suppliers will likely be necessary to further promote conservation.

Note:
Authority: Section 1058.5, Water Code.
Reference: Sections 102, 104 and 105, Water Code.

Section 864. Prohibited Activities in Promotion of Water Conservation.

(a) To promote water conservation, each of the following actions is prohibited, except where necessary to address an immediate health and safety need or to comply with a term or condition in a permit issued by a state or federal agency:

(1) The application of potable water to outdoor landscapes in a manner that causes runoff such that water flows onto adjacent property, non-irrigated areas, private and public walkways, roadways, parking lots, or structures;

(2) The use of a hose that dispenses potable 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;

(3) The application of potable water to driveways and sidewalks; and

(4) The use of potable water in a fountain or other decorative water feature, except where the water is part of a recirculating system.

(b) The taking of any action prohibited in subdivision (a) of this section, in addition to any other applicable civil or criminal penalties, is an infraction, punishable by a fine of up to five hundred dollars ($500) for each day in which the violation occurs.

Note:
Authority: Section 1058.5, Water Code.
Reference: Sections 102, 104 and 105, Water Code.

Section 865. Mandatory Actions by Water Suppliers.

(a) The term “urban water supplier,” when used in this section, refers to a supplier that meets the definition set forth in Water Code section 10617, except it does not refer to
suppliers when they are functioning solely in a wholesale capacity, but does apply to suppliers when they are functioning in a retail capacity.

(b)(1) To promote water conservation, each urban water supplier shall implement all requirements and actions of the stage of its water shortage contingency plan that imposes mandatory restrictions on outdoor irrigation of ornamental landscapes or turf with potable water.

(2) As an alternative to subdivision (b)(1), an urban water supplier may submit a request to the Executive Director for approval of an alternate plan that includes allocation-based rate structures that satisfies the requirements of chapter 3.4 (commencing with section 370) of division 1 of the Water Code, and the Executive Director may approve such an alternate plan upon determining that the rate structure, in conjunction with other measures, achieves a level of conservation that would be superior to that achieved by implementing limitations on outdoor irrigation of ornamental landscapes or turf with potable water by the persons it serves to no more than two days per week.

(c) To promote water conservation, each urban water supplier that does not have a water shortage contingency plan or has been notified by the Department of Water Resources that its water shortage contingency plan does not meet the requirements of Water Code section 10632 shall, within thirty (30) days, limit outdoor irrigation of ornamental landscapes or turf with potable water by the persons it serves to no more than two days per week or shall implement another mandatory conservation measure or measures intended to achieve a comparable reduction in water consumption by the persons it serves relative to the amount consumed in 2013.

(d) In furtherance of the promotion of water conservation each urban water supplier shall prepare and submit to the State Water Resources Control Board by the 15th of each month a monitoring report on forms provided by the Board. The monitoring report shall include the amount of potable water the urban water supplier produced, including water provided by a wholesaler, in the preceding calendar month and shall compare that amount to the amount produced in the same calendar month in 2013. Beginning October 15, 2014, the monitoring report shall also estimate the gallons of water per person per day used by the residential customers it serves. In its initial monitoring report, each urban water supplier shall state the number of persons it serves.

(e) To promote water conservation, each distributor of a public water supply, as defined in Water Code section 350, that is not an urban water supplier shall, within thirty (30) days, take one or more of the following actions:

(1) Limit outdoor irrigation of ornamental landscapes or turf with potable water by the persons it serves to no more than two days per week; or

(2) Implement another mandatory conservation measure or measures intended to achieve a comparable reduction in water consumption by the persons it serves relative to the amount consumed in 2013.

Note:
Authority: Section 1058.5, Water Code.