
State Water Resources Control Board

NOTICE OF AVAILABILITY OF REFINEMENTS TO THE WATER UNAVAILABILITY METHODOLOGY AND DRAFT EMERGENCY CURTAILMENT AND REPORTING REGULATION FOR THE DELTA WATERSHED

AND

NOTICE OF STAFF WORKSHOP AND OPPORTUNITY FOR PUBLIC COMMENT

NOTICE IS HEREBY GIVEN that State Water Resources Control Board (State Water Board or Board) staff have posted refinements to the methodology for determining water unavailability in the Sacramento-San Joaquin Delta (Delta) watershed ([Water Unavailability Methodology](#) or methodology) as well as proposed revisions to the emergency curtailment and reporting regulation for the Delta watershed (emergency regulation). Currently, the methodology is being used to inform curtailment decisions as described in the [emergency regulation](#) that was approved on August 19, 2021, and is effective for up to one year unless readopted. The State Water Board plans to consider readoption of the emergency regulation this summer and is providing an updated Water Unavailability Methodology and proposed revisions to the emergency regulation for comment in advance of that possible readoption. State Water Board staff also plans to hold a technical workshop to receive input on possible refinements to the existing methodology and the proposed minor revisions of the existing emergency regulation language. The workshop is scheduled to be held:

**Thursday, May 12, 2022
10:00 a.m. – 5:00 p.m.
Remote Participation Only**

WORKSHOP TOPICS

During the workshop, staff will seek public input on any changes that should be made to the emergency regulation and any changes that should be made to the methodology dated April 19, 2022. Staff specifically seeks input on the following topics related to the Water Unavailability Methodology:

E. JOAQUIN ESQUIVEL, CHAIR | EILEEN SOBECK, EXECUTIVE DIRECTOR

1. Water supply data – including use of California Nevada River Forecast Center data or Department of Water Resources Bulletin 120 data; use of supply forecast exceedance levels (including 10%, 50%, 75%, 90% exceedance probabilities); analysis time periods for supply forecasts (including 7 days, 31 days, or other) under different conditions (including dry season and wet season considerations).
2. Water right/claimant demand data – including use of historical water right/claimant demand data, projected water right/claimant demand data provided by water right holders/claimants under the emergency regulation, or other data sources for individual water right/claimant demands.
3. Return flows – Methods to determine appropriate return flow factors given extreme dry conditions and limited water supplies, including modeling, land use based, and direct monitoring methods that can be used to determine return flow factors at the sub-watershed and watershed scales.
4. Methods for determining curtailments for water rights and claims when only a portion of a demand cannot be met, including correlative shortages for riparian water right claimants.
5. Use of sub-watershed curtailments.
6. Delta supply sources, including in-Delta storage.
7. Accounting of direct diversion demands and storage demands.
8. Other issues that should be considered related to curtailments over the next year.

WORKSHOP PARTICIPATION INFORMATION

If you wish to view the workshop only, a webcast will be available at <https://video.calepa.ca.gov/> (closed captioning available). This option should be used for viewing the workshop **UNLESS** you intend to provide oral comments or ask clarifying questions during the workshop.

If you wish to make oral comments or ask clarifying questions during the workshop, you must fill out a virtual speaker card using the [online form](#) provided for this workshop. Workshop participants should submit their online forms by **noon on May 9, 2022**. Staff will respond to your form with the information needed to join the workshop via the Zoom online platform. If you do not submit an online form you may not be provided access to speak during the workshop and may be limited to viewing the webcast only. Comments should be technical in nature, addressing the topics identified above. Comments will be limited to 5 minutes per speaker unless you request to make a presentation. Presentations will be limited to no more than 15 minutes. If there are a large number of commenters, speakers may be asked to shorten their comments to accommodate all speakers.

If you wish to make a PowerPoint presentation at the workshop, please indicate so on the online form. PowerPoint presentations are required to be submitted to Bay-Delta@waterboards.ca.gov no later than **noon on May 10, 2022**. Presentations must be in **PowerPoint format and should not include any transitions or external media sources**. Please be aware that State Water Board staff will be projecting and advancing PowerPoint slides during presentations. Speakers are encouraged to organize themselves as panels and should indicate this, if applicable, on their online form. Only one online form should be submitted for each panel presentation, clearly identifying the number and names of all panelists.

If you have any questions regarding how to participate in the workshop, please send an email to Bay-Delta@waterboards.ca.gov.

WRITTEN PUBLIC COMMENTS

With this notice, State Water Board staff is releasing updated resources related to the methodology, including a summary report, appendices, and spreadsheet. These resources are available on the [Water Unavailability Methodology webpage](#).

State Water Board staff are also releasing proposed edits to the emergency regulation. The draft text of the proposed emergency regulation, which includes minor revisions to the Delta-specific sections of the emergency regulation language adopted on August 3, 2021, is posted under the Emergency Curtailment and Reporting Regulation section of the [Delta Drought webpage](#). For revisions to emergency regulation sections affecting multiple watersheds throughout the state, please refer to the Emergency Regulation section of the [Russian River Drought Response webpage](#). The proposed emergency regulation would continue to require water right holders in the Delta watershed to curtail their diversions when the State Water Board determines, based on the best information available to the Board, that water is not available to serve their priority of right. The emergency regulation would also continue to allow the Board to require that water right holders provide additional information related to their water diversion and use.

Written comments related to the Water Unavailability Methodology and/or draft emergency regulation text must be submitted to Bay-Delta@waterboards.ca.gov by **5:00 PM on May 19, 2022**. Comments should be formatted with a heading describing the general topic or subject of the comment. In addition to written comments, interested parties will have the opportunity to provide oral comment at the May 12, 2022 staff workshop.

BACKGROUND

The Delta watershed is currently experiencing severe drought conditions following dry conditions in 2020 and 2021, which constituted California's second driest two-year period on record based on statewide precipitation. As the state enters a third consecutive dry year, conditions are expected to result in severe limitations in water supplies, including limited reservoir storage levels and associated water quality and environmental concerns.

On May 10, 2021, Governor Newsom issued a Proclamation of a State of Emergency due to drought in 41 counties, including those in the Delta watershed. To ensure

protection of water needed for health, safety, and the environment, the May 10, 2021 Proclamation directs the State Water Board to consider adoption of an emergency regulation to curtail water diversions in the Delta watershed when water is not available at water right holders' priority of right and to protect releases of previously stored water.

On August 3, 2021, the State Water Board adopted an emergency regulation authorizing the curtailment of diversions when water is determined to be unavailable at a water right holder's or claimant's priority of right. (Cal. Code Regs., tit. 23, §§ 876–879.2.) The regulation was approved by the Office of Administrative Law and went into effect upon filing with the Secretary of State on August 19, 2021. The State Water Board plans to consider the readoption of this emergency regulation this summer in advance of the expiration date of the current regulation.

If readopted by the State Water Board, the emergency regulation will be submitted to the Office of Administrative Law for a public comment period, review, and requested approval. If approved, the readopted emergency regulation would become effective upon submittal to the Secretary of State, anticipated by mid-August of 2022. If readopted and approved, the emergency regulation would remain in effect for up to one year but could be repealed if hydrologic conditions improve, or readopted again if drought conditions persist.

ADDITIONAL RESOURCES

For more information regarding drought in the Delta watershed, visit the [Delta Drought webpage](#). For information on other drought related activities, please visit the State Water Board's [Drought webpage](#). For further information regarding drought in the Delta watershed, it is also strongly encouraged that you subscribe to the Delta Drought list on the [State Water Board's Email Lists webpage](#). Please note that, if readopted and approved, the draft emergency regulation will continue to require water users to subscribe to the Delta Drought list or to frequently visit the Board's Delta Watershed Drought Information webpage for updates.

CONTACT

Individuals who require special accommodations are requested to contact staff at Bay-Delta@waterboards.ca.gov prior to the workshop. If you have any questions regarding this notice or related efforts, you may send an email to Bay-Delta@waterboards.ca.gov or call the Delta Drought phone line at (916) 319-0960.