

Meeting of the Central Valley Flood Protection Board**June 27, 2014****Staff Report**

Extension of the Effective Period
of the Emergency Regulations
California Code of Regulations
Title 23, Division 1

1.0 – ITEM

Consider approval of a 90 day extension of the effective period of the emergency regulations OAL File # 2014 -0102-02E to accommodate the Office of Administrative Law (OAL) review period required for the regular rulemaking.

2.0 – BACKGROUND

Emergency regulations to implement the new enforcement authorities granted by Senate Bill 753 were adopted by the Board and made effective by the Secretary of State on January 9, 2014. The emergency regulations are initially effective for 180 days and expire on July 9, 2014. During that time the Board has completed the regular rulemaking process to make the emergency regulations permanent. This included publishing a notice of proposed rulemaking in the California Regulatory Notice Register, holding a 45-day public comment period, conducting a public hearing, and adopting the proposed regulations. The final rulemaking file containing all of the documents related to the rulemaking was submitted to the Office of Administrative Law on May 29, 2014. This is called a “Certificate of Compliance” filing and it documents that our agency has complied with the requirements of the regular rulemaking process to make the emergency regulations permanent.

3.0 – EXTENSION REQUEST

The attached Office of Administrative Law, Notice of Approval of Emergency Regulatory Action states “The Certificate of Compliance for this action is due no later than July 8, 2014”. This deadline was met over a month early by the attached Certificate of Compliance filing which was stamped by OAL on May 29, 2014. Even though the certificate of compliance filing deadline was met, the possibility still exists that the regulations could be rejected by OAL and the emergency regulations would expire. Therefore a 90-day extension of the emergency regulations is recommended to ensure there are no gaps in the effectiveness of the new regulations.

4.0 – STAFF RECOMMENDATION

Board Staff is Recommending the Board:

- Determine that the submitted Certificate of Compliance filing demonstrates that the Central Valley Flood Protection Board has made substantial progress and proceeded with diligence to complete a regular, noticed rulemaking action to make the emergency regulations permanent.
- Approve a readoption of the emergency regulations for a 90 –day period.
- Direct the Executive Officer to submit an emergency readopt filing to the California Office of Administrative Law and include all of the documents required for an emergency regulations filing.

5.0 – LIST OF ATTACHMENTS

- A. Notice of Approval of Emergency Regulatory Action
- B. Certification of Compliance Filing Form date stamped May 29, 2014
- C. Notice of 90-Day Extension of Emergency Regulations

Presented by Staff: Curt Taras

Legal Counsel: Leslie Gallagher

Board Committee Members: Emma Suarez, Clyde MacDonald

**State of California
Office of Administrative Law**

In re:
Central Valley Flood Protection Board

Regulatory Action:

Title 23, California Code of Regulations

Adopt sections: 13.2, 21, 22, 23, 24, 25, 27,
29

Amend sections: 13, 13.1, 13.2 (renumbered
to 13.3), 20, 21
(renumbered to 26), 26
(renumbered to 28), 28
(renumbered to 30)

Repeal sections: 23, 24, 25, 27

**NOTICE OF APPROVAL OF EMERGENCY
REGULATORY ACTION**

**Government Code Sections 11346.1 and
11349.6**

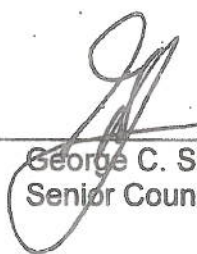
OAL File No. 2014-0102-02 E

This regulatory action is a deemed emergency pursuant to Water Code section 8709. It establishes enforcement procedures for removal or modification of violating encroachments (those that are unpermitted or are not maintained in accordance with a permit) that may affect the Central Valley flood control system (primarily levees).

OAL approves this emergency regulatory action pursuant to sections 11346.1 and 11349.6 of the Government Code.

This emergency regulatory action is effective on 1/9/2014 and will expire on 7/9/2014.
The Certificate of Compliance for this action is due no later than 7/8/2014.

Date: 1/9/2014



George C. Shaw
Senior Counsel

For: DEBRA M. CORNEZ
Director

Original: Jay Punia
Copy: Curt Taras

NOTICE PUBLICATION/REGULATIONS SUBMISSION



(See instructions on reverse)

For use by Secretary of State only

FD-400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-2014-0325-03	REGULATORY ACTION NUMBER 2014-0529-05C	EMERGENCY NUMBER
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For use by Office of Administrative Law (OAL) only

2014 MAY 29 PM 4:06

OFFICE OF ADMINISTRATIVE LAW

NOTICE	REGULATIONS
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AGENCY WITH RULEMAKING AUTHORITY Central Valley Flood Protection Board	AGENCY FILE NUMBER (If any)
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1. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE

3. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

a. SUBJECT OF REGULATION(S) Enforcement Actions	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) 2014-0102-02E
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SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)	
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT 13.2, 21, 22, 23, 24, 25, 27, 29
	AMEND 13, 13.1, 13.2 (renumbered to 13.3) 20, 21 (renumbered to 26), 26 (renumbered to 28), 28 (renumbered 30)
TITLE(S) Title 23 Division 1	REPEAL 23, 24, 25, 27

3. TYPE OF FILING			
<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input checked="" type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §511349.3, 11349.4)		<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> Other (Specify) _____	

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)			
<input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))	<input checked="" type="checkbox"/> Effective on filing with Secretary of State	<input type="checkbox"/> §100 Changes Without Regulatory Effect	<input type="checkbox"/> Effective other (Specify) _____

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY			
<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal	
<input type="checkbox"/> Other (Specify) _____			

7. CONTACT PERSON Curt Taras	TELEPHONE NUMBER 1-916-574-0684	FAX NUMBER (Optional) 1-916-574-0682	E-MAIL ADDRESS (Optional) curt.taras@water.ca.gov
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

For use by Office of Administrative Law (OAL) only

SIGNATURE OF AGENCY HEAD OR DESIGNEE <i>Jay S. Punia</i>	DATE 5/27/2014
TYPED NAME AND TITLE OF SIGNATORY Jay S. Punia, Executive Officer, Central Valley Flood Protection Board	

CENTRAL VALLEY FLOOD PROTECTION BOARD

3310 El Camino Ave., Rm. 151
SACRAMENTO, CA 95821
(916) 574-0609 FAX: (916) 574-0682
PERMITS: (916) 574-2380 FAX: (916) 574-0682



June 12, 2014

NOTICE OF 90 –DAY EXTENSION OF EMERGENCY REGULATIONS

Subject: Evidentiary Hearings, Enforcement Actions, and Reconsideration Regulations

The Central Valley Flood Protection Board (Board) is proposing a 90-day extension of the effective period of its emergency regulations affecting its procedures for evidentiary hearings, enforcement actions, and reconsideration. The emergency regulations are proposed to be readopted into the California Code of Regulations, Title 23, Division 1 and implement changes to the California Water Code enacted by Senate Bill 753. The Central Valley Flood Protection Board has made substantial progress and proceeded with diligence by completing a regular, noticed rulemaking action to make the emergency regulations permanent and submitted its certificate of compliance and final rulemaking record on May 29, 2014 ahead of its July 8, 2014 deadline.

Government Code section 11346.1(a)(2) requires that, at least five working days prior to submission or resubmission of the proposed emergency action to the Office of Administrative Law (OAL), the adopting agency provide a notice of the proposed emergency action to every person who has filed a request for notice of regulatory action with the agency. After submission of the proposed emergency regulations to the Office of Administrative Law, the Office of Administrative Law shall allow interested persons five calendar days to submit comments on the proposed emergency regulations as set forth in Government Code section 11349.6.

Upon filing, OAL will have ten (10) calendar days within which to review and make a decision on the proposed emergency rulemaking. If approved, OAL will file the regulations with the Secretary of State, and the emergency regulations will become effective for ninety (90) additional days. Attached to this Notice is the specific text of the Board's proposed emergency regulations and its Finding of Emergency. You may also review the proposed regulations text and Finding of Emergency on the Board's website at the following address:

<http://www.cvfpb.ca.gov>

If you have any comments regarding these proposed emergency regulations please send them to Curt Taras, Supervising Engineer at the letterhead address above or by contacting him at (916) 574-0684 or curt.taras@water.ca.gov.