

## Changes to the Proposed Regulation on Wasteful Water Use Practices

As directed by [Executive Order B-40-17](#), the State Water Board is conducting a rulemaking to prohibit wasteful water use practices. These prohibitions also support the [California Water Action Plan](#) goal of “Making Conservation a California Way of Life.”

State Water Board staff proposed an initial set of prohibited water use practices in November 2017. After reviewing public comment, staff are recommending a few changes, which are described below. There will be an additional [15-day comment period](#) for the revised proposal, with comments accepted until 12:00pm on February 14, 2018, and the State Water Board will consider the proposed regulation at its [February 20, 2018 meeting](#).

The proposed permanent prohibitions are similar to the emergency prohibitions on wasteful water uses that were in effect during the 2012-2017 drought. There are a few differences that reflect the permanent nature of these prohibitions.

### Key Provisions

The following wasteful practices would be prohibited, unless exempt to protect health and safety, to meet state and federal permit obligations, when used exclusively for commercial agricultural purposes, or for other reasons noted below:<sup>1</sup>

- Using potable water to wash sidewalks and driveways;
- Allowing more than incidental runoff when irrigating turf and other ornamental landscapes;
- Using hoses without automatic shutoff nozzles to wash motor vehicles;
- Using potable water in ornamental fountains or decorative water features that do not recirculate the water<sup>2</sup>
- Irrigating turf and ornamental landscape during and within 48 hours following measurable rainfall;
- Hotels and motels laundering towels and linens daily without providing guests the option of using them again;

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<sup>1</sup> See the last page of this Fact Sheet for a comparison of the emergency drought regulations and the changes to the proposed regulation.

<sup>2</sup> Fountains listed on the *National Register of Historic Places* are also exempt.

- During a drought emergency, the serving of drinking water in restaurants and bars without it being requested; and
- As of January 1, 2025, irrigating turf on public street medians and *parkways*<sup>3</sup> unless the turf serves a community recreational or civic function, the turf is irrigated incidentally with trees, or the turf is watered with recycled water by an irrigation system installed prior to January 1, 2018.

In addition, the regulation retains penalties for homeowners' associations or community service organizations that block, stifle, or threaten homeowners from reducing or eliminating the irrigation of vegetation or lawns during a declared drought emergency in violation of existing law. The regulation also retains penalties for cities and counties that fine homeowners for failing to irrigate a lawn or for having a brown lawn during a declared drought emergency in violation of existing law.

**Questions and Answers** (see also the *Frequently Asked Questions* [webpage](#)): The responses below refer to the changes to the proposed regulatory text dated January 31, 2018.

- **When does a “health and safety need” exist?** Water is used to address many different types of health and safety needs, such as controlling dust, suppressing fires, and removing pathogenic waste from sidewalks. The Water Board has included the “health and safety” exemption to allow the otherwise prohibited wasteful water use practices to address reasonable and legitimate healthy and safety needs.
- **How will I know if “measurable” rainfall of ¼ of an inch has been reached locally?** The closest weather station or reliable rain gauge may be used to measure rainfall. Nothing in the proposed regulation prevents a water supplier from developing or adopting a more limiting definition of measurable rainfall for their service area.
- **What is “incidental runoff” and what are some examples?** Incidental runoff refers to a minimal amount of irrigation water that escapes the area of intended use. This may include minor windblown overspray, mist extending onto sidewalks within a park, or minor runoff from watering trees.
- **The provision prohibiting the serving of drinking water unless upon request now only applies during a drought emergency. Does it apply to local drought emergencies or only state-declared drought emergencies?** The prohibition on serving drinking water unless upon request during a drought emergency applies for

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<sup>3</sup> The regulatory text refers to the “landscaped area between the street and sidewalk.” Different communities use different terms to describe these areas. *Parkways* is a common term. So is *verges*.

drought emergencies issued by the Governor. Check with your local water agency for information on local drought emergencies.

- ***Will the provision prohibiting the irrigation of turf on public street medians and publicly owned and maintained landscaped areas between the street and sidewalk (i.e., parkways) allow communities to irrigate trees?*** Yes. The changes to the proposed regulation allow the incidental irrigation of turf while irrigating trees. See [FAQ](#) for more information on trees.
- ***Who determines whether irrigating turf on a median or ‘parkway’ serves a “community or neighborhood function”?*** Generally, local land use authorities (e.g. the City or County) will make that determination. A key consideration is whether the turf must be irrigated to provide functional (e.g., a place to hold events) or recreational (e.g., a place for sports and exercise) benefits. Aesthetics alone are not a community or neighborhood function. Many attractive low-water options exist for landscaping medians and parkways. See [FAQ](#) for more examples of turf serving a community or neighborhood function.
- ***Why does the provision prohibiting the irrigation of turf on medians and ‘parkways’ not become effective until January 1, 2025?*** The effective date in 2025 provides several years for a public entity to make any desired changes to a median or parkway. Changes could include planting a low-water alternative to turf or planting trees, if so desired. The State Water Board encourages the planting of [climate-appropriate](#) trees. These trees generally require less water than other trees. See [FAQ](#) for information on funding tree planting projects.
- ***Will the provision prohibiting the irrigation of turf on medians and parkways allow the use of recycled water?*** Yes, for recycled water irrigation systems installed prior to January 1, 2018. The changes to the proposed regulation exempt existing recycled systems, but not new ones.
- ***Will the provision prohibiting the irrigation of turf on medians and ‘parkways’ allow irrigation of low-impact development or green infrastructure (e.g., rain gardens or bio-swales)?*** Yes, provided these landscapes are not turf and are designed to use minimal or no irrigation.
- ***Where can someone report water waste or violations of these prohibitions?*** Check with your local water agency or report water waste at this webpage: <http://www.savewater.ca.gov/>

## Background

In response to severe drought, Governor Brown declared a drought emergency in January 2014. The State Water Board first adopted drought emergency conservation regulations in July 2014, which included prohibitions on certain wasteful water use practices. As drought persisted, the State Water Board readopted the emergency regulations several times, most recently in February 2017. Governor Brown declared the end of the statewide drought emergency in April 2017. These prohibitions against wasteful water use practices remained in place until the last emergency regulation expired on November 25, 2017.

Governor Brown also issued executive orders B-37-16 and B-40-17 to *Make Conservation a California Way of Life*. The orders direct the Board to permanently prohibit practices that waste water. The formal rulemaking process and public comment period began in November 2017. The State Water Board heard from 113 individuals by the December 26, 2017 deadline. Staff reviewed all [public comments](#) and made changes to the proposed regulatory text based on those comments. A second [15-day public comment period](#) runs from January 31 through noon February 14, 2018. The State Water Board will consider the final regulatory text for adoption at a hearing on February 20, 2018.

## Compliance

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

## Contact and additional information

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- [Web page for rulemaking on Wasteful Water Use Practices](#)

*(This fact sheet was last updated February 1, 2018)*

## Comparing the emergency regulations to the proposed changes to the permanent regulation

*Italics show text in regulation*

<b>Prohibitions in Emergency Conservation Regulations (2014 -2017)</b>	<b>Prohibitions in Revised Proposed Regulation (2018 and onward)</b>
<p><b>Irrigating landscapes</b>  <i>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;</i></p>	<p><i>The application of 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;</i></p>
<p><b>Washing Vehicles</b>  <i>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;</i></p>	<p><i>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;</i></p>
<p><b>Watering sidewalks</b>  <i>The application of potable water to driveways and sidewalks;</i></p>	<p><i>The application of potable water directly to driveways and sidewalks;</i></p>
<p><b>Operating fountains</b>  <i>The use of potable water in a fountain or other decorative water feature, except where the water is part of a recirculating system;</i></p>	<p><i>The use of potable water in an ornamental fountain or other decorative water feature, except where: (D)(i) the water is part of a recirculating system; or (D)(ii) the fountain is registered on the National Register of Historic Places as of January 1, 2018;</i></p>
<p><b>Irrigating landscapes after rainfall</b>  <i>The application of potable water to outdoor landscapes during and within 48 hours after measurable rainfall;</i></p>	<p><i>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;</i></p>
<p><b>Serving drinking water</b>  <i>The serving of drinking water other than upon request in eating or drinking establishments, including but not limited to restaurants, hotels, cafes, cafeterias, bars, or other public places where food or drink are served and/or purchased;</i></p>	<p><i>The serving of drinking water other than upon request in eating or drinking establishments, including but not limited to restaurants, hotels, cafes, cafeterias, bars, or other public places where food or drink are served and/or purchased, during a period for which the Governor has issued a proclamation of a state of emergency under the California Emergency Services Act (Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code) based on drought conditions;</i></p>

<p><b>Irrigating medians and parkways</b>  <i>The irrigation with potable water of ornamental turf on public street medians;</i></p>	<p><i>As of January 1, 2025, the irrigation of turf on public street medians or publicly owned and maintained landscaped areas between the street and sidewalk, except where:</i></p> <ul style="list-style-type: none"> <li><i>(i) the turf serves a community or neighborhood function, including, but not limited to, recreational uses and civic or community events;</i></li> <li><i>(ii) the turf is irrigated incidentally by an irrigation system, the primary purpose of which is the irrigation of trees; or</i></li> <li><i>(iii) the turf is irrigated with recycled water through an irrigation system installed prior to January 1, 2018.</i></li> </ul>
<p><b>Hotel and motel towels and linens</b>  <i>To promote water conservation, operators of hotels and motels shall provide guests with the option of choosing not to have towels and linens laundered daily. The hotel or motel shall prominently display notice of this option in each guestroom using clear and easily understood language.</i></p>	<p><i>To promote water conservation, operators of hotels and motels shall provide guests with the option of choosing not to have towels and linens laundered daily. The hotel or motel shall prominently display notice of this option in each guestroom using clear and easily understood language.</i></p>
<p><b>Exemptions</b>  <i>To prevent the waste and unreasonable use of water and 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:</i></p>	<p><i>Notwithstanding subdivision (b)(1), the use of water is not prohibited by this article under the following circumstances:</i></p> <ul style="list-style-type: none"> <li><i>(A) To the extent necessary to address a health and safety need. This may include, but is not limited to, street sweeping and pressure washing of public sidewalks and the use of potable water in a fountain or water feature when required by law to be potable.</i></li> <li><i>(B) To the extent necessary to comply with a term or condition in a permit issued by a state or federal agency.</i></li> <li><i>(C) When the water is used exclusively for commercial agricultural use meeting the definition of Government Code section 51201, subdivision (b).</i></li> </ul>