

§ 143-355.2. Water conservation measures for drought.

(a) Each unit of local government that provides public water service and each large community water system shall develop and implement water conservation measures to respond to drought or other water shortage conditions as provided in this section. Pursuant to G.S. 143-355(1), water conservation measures to respond to drought or other water shortage conditions shall be set out in a water shortage response plan and submitted to the Department for review and approval. The Department shall approve the water shortage response plan if the plan meets all of the following criteria:

- (1) The plan includes tiered levels of water conservation measures or other response actions based on the severity of water shortage conditions.
- (2) Each tier of water conservation measures shall be based on increased severity of drought or water shortage conditions and will result in more stringent water conservation measures.
- (3) All other requirements of rules adopted by the Commission pursuant to S.L. 2002-167.
- (4) Does not contain any provision that meters or regulates private drinking water wells, as defined in G.S. 87-85.

(b) The Department may require a unit of local government that provides public water service or a large community water system to implement the more stringent water conservation measures described in subsection (d) of this section if the Department makes written findings that any county, as determined by subsection (e) of this section, in which the source of water for the public water system operated by the unit of local government or by a large community water system is in:

- (1) Severe, extreme, or exceptional drought, and the Department finds all of the following:
 - a. The unit of local government that provides water service or large community water system has not begun implementation of any level of water conservation measures set out in the water shortage response plan.
 - b. Implementation of measures is necessary to minimize the harmful impacts of drought on public health, safety, and the environment, including the potential impacts of drought or other water shortage on interconnected water systems and other water systems withdrawing from the same water source, or
- (2) Extreme or exceptional drought, and the Department finds that the unit of local government that provides water service or large community water system has implemented the measures required under the water shortage response plan for the appropriate tier of water conservation measure for 30 days or more and that implementation of the measures required has not reduced water use in an amount sufficient to minimize the harmful impacts of drought on public health, safety, and the environment, including the potential impact of drought or other water shortage on interconnected water systems and other water systems withdrawing from the same water source.

(c) In making the findings required under subsection (b) of this section, the Department shall consider the:

- (1) Hydrological drought conditions.
- (2) Drought forecast.
- (3) Reductions in water use achieved under water conservation measures in effect.
- (4) Availability of other water supply sources and other indicators of the extent and severity of drought impacts.
- (5) Economic impacts on the community to implement more stringent water conservation measures.
- (6) Conservation measures of all registered water withdrawals within the same 8 digit hydrologic unit code established by the U.S. Geological Survey to the extent the Department is able to document those measures.

(d) Based on the findings required under subsection (b) of this section, the Department may require the unit of local government that provides public water service or the large community water system to begin implementation of its plan or to implement the next tier of water shortage response measures. If, after consultation with the unit of local government or the large community water system, the Department makes a written finding that the next tier of measures set out in the plan, together with any other reasonable steps that may be available to reduce water use, will not reduce water use in an amount sufficient to minimize the harmful impacts of drought on public health, safety, and the environment, including the potential impact of drought or other water shortage on interconnected water systems and other water systems drawing from the same water source, then the Department may require implementation of the tier that is two levels more stringent than the tier being implemented.

(e) For purposes of this section, the drought designation for an area shall be the U.S. Drought Monitor designation for the county in which the water source is located as published by the Drought Management Advisory Council. The Secretary may approve a county drought designation that is different from the U.S. Drought Monitor designation pursuant to G.S. 143-355.1(f1). If the water source is located in more than one county and the counties have different drought designations, the Council shall recommend to the Secretary the drought designation to be applied to water systems that withdraw water from the water source. The recommendation of the Council shall be based on the drought indicators identified in G.S. 143-355.1(f) as applied to the water source.

(f) A unit of local government that provides public water service or a large community water system that does not have a water shortage response plan shall implement the default water conservation measures for extreme and exceptional drought set out in the rules adopted by the Commission pursuant to S.L. 2002-167.

(g) A unit of local government that provides water service or a large community water system that does not have an approved water shortage response plan shall implement the default water conservation measures specified in subsection (f) of this section within 10 days following a drought designation that requires implementation of water conservation measures. A water shortage response plan is presumed to be

approved until the Department notifies the unit of local government or large community water system that the plan has been disapproved. A unit of local government that provides public water service and a large community water system shall be deemed to be in compliance with this section if, within 10 days after water shortage conditions identified in the plan require implementation of water conservation measures, the water system begins implementation of the water conservation measures required by the plan.

(h) Water conservation measures imposed by a unit of local government that provides public water service or by a large community water system may be more stringent than the minimum water conservation measures required under this section.

(i) A unit of local government that provides public water service and a large community water system shall report that the water system has begun implementation of water conservation measures set out in the water system's water shortage response plan or the default water conservation measures to the Department within 72 hours after beginning implementation.

(j) This section shall not be construed to authorize or require the implementation of water conservation management measures that conflict with or are superseded by the provisions of any order of a federal or State court or administrative agency, any interstate agreement governing the allocation of water to which the State is a party, or any license for a hydroelectric generating facility issued by the Federal Energy Regulatory Commission; including, without limitation, any protocol or subsidiary agreement that may be part of or incorporated in any such order, interstate agreement, or operating license. (2008-143, s. 5.)