



Senator Jerry Hill, 13th Senate District

SB 814 – Reducing Excessive Water Use – Factsheet

IN BRIEF

SB 814 is about making sure all Californians share in the efforts to conserve water during California's worst drought in recorded history.

THE PROBLEM

Under the State Water Resources Control Board's (the "Board") emergency regulations, water use restrictions may vary slightly among the 411 water supplier territories throughout the state. But in general, residential water users can be – and are – fined \$500 a day for the following:

- Using a hose to wash a car without an automatic shutoff valve
- Washing down a driveway or sidewalk
- Watering outdoor landscaped areas within 48 hours of it raining
- Watering outdoor landscapes on the wrong day or during the wrong period of the day, as established by local rules

However, while \$500 fines can be assessed for these infractions, residential water users in California that use an excessive amount of water are not subject to any fines. The great majority of Californians are making sacrifices to conserve water and meet the mandatory statewide water conservation goal of 25%, but there is a segment of residential water users appear to be using as much water as they want, whenever they want. This is a clear inequity in California's efforts to conserve water during the state's worst drought in recorded history.

It's unknown how many residential water users have been fined, but according to data collected by the Board, since June 2015 water suppliers have issued an average of 8,900 penalties per month for water waste or not meeting conservation goals. This number also includes drought surcharges. The only known water supplier that assesses penalties on excessive water users is East Bay MUD because the state currently doesn't compel water suppliers to have an excessive water use policy.

In the face of such a severe drought, all Californians should have to cut back water use. By not publicly identifying and taking enforcement actions against excessive water users, the state's water suppliers aren't meeting Governor Brown's 2014 Executive Order to "bring enforcement actions against illegal diverters and those engaging in the wasteful and unreasonable use of water."

BACKGROUND

California is experiencing the worst drought in modern history. According to the Public Policy Institute of California, "the three-year period between fall 2011 and fall 2014 was the driest since recordkeeping began in 1895." In response, in April 2015, Governor Brown declared a state of emergency, requiring a 25% reduction of water use statewide. To meet this goal, the State Water Resources Control Board issued emergency regulations in May 2015. The regulations require each individual water supplier to reduce its water use by varying water conservation rates, ranging from 4% to 36%. Each of the state's 411 water suppliers must report monthly conservation data enforcement statistics to the Board every month. Any water supplier that doesn't meet its established conservation threshold can be fined by the Board up to \$500 per day.

Under the Board's emergency drought regulations, residential water users are prohibited to hose down driveways, to cause water runoff, to use hoses without shutoff nozzles, and more. Any person who breaks these rules can result in a fine of up to \$500 per day, assessed by the local water supplier. In addition, the California Public Utilities Commission (CPUC) oversees Investor Owned Utility (IOU) water suppliers, which deliver water to about 16% of the state. The CPUC has ordered all IOU water suppliers to implement similar measures to comply with the 25% water reduction mandate.

The Board's emergency regulations don't preclude a local water supplier from adopting more stringent conservation measures and local suppliers retain overall enforcement discretion in enforcing the emergency regulations to conserve water. It's up to each local water supplier to decide if and when to issue fines. The Board has encouraged water suppliers to

develop their own progressive enforcement practices to promote conservation.

The \$500 fines are typically assessed on average residential water users, people living in households that use about 11,700 (based on the Board's reported average daily household use for September 2015 of 97 gallons per day) gallons per month. At the same time, excessive water users – households that in some cases are using more than 80,000 gallons per month, or 8 times as much as average user – are not fined for their unreasonable and wasteful use of water. Although it's not known exactly how many excessive water users there are across the state, the Center for Investigative Reporting, in its reporting, has been able to determine that there at least 365 households in the state that use over 1 million gallons of water a year.

According to the data collected by the Center for Investigative Reporting, in Los Angeles alone, at least 92 households used 4.2 million gallons in one year, an amount that could supply enough water for at least 30 families. At least 73 households used more than 3 million gallons in a year and 14 households used more than 6 million gallons in a year. One household used over 12 million gallons in one year.

One local water supplier – the East Bay Municipal Utility District (EBMUD) – has already established a policy to go after excessive water users. EBMUD has identified over 1,000 homes that meet their definition of excessive water use, which is about 1,000 gallons per day, four times the average use EBMUD's service area. EBMUD imposes fines for exceeding the limit and, in accordance with existing law, also publicly discloses who the excessive users are. The highest excessive use residential water user in EBMUD's service territory used over 11,000 gallons a day.

The policy seems to be working. According to EBMUD, 2/3 of homes initially identified as excessive users have since cut their water use by about 20%. In some instances, the identification of excessive users helped those users identify leaks that were previously undetected. EBMUD noted that other factors, such as cooler weather, may have contributed to the water use reduction.

THE SOLUTION

During the worst drought in recorded history, SB 814 is intended to prevent the unreasonable use or the waste of water to protect water resources in the interest

of the people and for the public welfare. SB 814 will require both public and private urban retail water suppliers – agencies that directly provide potable municipal water to more than 3,000 users – to levy fines against residential excessive water users that are individually metered or sub-metered. Specifically:

- The bill prohibits excessive water use and requires water suppliers do one of two things:
 1. Establish a rate structure that includes water budgets or rate surcharges for excessive water use.
 2. Establish an excessive use ordinance.
- If a water supplier elects to adopt an excessive water ordinance, the water supplier must set a definition of excessive use in terms of gallons or hundreds of cubic feet of water. When establishing the definition of excessive use, a water supplier may – but isn't required to – consider the following factors:
 - Average daily water use,
 - Full-time occupancy of residences,
 - Amount of landscaped land on a property,
 - The evapotranspiration rate,
 - Seasonal changes in the weather.
- The ordinance must include a fine of up to \$500 for each hundred cubic feet – 748 gallons – above the excessive use definition. Water suppliers may take other actions, such as issuing warnings, before assessing a fine, which will be assessed on a residential customer's regular bill. Each water supplier will be required to have a process for non-payment that must be consistent with each water supplier's existing process for customer non-payment.
- Every water supplier will be required to have an appeal process for assessed fines. In order to be considered for an appeal, a customer must demonstrate that their water use did not violate the excessive use ordinance or rule, that there was a demonstrable leak, that the water was used for a bona fide medical reason, or for any other reasons

that a water supplier might decide are reasonable considerations for the basis of an appeal.

- The bill will only take effect when the Governor has declared a state of emergency based on drought conditions.

SUPPORT

California League of Conservation Voters
Clean Water Action
Sierra Club of California
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FOR MORE INFORMATION

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