

STATE OF DELAWARE



EXECUTIVE DEPARTMENT DOVER

EXECUTIVE ORDER NUMBER THIRTY-TWO

RE: MANDATORY WATER CONSERVATION MEASURES

WHEREAS, on March 5th, 2002, Executive Order Number 29, I issued a drought warning for the State of Delaware and urged specific voluntary conservation measures; and

WHEREAS, Delaware and the region continue to experience severe drought conditions, including below normal precipitation and stream flow; and

WHEREAS, the demand for fresh water has not diminished sufficiently since the request for voluntary conservation measures; and

WHEREAS, the current supply of fresh water in northern New Castle County is lower than normal and may diminish even further; and

WHEREAS, without a decrease in water demand, fresh water supplies will be adversely affected, thereby creating a condition of water scarcity which will likely cause conflicts among competing water users; and

WHEREAS it is foreseeable that fresh water scarcity could worsen to the point that it would result in the denial of water services to residences and/or the shutdown of important economic activities dependent upon water usage; and

WHEREAS, the Governor's Drought Advisory Committee has recommended that I impose mandatory water use restrictions in northern New Castle County; and

WHEREAS, in addition to reducing demand, it is necessary for the protection of public health to monitor water quality standards and to ensure that the instream water needs are sufficient to protect fish and wildlife;

I, RUTH ANN MINNER, by virtue of the authority vested in me as Governor of the State of Delaware, do hereby declare and order on this Second Day of August, 2002, as follows:

1. A state of emergency, as defined at 20 Del.C. § 3102(5), exists in New Castle County north of the Chesapeake and Delaware Canal (hereinafter “northern New Castle County”). The nature of the emergency is that the above-described drought conditions require efforts and capabilities to protect public health and safety, and to lessen the threat of a drought condition that would result in substantial damage to property, substantial damage to the environment, and hardship, suffering, or injury to Delawareans. The above-described drought conditions make it essential that mandatory conservation measures be implemented without delay.
2. The provisions of this Order shall apply to all public and private users of water in northern New Castle County.
3. The following definitions shall apply to this Order:
 - (a) “Agriculture” means the production of plants and animals useful to man, including all forms of farm products and farm production.
 - (b) “Fresh water” means water obtained from a public or private drinking water supply or withdrawn from a source of public or private drinking water supply as determined by the Department of Natural Resources and Environmental Control (“DNREC”).
 - (c) “Heat-sensitive grasses” includes annual bluegrass and creeping bentgrass. Examples of grasses that are not heat-sensitive would include perennial rye, Kentucky bluegrass, and fescues.
 - (d) “Newly planted” means plants that have been planted for less than one year. A longer look-back period applies if required by state, county, or municipal contracts with commercial contractors (*e.g.*, a two-year look-back period is specified by the New Castle County Unified Development Code).
 - (e) “Newly seeded and sodded grass areas” means areas that have been planted for less than 180 days and that were planted prior to the proclamation of a drought warning and voluntary restrictions. Watering would be prohibited for any seeded or sodded areas that have been planted for over 180 days or planted after voluntary restrictions went into effect.
 - (f) “Nursery Stock” means any plant for planting, propagation, or ornamentation, including, but not limited to: (i) all plants, trees, shrubs, vines, perennials, grafts, cuttings, and buds that may be sold for propagation, whether cultivated or wild, and all viable parts of these plants. (ii) Any other plant or plant part, including cut Christmas trees or any non-hardy plant or plant part, including, but not limited to: annuals, bedding plants, and vegetable plants.

- (g) "Athletic Field" means any surface used for sports, including racing, contained within marked boundary lines or barriers, excluding any foul, out-of-bounds, or out-of-play areas.
 - (h) "Syringing" means the application of light amounts of water for the purpose of (i) preventing wilt; (ii) reducing transpiration; (iii) cooling the turf (and/or plants). Syringing can be accomplished with handheld hoses, or by a brief activation of an automatic irrigation system.
4. The use of fresh water for watering lawns is prohibited, subject to the exceptions and conditions stated in paragraphs 4(a) through 4(f) below:
- (a) Water may be used at the minimum rate necessary to establish and maintain newly seeded and sodded grass areas when applied between the hours of 5 p.m. to 9 a.m. by means of a handheld container or handheld hose equipped with a manually operated flow control nozzle. (Individual water providers have the authority to limit usage to other time periods for demand management purposes.)
 - (b) For landscaping work in progress as of the date these restrictions are implemented, water may be used at the minimum rate necessary to establish and maintain newly seeded or sodded nonresidential grass areas exceeding 10,000 square feet when applied between the hours of 5 p.m. and 9 a.m. by means designed and operated to assure effective conservation of water.
 - (c) For landscaping work in progress as of the date these restrictions are implemented, water may be used by a professional landscaper, or property owner monitored by a professional landscaper, with an automated watering system, at the minimum rate necessary on newly seeded and sodded grass areas greater than 10,000 square feet during regular working hours and operated to assure effective conservation of water.
 - (d) Grass areas may be watered to prevent loss and to assure effective treatment after application of pesticides for a period not to exceed 2 days from date of application when applied between the hours of 5 p.m. and 9 a.m. at the manufacturer's recommended rate, by means designed and operated to assure effective conservation of water.
 - (e) Companies engaging in the installation or repair of lawn irrigation systems may test a customer's newly installed or newly repaired sprinkler system for a maximum of ten (10) minutes per sprinkler zone. During the period of the test, a sign shall be displayed on the front lawn that shall be at least four (4) by four (4) feet in size with

lettering large enough to be clearly visible from the nearest road.
The sign shall read:

**AUTHORIZED LIMITED TESTING OF
SPRINKLER SYSTEM**

[10 minute maximum per zone]

Company Name

Address

Telephone Number

(f) For the purposes referred to in paragraphs 4(a) through 4(e), above, sources of water other than fresh, such as from on-site storm water retention basins, ponds, wastewater treatment plants (providing appropriate sanitation requirements are met), or other sources, shall be used where available, and shall be applied as conservatively as possible to prevent loss of outdoor plants.

5. The use of fresh water for watering of outdoor gardens, trees, shrubs, and other outdoor plants is prohibited, subject to the exceptions and conditions stated in paragraphs 5(a) through 5(f) below:

- (a) Water may be used for agricultural irrigation for the production of food, fiber, nursery stock, sod, and floral crops, and for the maintenance of livestock and poultry.
- (b) Water may be used by means of handheld container, drip irrigation bags (*e.g.*, Treegators™) or handheld hose with manually operated flow control nozzles or by low-pressure perforated hoses with the user in attendance at the minimum rate necessary between the hours of 5 p.m. and 9 a.m. to establish and maintain newly planted gardens, trees, shrubs or other outdoor plants including such uses by commercial nurseries. This includes work in progress as of the date these restrictions are implemented.
- (c) Water may be used by commercial and retail nurseries in the minimum amount necessary to maintain stock and prevent loss with the application limited to no more than six hours daily which may be divided into no more than two periods of watering. Syringing of drought stressed plants is permitted as required between the hours of 12 noon and 3 p.m. with no more than 10 minutes of watering allowed in any one-sprinkler zone.
- (d) Water may be used by arboretums and public gardens of national, state, or regional significance at the minimum rate necessary to preserve specimens.

- (e) Water may be used at the minimum rate necessary to implement revegetation following earthmoving, where revegetation is required under an approved erosion and sedimentation control plan adopted under State law or regulation. Revegetation use shall comply with applicable best conservation management practices for revegetation prescribed by the DNREC and county conservation districts.
- (f) For the purposes of paragraphs 5(a) through 5(e) above, sources of water, other than fresh, such as from on-site storm water retention basins, ponds, or wastewater treatment plants (providing appropriate sanitation requirements are met), or other sources, shall be used where available, and shall be applied as conservatively as possible to prevent loss of outdoor plants.

6. The use of fresh water for watering golf courses and athletic fields is prohibited, subject to the exceptions and conditions set forth in paragraphs 6(a) through 6(e) below:

- (a) Water may be used to water tees and greens between the hours of 5 p.m. and 9 a.m. at the minimum rate necessary to prevent loss.
- (b) Water may be used to syringe heat sensitive grasses during daytime stress periods at the minimum rate necessary to prevent loss.
- (c) Water may be used for the maintenance of courts composed of grass, clay or similar materials between the hours of 5 p.m. and 9 a.m.
- (d) Water may be used for athletic fields between the hours of 5 p.m. and 9 a.m. to the extent necessary to prevent injury to athletes.
- (e) For the purposes of the foregoing paragraphs 6(a) through 6(d), sources of water other than fresh water, such as from on-site storm water retention basins, ponds, or wastewater treatment plants (providing appropriate sanitation requirements are met), or other sources, shall be used where available, and shall be applied as conservatively as possible to prevent loss to greens, tees, fairways, and athletic fields.

- 7. The use of fresh water is prohibited for ornamental purposes, including fountains, artificial waterfalls and reflecting pools that do not support animal, plant, or aquatic life.
- 8. The use of fresh water for washing paved surfaces such as streets, roads, sidewalks, driveways, parking areas, courts, and patios is prohibited, except as where required for sanitation purposes.
- 9. The use of fresh water for non-commercial washing and cleaning of vehicles, except emergency vehicles, is prohibited unless by the use of hand-held buckets and hand-held hoses with automatic flow control nozzles and where use is restricted to the minimum volume necessary and is performed only on unpaved surfaces.

10. The use of water from a fire hydrant for any purpose except for fire fighting is prohibited, except as deemed necessary and performed by authorized personnel for the protection of public health and safety.
11. The service of water to patrons in restaurants, bars, pubs, clubs, and entertainment establishments is prohibited, except at the request of a customer.
12. Law enforcement authorities of this State and of the political subdivisions of this State shall enforce this Executive Order and may issue citations for violations thereof pursuant to 20 Del. C. § 3125. Law Enforcement officers may, in addition to issuing a summons for any such violations, provide the violator with a voluntary assessment pursuant to the prescribed procedure under 7 Del. C. § 6061.
13. Law enforcement may enforce the provisions herein, with or without a warrant, as long as such officer has reasonable grounds to believe that the person has violated the terms of this order, even if such violations has occurred outside of the officer's presence. The Justice of the Peace shall have original jurisdiction to hear, try and finally determine any violation of the terms of this order.
14. The provisions of paragraphs 3 through 14 of this Order shall take effect on August 2, 2002 at 6:00 p.m.
15. The Drought Advisory Committee shall continue to consult with municipalities and other relevant agencies and organizations, both public and private.
16. All citizens of Delaware are urged to follow the conservation practices set forth in Paragraph 4 of this Order in order to avoid shortages similar to those being experienced in northern New Castle County.




RUTH ANN MINNER


Harriet N. Smith Windsor
Secretary of State