

**Meeting of the Central Valley Flood Protection Board  
August 24, 2018**

**Staff Report**

**Permit and Inspection Fee Rulemaking Documentation Approval**

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**1.0 – ITEM**

Consider approval of the rulemaking documentation (Attachment A) to initiate the formal rulemaking process for implementing permit and inspection fees.

**2.0 – BACKGROUND**

As part of the Central Valley Flood Protection Board's (CVFPB) long term funding strategy, staff has developed a process for implementing fees for permitting and inspection services. The development of the proposed fees is a result of months of activities, including researching other fee programs, analyzing permitting data, developing rationale and justifications for the proposed fee amounts, considering the logistics of processing and documenting fees, coordination with and receiving input from stakeholders, and submitting rulemaking documents to the Office of Administrative Law (OAL) in accordance with the Administrative Procedures Act (APA). The request before the Board today is to approve rulemaking documentation required under the APA to be submitted to OAL.

CVFPB staff conducted numerous internal and external meetings to develop the proposed fee schedule. On March 23, 2017, the initial draft of the inspection fee schedule was presented to the Board's Executive Committee. On February 8, 2018, a revised permit and inspection fee schedule was presented to the Executive committee. An introduction to the process and a fee schedule summary was presented to the Board at the regular business meeting on March 27, 2018 and on May 2<sup>nd</sup> and May 16<sup>th</sup>, 2018, staff held focus group meetings with stakeholders to discuss the proposed fee schedule. Utilizing the feedback from Board members and stakeholders, staff made appropriate revisions to the schedule and options for implementation. At the June 8<sup>th</sup>, 2018 Board Funding workshop, staff presented the full fee schedule and implementation plan to the Board and attendees.

Until recently, the permit activities performed by Board staff for larger system alteration projects were funded by the Department of Water Resources (DWR) through an appropriation of programmatic Proposition 1E bond funds. Additionally, the State's inspections for these projects are also provided through Proposition 1E program

funding. CVFPB's current 1E funds for permitting these projects were expended in the 2017-18 budget year. However, there continue to be many upcoming improvement projects that will require the CVFPB's review and permit issuance. Therefore, staff recognized the need not only to implement fees for encroachment permitting and inspection activities for private encroachments (such as stairs, boat docks, fences, etc.) but also for the permitting and inspection of these system alteration projects. After the June 8<sup>th</sup> workshop, DWR management and Board staff determined it was more efficient to provide 1E funding at the programmatic level to cover the costs of the Board's permitting activities. As a result, the fee schedule associated with permitting and inspection activities for system alteration projects is no longer a part of the rulemaking package.

The implementation of fees requires an amendment to the California Code of Regulations, Title 23, Division 1 (Title 23). The proposed regulation specifically changes Section 8, and adds the fee schedule for permitting and inspection services as a new Appendix B. Because of the need to update Title 23, CVFPB must follow the APA to adopt the proposed regulations, ensuring the process is done publicly, transparently, and to avoid the use of prohibited "underground regulations." Publication of the rulemaking documentation initiates the formal rulemaking process, as described below.

### **3.0 – AUTHORITY OF THE BOARD**

California Water Code § 8535, 8560, and 8610.5

California Code of Regulations, Title 23, Division 1 (Title 23): §8

### **4.0 – RULEMAKING DOCUMENTATION & APPROVAL PROCESS**

There are four main documents required to be provided to OAL<sup>1</sup>:

- **Express Terms:** These are the actual proposed changes to the regulations. For this case, it includes textual changes in Section 8 of Title 23 and adds new fee schedule.
- **Notice of Proposed Action:** This is the public notice of the proposed changes to the regulations, and have specific content requirements outlined in the APA.
- **Initial Statement of Reasons:** The initial statement of reasons is a document that explains the reasons why the agency is making the proposed regulatory changes.

- **Economic and Fiscal Impact Statement (Form STD. 399):** The Form STD. 399 is a Department of Finance form that includes information on the estimated economic (private) and fiscal (governmental) monetary impacts of the proposed regulation, and includes supporting calculations.

<sup>1</sup> [https://oal.ca.gov/rulemaking\\_participation/](https://oal.ca.gov/rulemaking_participation/)

Once these documents are submitted, OAL staff will provide a high-level review for completeness and any potential procedural issues they may find with the documents. If there are no major issues with the documents, OAL publishes them in the California Regulatory Notice Register within 10 days. This begins a 45-day public comment period on the documents, after which CVFPB staff will respond to comments received and add them to the rulemaking documentation. The rulemaking process requires a hearing after the 45-day public comment period. In this case, the hearing will be an item on the agenda at the soonest regularly-scheduled Board meeting that occurs after comments received from the public comment period can be addressed. If there are no major or “substantial and sufficiently related” changes received during the comment period or during the hearing, staff will present the final proposed regulations for the Board’s adoption.

In accordance California Government Code § 11346.8, CVFPB may not adopt a regulation that has been changed unless it is:

- nonsubstantial or solely grammatical in nature, or
- sufficiently related to the original text that the public was adequately placed on notice that the change could result from the originally proposed regulatory action.

If there is a sufficiently related change, the full text will be posted publicly for at least 15 days, and written comments must be responded to before the Board can adopt the resulting regulation.

An overview of the adoption process is included as Attachment B.

## **5.0 – SCHEDULE FOR ADOPTION**

Below is a tentative schedule for adopting the proposed regulations for permit and inspection fees:

- August 24, 2018: Draft rulemaking documents to be approved by Board for submittal to OAL. If approved, then
- August 28, 2018: Staff submits approved draft rulemaking documents to OAL
- September 7, 2018: Rulemaking documents published in California Regulatory Notice Register, 45-day comment period begins
- October 22, 2018: 45-day comment period closes, comments addressed. If no major or substantial changes, then
- November 16, 2018: Final rulemaking documents presented for Board approval and subsequent adoption.

If major changes are made to the regulation, additional public notice and review time will be required in accordance with the APA, and a new schedule for adoption will be communicated to the Board.

## **6.0 – CEQA ANALYSIS**

Board staff has determined that the proposed regulations are exempt from environmental review under a Statutory Exemption from CEQA (pursuant to Public Resources Code section 21080(b)(8) and section 15273 of the State CEQA Guidelines) providing that the adoption of fee schedules are not subject to CEQA. The Board finds that the proposed regulations and attached fee schedule are for the purpose of reducing the Board's operating expenses. 15273 (a) of the State CEQA Guidelines states:

“CEQA does not apply to the establishment, modification, structuring, restructuring, or approval of rates, tolls, fares, or other charges by public agencies which the public agency finds are for the purpose of: (1) Meeting operating expenses, including employee wage rates and fringe benefits, (2) Purchasing or leasing supplies, equipment, or materials, (3) Meeting financial reserve needs and requirements, (4) Obtaining funds for capital projects, necessary to maintain service within existing service areas, or (5) Obtaining funds necessary to maintain such intra-city transfers as are authorized by city charter.”

## **7.0 – STAFF RECOMMENDATION**

Board staff recommends for the Board to:

### **Adopt:**

- CEQA finding that the action is statutorily exempt (CEQA Guidelines, section 15273),

### **Approve:**

- Express Terms,
- Notice of Proposed Action,
- Initial Statement of Reasons, and
- Economic and Fiscal Impact Statement and supporting documentation in substantially the form provided.

### **Direct:**

- The Executive Officer to take the necessary actions to file a CEQA Notice of Exemption with the State Clearinghouse.
- The Executive Officer to take the necessary actions to submit the rulemaking documentation to OAL to begin the formal rulemaking process.

## **8.0 – LIST OF ATTACHMENTS**

### **A. Regular Rulemaking Documents**

- Express Terms
- Notice of Proposed Action
- Initial Statement of Reasons
- Economic and Fiscal Impact Statement (STD 399) and supporting documents

### **B. Regular Rulemaking Process Overview (from OAL)**

Document Preparation:	Preston Shopbell, P.E., Inspection Section Chief
Environmental Review:	Itzia Rivera, Environmental Services Branch
Document Review:	Kelly Soule', P.E., Acting Operations Branch Chief
Legal Review:	Kanwarjit Dua, Board Counsel

## **Permit and Inspection Fees - Proposed Regulations**

### **California Code of Regulations, Title 23, Division 1, Article 3, Section 8**

CVFPB proposes to add the following subsections to Section 8:

(d) Permit application review fees shall be submitted by the applicant at the time of application submittal. The current permit review fee schedule is included in Appendix B.

(e) Construction inspection fees shall be submitted prior to permit issuance. The current construction inspection fee schedule is included in Appendix B.

(f) Routine inspection fees shall be submitted prior to required routine inspection. The current routine inspection fees and inspection schedule is included in Appendix B.

NOTE: Authority cited: Section 8571, and 8535, Water Code. Reference: Section 2090, Fish and Game Code; Sections 21080.3, 21104.2 and 21160, Public Resources Code; and Sections 8611, 8710 and 8730.3, Water Code.

### **HISTORY**

1. Renumbering and amendment of old section 16 to new section 8 filed 9-30-96; operative 10-30-96 (Register 96, No. 40). For prior history, see Register 85, No. 26.
2. Amendment of subsections (a) and (b)(5) filed 12-1-2009; operative 12-31-2009 (Register 2009, No. 49).
3. Amendment of subsections (d), (e), and (f) filed 11-1-2018, operative 12-1-2018 (Register 2018, No. XX)

### **California Code of Regulations, Title 23, Division 1, Article 10, Appendix B**

CVFPB proposes to add Appendix B, which displays the current fee schedule for permitting and inspections.

**APPENDIX B - Exhibit 1**  
Central Valley Flood Protection Board  
Encroachment Permit and Inspection Fees

	Due with Permit Application	Due at Permit Issuance	Due Prior to Inspection	
Type	Permit Review	Construction Inspection	Routine Inspection	Routine Inspection Frequency
Small Scale Encroachments				
Boating Facilities (docks, gangways, landings, piers, wharves, launch ramp, piles, deadmen anchors, etc.)	\$ 3,000	\$ 500	\$ 500	First 30 years: every 5 years 30-50 years: every 3 years 50+ years: every 2 years
Drains and Ditches	\$ 1,000			
Dwellings (residential, used for human habitation)	\$ 3,000			
Fences / Gates	\$ 3,000			
Landscaping	\$ 1,000			
Ramps / Driveways	\$ 1,000			
Retaining Walls	\$ 2,500			
Signs (billboards,etc)	\$ 1,000			
Solar Arrays	\$ 2,500			
Stairs	\$ 1,500			
Swimming Pools	\$ 3,000			
Wells (water, oil, gas, monitoring)	\$ 1,000			
Linear Utilities				
Overhead Utility (crossing levee crown)	\$ 2,500	\$ 500	\$ 500	First 30 years: every 10 years 30-50 years: every 5 years 50+ years: every 3 years
Poles (telephone and power, high voltage towers)				
Pipeline/Conduit – Above Ground			\$ 150	First 30 years: every 5 years 30-50 years: every 3 years 50+ years: every 2 years
Pipeline / Conduit – Underground (Gravity Drain)				Pressure Test Results every 2 years or as required by Board.
Pipeline / Conduit – Underground (Pressure)				

**APPENDIX B - Exhibit 1**  
Central Valley Flood Protection Board  
Encroachment Permit and Inspection Fees

	Due with Permit Application	Due at Permit Issuance	Due Prior to Inspection	
Type	Permit Review	Construction Inspection	Routine Inspection	Routine Inspection Frequency
Public Works Structures				
Bridges (Pedestrian and Vehicle)	\$ 3,500	\$ 1,000	\$ 1,000	First 30 years: every 10 years 30-50 years: every 5 years 50+ years: every 3 years
Dams / Flow Control Structures	\$ 7,000	\$ 1,000	\$ 1,000	
Structures (any structure used for any purpose other than human habitation)	\$ 2,000	\$ 1,000	\$ 1,000	
Bike Trails	\$ 8,000	\$ 1,000	\$ 1,000	First 30 years: every 5 years 30-50 years: every 3 years 50+ years: every 2 years
Investigations / Requests / Other				
Borrow / Excavation (excavation, sand and gravel, quarry, mineral extraction, dredging)	\$ 3,000	\$ 500	N/A	N/A
Erosion Control (bank protection, revetment, riprap, gabions)	\$ 3,000	\$ 500		
Mitigation / Restoration (native plants, riparian, tidal, grading)	\$ 2,000	\$ 1,000	\$ 500	Every 6 months for two years.
Orchard	\$ 2,000	\$ 1,000		
Vegetation (anything other than residential landscaping, orchard, and mitigation/restoration)	\$ 500	\$ 1,000		
Project Authorizations (Non-Permitted Activities) Pursuant to Title 23, Division 1				
Minor Alteration Request (Section 6(e))	\$ 500	\$ 500*	N/A	N/A
Maintenance Request (Section 6(d))	\$ 300	\$ 500*		
Name Change Request	\$ 300	N/A		

\*If deemed necessary by CVFPB at time of request.

**Notes**

- 1) Permits with multiple encroachments will be charged only for the encroachment with the highest permit fee. (i.e., If a permit includes a retaining wall and a fence, permit and inspection fees would be assessed only for the retaining wall.)
  - 2) Payment of fees associated with emergency repair work may be deferred until the nature of the request is determined.
  - 3) Send Payment To: Department of Water Resources, Attention: Cashiering; PO Box 942836, Sacramento, California 94236-0001
- Do not send payment to CVFPB Office. Doing so may delay the processing of the permit.**



**NOTICE OF PROPOSED RULEMAKING**  
**TITLE 23, DIVISION 1**  
**CENTRAL VALLEY FLOOD PROTECTION BOARD**  
**PERMIT AND INSPECTION FEES**

**September 7, 2018**

**NOTICE IS HEREBY GIVEN** that the Central Valley Flood Protection Board (CVFPB) proposes to adopt regulations pertaining to permit and inspection fees by amending the California Code of Regulations, Title 23, Division 1, Section 8.

**PUBLIC HEARING**

A public hearing on the proposed regulations will be held during the CVFPB's regular business meeting described below:

DATE: November 16, 2018  
TIME: 9:00 AM  
PLACE: Sacramento City Hall, 1<sup>st</sup> Flood Council Chambers  
915 I Street  
Sacramento, CA 95814

The hearing will be an item on the regular business meeting agenda, and can take place any time after the meeting commences at 9:00 am.

**SPECIAL ACCOMMODATION REQUEST**

Consistent with California Government Code Section 7296.2, special accommodation or language needs may be provided for any of the following:

- An interpreter to be available at the hearing;
- Documents made available in an alternate format or another language;
- A disability-related reasonable accommodation.

To request these special accommodations or language needs, please contact CVFPB at (916) 574-0609 as soon as possible, but no later than 10 business days before the scheduled hearing. TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service.

Consecuente con la sección 7296.2 del Código de Gobierno de California, una acomodación especial o necesidades lingüísticas pueden ser suministradas para cualquiera de los siguientes:

- Un intérprete que esté disponible en la audiencia;
- Documentos disponibles en un formato alterno u otro idioma;
- Una acomodación razonable relacionados con una incapacidad.

Para solicitar estas comodidades especiales o necesidades de otro idioma, por favor llame a la oficina del Consejo al (916) 574-0609 lo más pronto posible, pero no menos 2 de 10 días de trabajo antes del día programado para la audiencia del Consejo. TTY/TDD/Personas que necesiten este servicio pueden marcar el 711 para el Servicio de Retransmisión de Mensajes de California.

## WRITTEN COMMENT PERIOD

Interested parties wishing to submit written comments regarding the proposed regulations **must submit comments to CVFPB by 5:00 p.m. on Monday, October 22, 2018**, the designated close of the written comment period. Written comments and oral statements will be accepted at the hearing. CVFPB requests that comments be submitted by the September 17<sup>th</sup> deadline to allow staff to adequately address those comments prior to the hearing. Comments may be submitted by mail or email to the contact person listed below.

## AUTHORITY AND REFERENCE

### *Codes and Regulations*

California Water Code Section 8502, 8535, 8534

California Code of Regulations, Title 23, Division 1 (Title 23), Section 8: Applications

### *Forms*

Economic and Fiscal Impact Statement (STD. 399), May 2018

## POLICY STATEMENT OVERVIEW

CVFPB is the State of California's agency responsible for flood risk reduction in the Central Valley. As one of its core functions, CVFPB issues permits and oversees any alteration to the State-Federal flood control system within its jurisdictional authority. Permit application review, approval, issuance, and verification of compliance with Title 23 are funded through General Fund authorizations. Future authorizations of General Fund are contingent upon CVFPB developing a long-term funding plan and reporting on progress to the Legislature. Charging applicants for the review of permit applications and subsequent inspections of approved projects are a part of the long-term funding plan. In the 2018-19 Budget: Resources and Environmental Protection, the Legislative Analyst's Office recommended that the legislature grant temporary augmentation of General Funds to replace expended funding from general obligation bonds from Proposition 1E, contingent upon CVFPB developing revenue streams to begin offsetting those costs. CVFPB has never before charged a direct fee to applicants wishing to build encroachments or otherwise alter the State-Federal flood control system.

CVFPB has the authority to collect fees for permits and inspections by California Water Code §8535. It states:

“Consistent with Section 3 of Article XIII A of the California Constitution, the board, after holding at least one public hearing, may set and charge fees sufficient to cover the reasonable cost for the services it provides in carrying out its duties set forth in Sections 8502 and 8534, including, but not limited to, the issuance of and modifications to encroachment permits, inspections and enforcement of encroachments, and management and control of Sacramento and San Joaquin Drainage District property.”  
(Added by Stats. 2017, Ch. 26, Sec. 95. (SB 92) Effective June 27, 2017.)

Additionally, California Code of Regulations, Title 23 Division 1 (Title 23) describes collection of reasonable fees for inspections under §16(b): “The board may charge and collect a reasonable fee from an applicant to recover inspection costs, including staff or consultant time and expenses.”

The proposed fee schedule is the result of multiple internal and external stakeholder meetings and logistical considerations, and is attached to this Notice. The proposed fees include initial

permit fees, project authorization fees, construction inspection fees, and periodic inspection fees. For encroachment permits and authorizations for physical objects, obstructions, or activities that may negatively affect the flood control system within the CVFPB's jurisdiction, the proposed fee is based on the type of encroachment or authorization, and ranges from \$300-\$8,000. Construction inspection of these encroachments range from \$500 to \$1,000. Similarly, periodic inspections of permitted encroachments range from \$150 to \$1,000 and are performed on a schedule according the encroachment type. These fees are required directly from permit applicants.

## **ANTICIPATED BENEFITS**

Implementing fees for permitting and inspection activities will help ensure CVFPB can continue to perform its regulatory obligations of flood risk reduction in the Central Valley. These activities help protect and maintain a well-functioning flood control system which benefits residents, businesses, and environmental habitat located directly behind levees by reducing the risk of catastrophic failures of the flood control system; and the entire state who gain from a thriving agriculture industry and wildlife habitat. The positions authorized in the *2017-18 Budget Act* provide field inspections, permitting, enforcement, and additional real estate support. These positions are all crucial to ensure the State is upholding its obligations to the federal government in managing the State-federal flood protection system in the Central Valley.

Adoption and implementation of this proposed action would begin to generate revenues to cover a portion of the costs for two of CVFPB's core functions, permitting and inspections, to reduce the burden on the State's General Fund. An analysis of permitting and inspection costs will be conducted approximately every two years and updates to the fee schedule will be made if they are warranted, in consideration with future budgets.

## **CONSISTENCY AND COMPATIBILITY WITH EXISTING FEDERAL REGULATIONS**

There are no comparable regulations in the federal Code of Regulations that address funding of state permitting agencies for flood control permits.

## **EVALUATION OF INCONSISTENCY OR INCOMPATIBILITY WITH EXISTING STATE REGULATIONS**

CVFPB evaluated whether the implementation of fees for permitting and inspection activities is and found the proposed regulation is not inconsistent or incompatible with existing state regulations.

## **MANDATED BY FEDERAL LAW OR REGULATIONS**

This regulation is not mandated by federal law or regulations, nor is it identical to previously adopted or amended federal regulations.

## **OTHER APPLICABLE MATTERS PRESCRIBED BY STATUTE SPECIFIC TO CVFPB OR OTHER STATE REGULATIONS**

There are no other applicable matters prescribed in state statutes or regulations specific to CVFPB that affect or would be affected by the proposed regulations.

## **MANDATES ON LOCAL AGENCIES OR SCHOOL DISTRICTS**

The regulation does not impose mandates on local agencies or school districts. Fees are assessed on the project type, not the type of applicant.

## **FISCAL IMPACT**

In accordance with Government Code Section 11346.5 (a)(6), CVFPB is providing an estimate of:

- the cost or savings to any state agency,
- the cost to local agencies or school districts that are required to be reimbursed,
- other nondiscretionary costs or savings imposed on local agencies, and
- the costs or savings in federal funding to the state.

For encroachment permitting costs, CVFPB analyzed existing data associated with permitting and authorization requests for encroachments within its jurisdiction. All staff that review and process permits and authorizations record their time spent in a centralized database. Though it is impossible to predict the exact number and types of encroachment applications that will be received in the future, CVFPB analyzed data of applications received from July 1, 2015 to June 30, 2017 as an approximation of future permit requests. Additionally, an analysis of the different staff classifications with different billing rates who contribute to permit processing was completed. A summary of this data is summarized in Tables A & B. CVFPB will continue to record staff time to better approximate the costs on which to base future fee updates.

For encroachment inspection costs, CVFPB used estimations of staff time to conduct required inspections, including travel, reporting, and coordination. An analysis of the staff classifications used to complete these activities was used to approximate the cost of a typical inspection.

### *Costs or Savings to Any State Agency*

The proposed fees for permitting and inspections of encroachments are shown in Appendix B - Exhibit 1. The permitting and project authorization fees range from \$300 to \$8,000, depending on the type of encroachment. The permitting fee amounts follow general trends of CVFPB's costs for review and processing the different types of encroachments. Inspection fees range from \$500 to \$1,000 per permit. The fees are the same for any type of applicant, whether it is a private individual, business, local agency, state agency, or federal agency. These fees would result in a cost to a State agency seeking a permit to encroach upon CVFPB's jurisdiction. As shown in STD 399 Table 2: Applicant Analysis Summary, based on the dataset CVFPB reviewed, of the 108 applications for permits or project authorizations each year, 30 were State agencies. Assuming an average permit fee of \$1,000 and inspection fee of \$500, state agency applicants could cumulatively incur costs of approximately \$45,000 each year.

### *Costs to Local Agencies or School Districts that are Required to be Reimbursed*

Although fees are required regardless of the type of applicant, there are no costs to local agencies or school districts that are required to be reimbursed. Based on the dataset CVFPB reviewed, of the 108 applications for permits or other project authorization each year, 74 were local agencies. Assuming an average permit fee of \$1,000 and inspection fee of \$500, state agency applicants could incur costs of approximately \$110,000 each year across all local agencies. There were no school districts within the pool of applicants over this period.

### *Other Nondiscretionary Costs or Savings Imposed on Local Agencies*

There are no nondiscretionary costs or savings imposed on local agencies.

### *Costs or Savings in Federal Funding to the State*

Permit and inspection services provided by CVFPB contribute toward the agency's mission of reducing the risk of catastrophic flooding to people and property within the California Central Valley. Additionally, the State of California has an interest in leveraging federal funding for flood system improvement projects, ongoing operation and maintenance activities, and flood control emergency management response. CVFPB works to ensure that the State Plan of Flood Control facilities are eligible for Public Law 84-99 Disaster Assistance funding and emergency response activities from the U.S. Army Corps of Engineers (USACE). Permitting and inspection services are part of CVFPB's efforts to maintain that eligibility and ultimately reduce the State's financial burden for emergency response to flood control emergency response. In the 2017 flood event, the State received PL 84-99 funding for flood emergency rehabilitation efforts. Future flood emergencies may yield a similar amount of funding through the PL 84-99 program for eligible portions of the flood control system.

## **SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS**

The proposed fee regulations are only imposed within the geographic area of CVFPB's jurisdiction in the Central Valley, and will not be an adverse economic impact statewide. CVFPB determined that the proposed fee regulations will not have a significant statewide adverse economic impact.

## **RESULTS OF THE ECONOMIC IMPACT ASSESSMENT (EIA)**

CVFPB determined that the proposed regulations would not significantly affect the following:

- *The creation or elimination of jobs within the State of California.* The proposed fees are a fraction of the typical construction costs of the encroachments being permitted and inspected.
- *The creation of new business or elimination of existing business within California.* No new businesses are anticipated to be created nor are any existing businesses anticipated to be eliminated due to the fees imposed by this regulation.
- *The expansion of businesses currently doing business within the state.* The fees affect those seeking new permits for encroachments. The individuals and businesses that are seeking to build a project encroaching upon the State-federal flood control system are already prepared to pay for and construct their projects, and will incur a fee to have their project permitted and inspected by CVFPB.

The benefits of the proposed regulation to the health and welfare of California residents, worker safety, and the state's environment are numerous. It allows CVFPB to continue carrying out its mission to reduce the risk of catastrophic flooding to people and property within the California Central Valley. By imposing fees for encroachment permitting and inspections, CVFPB can continue to regulate and inspect over 20,000 encroachments within its jurisdiction. Routine inspections can spot issues before they become emergencies, and permit conditions give CVFPB the authority to enforce its regulations under Title 23. Permitted projects must be compliant with the California Environmental Quality Act (CEQA) to ensure the project's impact to environment has been considered, which the Board acts as a responsible agency. CVFPB also

has a worker safety program in conjunction with the Department of Water resources, to ensure a safe work environment for employees and contractors in the field and office.

## **COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES**

The proposed fee regulations are for any entity (including private individuals, businesses, public agencies) conducting activities or seeking to encroach on the flood control facilities under CVFPB's jurisdiction. The fees are required for new applications for permits, as well as existing encroachments that need updated permits. The fees would be due at three potential times for a given encroachment. First, permit fees would be due with the permit application or project authorization request. Next, the construction inspection fee would be due at permit issuance. And finally, routine inspections would be due prior to a scheduled routine inspection. The routine inspection frequency is listed on the fee schedule for each type of encroachment. The fees range from \$300 up to \$8,000 for each permit or project authorization. The construction and routine inspection fees range from \$500 to \$1,000. The total costs on a private person or business depends on the type of activity or encroachment they propose to build, and the overall number of permits needed. If multiple encroachments are proposed on one permit, only the encroachment with the highest fee will be charged. There are no proposed exemptions from these fees.

## **BUSINESS REPORT**

The proposed fee regulation does not require a report from the businesses it impacts.

## **EFFECTS ON SMALL BUSINESSES**

Per Government Code 11346.3 (b)(4)(B), the definition of small business is considered to be independently owned and operated, not dominant in its field of operation, and has fewer than 100 employees. While the proportion of applicants that fit this definition who apply for permits in the future is unknown, of the permits within the scope of our analysis, approximately twenty one percent of all the businesses seeking permits were estimated to be small businesses. It is anticipated that this trend will continue, and so CVFPB has determined that the proposed regulation will affect small businesses.

## **EFFECTS ON HOUSING COSTS**

CVFPB determined that the proposed fee regulations would not have a significant effect on housing costs. The proposed permit and inspection fees imposed on dwellings which require a permit from CVFPB are a small fraction of the overall housing costs.

## **ALTERNATIVES STATEMENT**

Although there are several alternatives that CVFPB initially considered to implement the regulation, CVFPB determined that there are no reasonable alternatives considered or brought to our attention which:

- *Would be more effective in carrying out the purpose for which the action is proposed,*
  - The proposed alternative of a flat fee basis for encroachments is the most efficient and reasonable choice for implementing fees for permit and inspection services.
- *Would be as effective and less burdensome to affected private persons than the proposed action,*

- CVFPB considered an alternative to recover 100% of the costs associated with providing permitting and inspection services. This would require a final accounting of staff time and a billing to applicants after the service is provided. This would be a burden on applicants who need to construct their projects soon after a permit is issued. Applicants would not be able to effectively plan for the anticipated costs as no two projects are exactly alike.
- *Would be more cost-effective to affected private persons and equally effective in implementing the proposed regulation.*
  - A more cost-effective alternative for private persons would be to not implement a permit and inspection fee regulation, however CVFPB is required to develop funding mechanisms to sustain these critical services for flood risk reduction. The proposed fees are within CVFPB's authority under Water Code Section 8535 to collect reasonable fees for these services.

## AVAILABILITY OF STATEMENTS & DOCUMENTATION

CVFPB has made available the following documents which can be accessed online at <http://cvfpb.ca.gov/>

- Express Terms
- Initial Statement of Reasons
- Other information upon which the proposed rulemaking is based
- Full text of the regulation subject to substantial changes to the original proposal for at least 15 days prior to agency adoption/repeal/amendment of the resulting regulation.
- Final Statement of Reasons

Inquiries regarding the proposed action should be directed to the Contact Person listed below. This agency representative will, upon request, make the express terms, documentation, and public records related to the proposed action available.

## CONTACT PERSON

Written comments and questions concerning the proposed regulations may be sent to:

Name: Preston Shopbell  
Address: 3310 El Camino Avenue, Suite 170  
Sacramento, California, 95821  
Phone: (916) 574-1437  
Email: [preston.shopbell@cvflood.ca.gov](mailto:preston.shopbell@cvflood.ca.gov)

Backup Contract Person:

Name: Kelly Soule'  
Address: 3310 El Camino Avenue, Suite 170  
Sacramento, California, 95821  
Phone: (916) 480-5390  
Email: [kelly.soule@cvflood.ca.gov](mailto:kelly.soule@cvflood.ca.gov)



Table A  
CVFPB EP Entry Time Recording Summary  
 Time Period: Date Received  
 July 1, 2015 to June 30, 2017 (FY 15/16 - FY 16/17)  
 Permit Issuance Date Captured to January 18, 2018  
 Total # of Permits Recorded = 96

**DATE\_RECV**

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Q3 2015 - Q2 2017 QUARTERS ▼

2014
2015
2016
2017
2...

Q2
Q3
Q4
Q1
Q2
Q3
Q4
Q1
Q2
Q3
Q4
Q1
Q2
Q3
Q4
Q1

◀▶

**Permits Issued not listed as category type "Other" or "Levee Works" or "XXX"**

Category	Number Received	Total Hours	Average Per Permit (hrs)
BIKE TRAIL	1	59.1	59.1
Boating Facilities	7	159.2	22.7
Borings	2	9.3	4.6
Bridges - Pedestrian	2	52.0	26.0
Bridges - Vehicle	25	844.5	33.8
Dams/Structures	2	103.3	51.6
Dwellings	7	116.0	16.6
Erosion Control	1	23.1	23.1
Fences	2	49.1	24.6
Overhead Utility	3	53.1	17.7
Pipelines/Conduits	35	629.1	18.0
Poles	3	59.0	19.7
Ramp	1	4.5	4.5
Retaining Wall	1	19.0	19.0
Solar Array	1	17.8	17.8
Stairs	1	12.1	12.1
Structures	2	31.2	15.6
<b>Grand Total</b>	<b>96</b>	<b>2240.85</b>	<b>23.3</b>



Table B  
CVFPB Time Entry Per Classification

Time Period: Date Received  
**July 1, 2015 to June 30, 2017 (FY 15/16 - FY 16/17)**  
Permit Issuance Date Captured to January 18, 2018  
Total # of Permits = 96

**DATE\_RECV**

Q3 2015 - Q2 2017 QUARTERS ▼

2014			2015		2016				2017				2018					
Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4

◀  ▶

Classifications		% of Application Review Time	Max Loaded Hourly Billing Rate	Interim Calc for Weighted Avg Billing Rate
WRE	Engineer, Water Resources	81.9%	\$ 164	\$ 134
AGPA	Associate Governmental Program Analyst	4.3%	\$ 100	\$ 4
SWRE	Senior Engineer, Water Resources	3.2%	\$ 201	\$ 6
SES	Senior Environmental Scientist	6.3%	\$ 126	\$ 8
LC	Legal Counsel	1.1%	\$ 210	\$ 2
EPM	Environmental Program Manager I	1.1%	\$ 180	\$ 2
SPE	Supervising Engineer	2.1%	\$ 220	\$ 5
Total		100%		

**Weighted Average Billing Rate: \$ 162**

Central Valley Flood Protection Board  
Proposed Regulation for  
Permit and Inspection Fees

INITIAL STATEMENT OF REASONS

**BACKGROUND & AUTHORITY**

The Central Valley Flood Protection Board (CVFPB) is responsible for the protection of the flood control system within its jurisdiction in the Central Valley. A major portion of this responsibility is the regulation of encroachments that may negatively affect the function of the flood control system. CVFPB issues encroachment permits, authorizes work on the flood control system, and routinely inspects and enforces standards outlined in the California Code of Regulations, Title 23, Division 1 (Title 23). CVFPB's authority to carry out its duties is pursuant to Sections 8534, 8608, and 8710-8723 of the California Water Code.

Historically, CVFPB (formerly known as the Reclamation Board) has primarily been funded through the General Fund. In the past ten years, CVFPB received a portion of its funding from general obligation bonds for its additional regulatory and real estate needs arising from flood system improvement projects that were funded by the state from Proposition 1E. When these bond funds were expended, the 2017-18 Budget Act increased CVFPB's budget from the General Fund as a short-term replacement to allow CVFPB to continue its statutory responsibilities. The General Funds were provided on a 3-year basis (through fiscal year 2020-2021) by the legislature with the intention of CVFPB developing a long-term funding plan for sustaining future program funding. One of the strategies in the long-term funding plan is to implement permitting, project authorizations, and inspection services.

CVFPB has the authority to collect fees by California Water Code 8535.

"Consistent with Section 3 of Article XIII A of the California Constitution, the board, after holding at least one public hearing, may set and charge fees sufficient to cover the reasonable cost for the services it provides in carrying out its duties set forth in Sections 8502 and 8534, including, but not limited to, the issuance of and modifications to encroachment permits, inspections and enforcement of encroachments, and management and control of Sacramento and San Joaquin Drainage District property." (Added by Stats. 2017, Ch. 26, Sec. 95. (SB 92) Effective June 27, 2017.)

**PROBLEM TO BE ADDRESSED**

Permitting and inspection services remains a core CVFPB function to reduce flood risk in the Central Valley, and if funding for these services is interrupted, permitting of new encroachments could be delayed or potentially halted, which could increase the likelihood of unauthorized encroachments being built and inadequate monitoring of permitted encroachments. Future funding is contingent upon reducing the General Fund budget by developing long-term funding streams, of which fees for permitting, project authorizations, and inspections are a part. It is necessary to implement reasonable fees to sustain these programs.

## **SUMMARY OF PROPOSED REGULATION**

The proposed regulations are contained in Title 23 Division 1, Section 8, and adds a fee schedule in a new Appendix B. They impose fees on those seeking new encroachment permits or project authorizations as well as on existing encroachments that require a permit update. Project authorizations include minor alteration requests (§6 (e)) and maintenance requests (§6(d)). The fees are for permit review and issuance, project authorizations, and subsequent inspection services. The fees are based on the type of encroachment or action requested by an applicant. Permits which are subject to these fees will be charged a recurring fee for routine inspections in accordance with the frequency shown in the fee schedule.

## **BENEFITS OF PROPOSED REGULATION**

The proposed regulation will generate revenue for permitting and inspection programs to help them become more sustainable. The fee amounts reflect the benefits of regulation to both the local economy, residents, and environment, as well as to the entire state. Those programs contribute to the reduction of flood risk by regulating the types of activities that occur on and around the flood control system in the Central Valley, and helps ensure compliance with those regulations by identifying issues in the field earlier, allowing them to be corrected before they become emergencies.

Adoption and implementation of this proposed action would begin to generate revenues to cover a portion of the costs for two of CVFPB's core functions, permitting and inspections, to reduce the burden on the State's General Fund.

## **BASIS FOR FEE CALCULATION**

Each encroachment application, project authorization, and inspection requires the expertise of various staff assigned to review and approve various elements of the proposed work. Each type of staff has varying degrees of involvement in the permit review and inspection phases.

CVFPB analyzed data associated with permitting and authorization requests for encroachments within CVFPB's jurisdiction. All staff that review and process permits and authorizations record their time spent in a centralized database. Though it is impossible to predict the exact number and types of applications in the future, CVFPB used data from July 1, 2015 to June 30, 2017 to approximate future permit requests. CVFPB will continue to record staff time to better approximate the costs on which to base future fee updates. Also, cost data was obtained from staff time entry in SAP to examine the labor costs associated with each class of employee that has a part in processing permits and project authorizations. The estimated staff costs are conservatively based on employees that are at the maximum pay scale for each class. Combining the average staff time with average billing rates allows for an estimation of average costs to process permits and conduct inspections.

For encroachment inspection costs, CVFPB used estimations of staff time to conduct required construction and routine inspections, which includes travel, reporting, and coordination. An analysis of the staff classifications used to complete these activities was used to approximate the cost of a typical inspection.

The proposed fees presented in the fee schedule is not a complete cost recovery. The intent is to share the costs of permit applications, requests, and inspections between the applicant (through fees) and the state (through the General Fund). Staff will continue to track time

associated with permitting, project authorizations, and inspections for CVFPB to have additional data on which to determine whether future fee updates are warranted.

## **REQUIRED DETERMINATIONS, FINDINGS, AND ANALYSES**

### **Alternatives to the Regulation**

Although there are several alternatives that CVFPB initially considered to implement the regulation, CVFPB determined that there are no reasonable alternatives considered or brought to our attention which:

- *Would be more effective in carrying out the purpose for which the action is proposed,*
  - The proposed alternative of a flat fee basis for encroachments is the most efficient and reasonable choice for implementing fees for permit and inspection services.
- *Would be as effective and less burdensome to affected private persons than the proposed action,*
  - CVFPB considered an alternative to recover 100% of the costs associated with providing permitting and inspection services. This would require a final accounting of staff time and a billing to applicants after the service is provided. This would be a burden on applicants who need to construct their projects soon after a permit is issued. Applicants would not be able to effectively plan for the anticipated costs as no two projects are exactly alike.
- *Would be more cost-effective to affected private persons and equally effective in implementing the proposed regulation.*
  - A more cost-effective alternative for private persons would be to not implement a permit and inspection fee regulation, however CVFPB is required to develop funding mechanisms to sustain these critical services for flood risk reduction. The proposed fees are within CVFPB's authority under Water Code Section 8535 to collect reasonable fees for these services.

### **Evaluation of Inconsistency or Incompatibility With Existing State Regulations**

CVFPB evaluated whether the implementation of fees for permitting and inspection activities is and found the proposed regulation is not inconsistent or incompatible with existing state regulations.

### **Economic Impact Assessment**

CVFPB determined that the proposed regulations would not significantly affect the following:

- *The creation or elimination of jobs within the State of California.* The proposed fees are a fraction of the typical construction costs of the encroachments being permitted and inspected.
- *The creation of new business or elimination of existing business within California.* No new businesses are anticipated to be created nor are any existing businesses anticipated to be eliminated due to the fees imposed by this regulation.
- *The expansion of businesses currently doing business within the state.* The fees affect those seeking new permits for encroachments. The individuals and businesses that are seeking to build a project encroaching upon the State-federal flood control system are already prepared to pay for and construct their projects, and will incur a fee to have their project permitted and inspected by CVFPB.

### **Mandates on Local Agencies or School Districts**

The regulation does not impose mandates on local agencies or school districts. Fees are assessed on the project type, not the type of applicant.

### **Effect on Small Business**

Per Government Code 11346.3 (b)(4)(B), the definition of small business is considered to be independently owned and operated, not dominant in its field of operation, and has fewer than 100 employees. While the proportion of applicants that fit this definition who apply for permits in the future is unknown, of the permits within the scope of our analysis, approximately twenty one percent of all the businesses seeking permits were estimated to be small businesses. It is anticipated that this trend will continue, and so CVFPB has determined that the proposed regulation will affect small businesses.

### **Effect on Housing Costs**

CVFPB determined that the proposed fee regulations would not have a significant effect on housing costs. The proposed permit and inspection fees imposed on dwellings which require a permit from CVFPB are a small fraction of the overall housing costs.

### **Business Reporting Requirements**

The proposed fee regulation does not require a report from the businesses it impacts.

### **Comparable Federal Regulations**

There are no comparable Federal regulations that require the collection of fees for permitting and inspection activities conducted by the State of California. In the absence of Federal regulations, CVFPB uses its authority under California Water Code Section 8535 to charge reasonable fees for permitting and inspections.

### **Consistency and Compatibility with Existing Federal Regulations**

There are no comparable regulations in the federal Code of Regulations that address funding of state permitting agencies for flood control permits.

### **Mandated by Federal Law or Regulations**

This regulation is not mandated by federal law or regulations, nor is it identical to previously adopted or amended federal regulations.

### **Other Applicable Matters Prescribed by Statute Specific To CVFPB Or Other State Regulations**

There are no other applicable matters prescribed in state statutes or regulations specific to CVFPB that affect or would be affected by the proposed regulations.

### **Water Code Section 8535 Consideration**

Based on the dataset used as a basis for setting the initial fees in this regulation, the amount charged for permitting, project authorizations, and inspection services do not recover 100% of the costs of those activities. Because each activity can vary in staff time (and hence cost), CVFPB considered it reasonable to set fees at approximately 75% of the costs found in the dataset, with the intent to update fees as additional data warrants it appropriate to do so. CVFPB considers this to be in conformance with Water Code Section 8535.

**ECONOMIC AND FISCAL IMPACT STATEMENT  
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

**ECONOMIC IMPACT STATEMENT**

DEPARTMENT NAME <b>Central Valley Flood Protection Board</b>	CONTACT PERSON <b>Preston Shopbell</b>	EMAIL ADDRESS <b>preston.shopbell@cvflood.ca.gov</b>	TELEPHONE NUMBER <b>916-574-1437</b>
DESCRIPTIVE TITLE FROM NOTICE REGISTER OR FORM 400 <b>2018 Permit and Inspection Fees</b>			NOTICE FILE NUMBER <b>Z</b>

**A. ESTIMATED PRIVATE SECTOR COST IMPACTS** *Include calculations and assumptions in the rulemaking record.*

1. Check the appropriate box(es) below to indicate whether this regulation:

- |  |   |
|--|---|
| <input checked="" type="checkbox"/> a. Impacts business and/or employees | <input type="checkbox"/> e. Imposes reporting requirements              |
| <input checked="" type="checkbox"/> b. Impacts small businesses          | <input type="checkbox"/> f. Imposes prescriptive instead of performance |
| <input type="checkbox"/> c. Impacts jobs or occupations                  | <input checked="" type="checkbox"/> g. Impacts individuals              |
| <input type="checkbox"/> d. Impacts California competitiveness           | <input type="checkbox"/> h. None of the above (Explain below):          |

*If any box in Items 1 a through g is checked, complete this Economic Impact Statement.**If box in Item 1.h. is checked, complete the Fiscal Impact Statement as appropriate.*

2. The Central Valley Flood Protection Board estimates that the economic impact of this regulation (which includes the fiscal impact) is:  
(Agency/Department)

- ☒ Below \$10 million  
☐ Between \$10 and \$25 million  
☐ Between \$25 and \$50 million  
☐ Over \$50 million *[If the economic impact is over \$50 million, agencies are required to submit a [Standardized Regulatory Impact Assessment](#) as specified in Government Code Section 11346.3(c)]*

3. Enter the total number of businesses impacted: approx. 70 / yearDescribe the types of businesses (Include nonprofits): Agriculture, Construction, Industrial, Rail, Recreation, Utilities, IndustrialEnter the number or percentage of total businesses impacted that are small businesses: approx. 21%4. Enter the number of businesses that will be created: 0 eliminated: 0Explain: Financial impacts are small enough to not create or eliminate any businesses.

5. Indicate the geographic extent of impacts: ☐ Statewide  
☒ Local or regional (List areas): California Central Valley

6. Enter the number of jobs created: 0 and eliminated: 0Describe the types of jobs or occupations impacted: No impact to jobs or occupations.

7. Will the regulation affect the ability of California businesses to compete with other states by making it more costly to produce goods or services here? ☐ YES ☒ NO

If YES, explain briefly: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**ECONOMIC AND FISCAL IMPACT STATEMENT  
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

Attachment A: E&amp;FIS

**ECONOMIC IMPACT STATEMENT (CONTINUED)****B. ESTIMATED COSTS** *Include calculations and assumptions in the rulemaking record.*1. What are the total statewide dollar costs that businesses and individuals may incur to comply with this regulation over its lifetime? \$ \$643,640 (est.)a. Initial costs for a small business: \$ 300-10,000 Annual ongoing costs: \$ Varies Years: Variesb. Initial costs for a typical business: \$ 300-10,000 Annual ongoing costs: \$ Varies Years: Variesc. Initial costs for an individual: \$ 300-10,000 Annual ongoing costs: \$ Varies Years: Variesd. Describe other economic costs that may occur: Costs include initial permit fees, construction inspection fees, and periodic inspection fees. The proposed fees may be updated if warranted in the future.2. If multiple industries are impacted, enter the share of total costs for each industry: Aerospace 1%, Agriculture 22%, Construction 7%, Design Firm 2%, Developer 1%, Industrial 4%, Nonprofit 4%, Rail 4%, Recreation 4%, Utility 52% (2-yr applicant analysis).3. If the regulation imposes reporting requirements, enter the annual costs a typical business may incur to comply with these requirements. Include the dollar costs to do programming, record keeping, reporting, and other paperwork, whether or not the paperwork must be submitted. \$ 04. Will this regulation directly impact housing costs? ☐ YES ☒ NO

If YES, enter the annual dollar cost per housing unit: \$ \_\_\_\_\_

Number of units: \_\_\_\_\_

5. Are there comparable Federal regulations? ☐ YES ☒ NOExplain the need for State regulation given the existence or absence of Federal regulations: Fees are required for CVFPB to continue providing permitting and inspection services, which are needed by CVFPB as the non-federal sponsor of 33 USC Section 408 Projects.Enter any additional costs to businesses and/or individuals that may be due to State - Federal differences: \$ 0**C. ESTIMATED BENEFITS** *Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*1. Briefly summarize the benefits of the regulation, which may include among others, the health and welfare of California residents, worker safety and the State's environment: The regulations allow CVFPB to collect fees to help sustain programs for permitting and inspection services, which help reduce the risk of catastrophic flooding in the Central Valley.2. Are the benefits the result of: ☐ specific statutory requirements, or ☒ goals developed by the agency based on broad statutory authority?Explain: CVFPB is required to generate revenue authorized in Water Code §8535 to reduce burden on General Fund.3. What are the total statewide benefits from this regulation over its lifetime? \$ Unknown4. Briefly describe any expansion of businesses currently doing business within the State of California that would result from this regulation: None.**D. ALTERNATIVES TO THE REGULATION** *Include calculations and assumptions in the rulemaking record. Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*1. List alternatives considered and describe them below. If no alternatives were considered, explain why not: There were no reasonable alternatives that have been considered or brought to our attention which would be more effective in carrying out the purpose for which the action is proposed.



**ECONOMIC AND FISCAL IMPACT STATEMENT  
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

**ECONOMIC IMPACT STATEMENT (CONTINUED)**

2. Summarize the total statewide costs and benefits from this regulation and each alternative considered:

Regulation: Benefit: \$ \_\_\_\_\_ Cost: \$ \_\_\_\_\_

Alternative 1: Benefit: \$ \_\_\_\_\_ Cost: \$ \_\_\_\_\_

Alternative 2: Benefit: \$ \_\_\_\_\_ Cost: \$ \_\_\_\_\_

3. Briefly discuss any quantification issues that are relevant to a comparison of estimated costs and benefits for this regulation or alternatives: \_\_\_\_\_

4. Rulemaking law requires agencies to consider performance standards as an alternative, if a regulation mandates the use of specific technologies or equipment, or prescribes specific actions or procedures. Were performance standards considered to lower compliance costs? ☐ YES ☒ NOExplain: All permits issued or reissued are subject to permit and inspection fees.**E. MAJOR REGULATIONS** *Include calculations and assumptions in the rulemaking record.****California Environmental Protection Agency (Cal/EPA) boards, offices and departments are required to submit the following (per Health and Safety Code section 57005). Otherwise, skip to E4.***1. Will the estimated costs of this regulation to California business enterprises **exceed \$10 million**? ☐ YES ☒ NO***If YES, complete E2. and E3******If NO, skip to E4***

2. Briefly describe each alternative, or combination of alternatives, for which a cost-effectiveness analysis was performed:

Alternative 1: \_\_\_\_\_

Alternative 2: \_\_\_\_\_

*(Attach additional pages for other alternatives)*

3. For the regulation, and each alternative just described, enter the estimated total cost and overall cost-effectiveness ratio:

Regulation: Total Cost \$ \_\_\_\_\_ Cost-effectiveness ratio: \$ \_\_\_\_\_

Alternative 1: Total Cost \$ \_\_\_\_\_ Cost-effectiveness ratio: \$ \_\_\_\_\_

Alternative 2: Total Cost \$ \_\_\_\_\_ Cost-effectiveness ratio: \$ \_\_\_\_\_

4. Will the regulation subject to OAL review have an estimated economic impact to business enterprises and individuals located in or doing business in California exceeding \$50 million in any 12-month period between the date the major regulation is estimated to be filed with the Secretary of State through 12 months after the major regulation is estimated to be fully implemented?

☐ YES ☒ NO*If YES, agencies are required to submit a [Standardized Regulatory Impact Assessment \(SRIA\)](#) as specified in Government Code Section 11346.3(c) and to include the SRIA in the Initial Statement of Reasons.*

5. Briefly describe the following:

The increase or decrease of investment in the State: \_\_\_\_\_

The incentive for innovation in products, materials or processes: \_\_\_\_\_

The benefits of the regulations, including, but not limited to, benefits to the health, safety, and welfare of California residents, worker safety, and the state's environment and quality of life, among any other benefits identified by the agency: \_\_\_\_\_



**ECONOMIC AND FISCAL IMPACT STATEMENT  
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

Attachment A: E&amp;FIS

**FISCAL IMPACT STATEMENT****A. FISCAL EFFECT ON LOCAL GOVERNMENT** *Indicate appropriate boxes 1 through 6 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*

- ☐ 1. Additional expenditures in the current State Fiscal Year which are reimbursable by the State. (Approximate)  
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

\$ \_\_\_\_\_

- ☐ a. Funding provided in \_\_\_\_\_  
Budget Act of \_\_\_\_\_ or Chapter \_\_\_\_\_, Statutes of \_\_\_\_\_

- ☐ b. Funding will be requested in the Governor's Budget Act of \_\_\_\_\_  
Fiscal Year: \_\_\_\_\_

- ☒ 2. Additional expenditures in the current State Fiscal Year which are NOT reimbursable by the State. (Approximate)  
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

\$ \_\_\_\_\_

*Check reason(s) this regulation is not reimbursable and provide the appropriate information:*

- ☐ a. Implements the Federal mandate contained in \_\_\_\_\_
- ☐ b. Implements the court mandate set forth by the \_\_\_\_\_ Court.

Case of: \_\_\_\_\_ vs. \_\_\_\_\_

- ☐ c. Implements a mandate of the people of this State expressed in their approval of Proposition No. \_\_\_\_\_

Date of Election: \_\_\_\_\_

- ☐ d. Issued only in response to a specific request from affected local entity(s).

Local entity(s) affected: \_\_\_\_\_

- ☒ e. Will be fully financed from the fees, revenue, etc. from: Assessment and other existing revenue sources of local agencies.

Authorized by Section: \_\_\_\_\_ of the \_\_\_\_\_ Code;

- ☐ f. Provides for savings to each affected unit of local government which will, at a minimum, offset any additional costs to each;

- ☐ g. Creates, eliminates, or changes the penalty for a new crime or infraction contained in \_\_\_\_\_

- ☐ 3. Annual Savings. (approximate)

\$ \_\_\_\_\_

- ☐ 4. No additional costs or savings. This regulation makes only technical, non-substantive or clarifying changes to current law regulations.

- ☐ 5. No fiscal impact exists. This regulation does not affect any local entity or program.

- ☒ 6. Other. Explain Fees incurred by local agencies are an incidental impact of the proposed fee schedule, and apply to all applicants, whether they are private or public entities. See Table 3 for estimation of impacts public agencies.

**ECONOMIC AND FISCAL IMPACT STATEMENT  
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

Attachment A: E&amp;FIS

**FISCAL IMPACT STATEMENT (CONTINUED)****B. FISCAL EFFECT ON STATE GOVERNMENT** *Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*☒ 1. Additional expenditures in the current State Fiscal Year. (Approximate)\$ \$300 - \$10,000 per project*It is anticipated that State agencies will:*☒ a. Absorb these additional costs within their existing budgets and resources.☐ b. Increase the currently authorized budget level for the \_\_\_\_\_ Fiscal Year☐ 2. Savings in the current State Fiscal Year. (Approximate)

\$ \_\_\_\_\_

☐ 3. No fiscal impact exists. This regulation does not affect any State agency or program.☒ 4. Other. Explain State agencies are subject to the fees if a permit or project authorization is required from CVFPB. It is unknown how many permits would be obtained by state agencies in the future.**C. FISCAL EFFECT ON FEDERAL FUNDING OF STATE PROGRAMS** *Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*☐ 1. Additional expenditures in the current State Fiscal Year. (Approximate)

\$ \_\_\_\_\_

☐ 2. Savings in the current State Fiscal Year. (Approximate)

\$ \_\_\_\_\_

☒ 3. No fiscal impact exists. This regulation does not affect any federally funded State agency or program.☐ 4. Other. Explain \_\_\_\_\_

FISCAL OFFICER SIGNATURE



DATE

*The signature attests that the agency has completed the STD. 399 according to the instructions in SAM sections 6601-6616, and understands the impacts of the proposed rulemaking. State boards, offices, or departments not under an Agency Secretary must have the form signed by the highest ranking official in the organization.*

AGENCY SECRETARY



DATE

*Finance approval and signature is required when SAM sections 6601-6616 require completion of Fiscal Impact Statement in the STD. 399.*

DEPARTMENT OF FINANCE PROGRAM BUDGET MANAGER



DATE

# Economic and Fiscal Impact Statement (STD 399) Cost Estimating Methodology and Supporting Calculations

## Introduction

This document is prepared in accordance with the Department of General Services (DGS) Statewide Administrative Manual (SAM) Section 6607. The purpose is to describe the methodology and reasoning in support of the information provided in the Economic and Fiscal Impact Statement (STD 399, Rev 12/2013).

## Statement of the Mandate

The proposed regulation is an amendment to California Code of Regulations, Title 23, Division 1 for the purposes of implementing a fee program for permitting and inspection services that the Central Valley Flood Protection Board provides. The proposed regulation does not require local entities to undertake a new program or to provide an increased level of service in an existing program.

## Background or Introductory Material

### Legislation for Basis of the Regulation

California Water Code Section 8535 allows the Central Valley Flood Protection Board (CVFPB) to impose fees as stated in the proposed regulation. It states:

“Consistent with Section 3 of Article XIII A of the California Constitution, the board, after holding at least one public hearing, may set and charge fees sufficient to cover the reasonable cost for the services it provides in carrying out its duties set forth in Sections 8502 and 8534, including, but not limited to, the issuance of and modifications to encroachment permits, inspections and enforcement of encroachments, and management and control of Sacramento and San Joaquin Drainage District property.”

*(Added by Stats. 2017, Ch. 26, Sec. 95. (SB 92) Effective June 27, 2017.)*

### Other Pertinent Historical Data

CVFPB has never imposed fees on permit applicants. Historically, CVFPB has been funded through the General Fund, and has occasionally received partial funding through General Obligation Bonds. In July 2016, CVFPB staff began to track their time for work on reviewing and processing permits in a central database. The data pulled from this database is the basis for estimating costs associated with encroachment permitting services, and does not include system alteration project permitting services or inspection services. For those without a viable set of data for analysis, reasonable assumptions were developed based on knowledge of the programs and required efforts to successfully implement those programs.

## Working Data

The cost data presented in this document to support the requirements of the Economic and Fiscal Impact Statement is based on two main sources of information. First, two years' worth of staff time entry, for permits received between July 1, 2015 and June 30, 2017 (State Fiscal Years 15/16 and 16/17, hereinafter referred to as the "dataset") was recorded in a central database and is used to estimate staff time to process permits. All the time entry was associated with either an encroachment permit or project authorization. Each encroachment permit includes data such as permittee name, project location, and a description of the work to be done. Second, data was obtained from staff time entry in SAP to examine the labor costs associated with each class of employee that has a part in processing permits and project authorizations. The staff costs are conservatively based on employees that are at the maximum pay scale for each class. Combining the average staff time with average billing rates allows for an estimation of costs to process permits and conduct inspections.

## Assumptions

The available data provides information on past applications, but reasonable assumptions and inferences must be made to help provide an estimation of future applications, requests, and workloads. Assumptions regarding information provided in the STD 399 will be clearly stated in this document.

## Calculations, Notes, and Reasoning

In accordance with SAM Section 6607, costs for the current fiscal year and subsequent two fiscal years are considered in the calculations and information provided in STD 399. Calculations, notes, and reasoning for sections of STD 399 needing explanation are included in this section.

### A. ESTIMATED PRIVATE SECTOR IMPACTS

1. **"The Central Valley Flood Protection Board estimates that the economic impact of this regulation (which includes the fiscal impact) is: below \$10 million."**

In Table 1, Estimated Future Revenue shows the overall average estimated fees implemented by the proposed regulation, and includes average fees for permitting, project authorization, and inspection services. It includes assumptions of the number of projects needing permits, project authorization, and inspection services for each fiscal year. The average fee was calculated by applying the proposed fee schedule to the permits within the dataset. The weighted average permit fee and inspection fee was calculated and added together to estimate the average fee that may be charged in the future, as shown in Table 1A.

Table 2 is an analysis of the type of applicants. The balance of the current fiscal year plus the two following fiscal years was included in the calculation, in accordance with SAM Section 6607.

Table 3 applies the total future estimated revenue to the proportion of private sector applicants in the dataset. The estimated impacts to the private sector for this time period is \$642,684, which is far less than \$10 million.

2. **Enter the total number of businesses impacted: approximately 70/year.**

Table 2 shows that over the two years of applicants included in the dataset, 141 of the 422 total applicants and authorization requestors were businesses. This equates to approximately 70 businesses per year that will be affected by the proposed regulations.

**Enter the number or percentage of total businesses impacted that are small business: approximately 21%**

CVFPB staff reviewed the applicants received over the time period in the dataset and researched companies that fit the description of “Small Business” as defined in Government Code Section 11346.3 (b)(4)(B): “For the exclusive purpose of undertaking the economic impact assessment, a ‘small business’ means a business that is all of the following:

- (i) Independently owned and operated.
- (ii) Not dominant in its field of operation.
- (iii) Has fewer than 100 employees.”

Staff found that 29 of the 141 businesses, or 21% fit this definition.

## **B. ESTIMATED COSTS**

- 1. What are the total statewide dollar costs that business and individuals may incur to comply with this regulation over its lifetime? \$642,684**

The total dollar costs are based on the total estimated revenue for the current fiscal year plus the two subsequent fiscal years. From the applicant analysis summary in Table 2, approximately 49% of applicants were from the private sector. As shown in Table 3, this proportion of the estimated revenue was used to estimate the dollar costs to businesses and individuals.

**Parts a, b, and c:** The initial costs for small businesses, typical business, and individuals are the same, and are based on the type of encroachment permit needed. These fees range from \$300 up to \$10,000 for each encroachment permit plus applicable inspection fees.

The annual ongoing costs vary per the type of encroachment that is being permitted. These fees are shown in the encroachment fee schedule.

- 2. If multiple industries are impacted, enter the share of total costs for each industry: Aerospace 1%, Agriculture 22%, Construction 7%, Design Firm 2%, Developer 1%, Industrial 4%, Nonprofit 4%, Rail 4%, Recreation 4%, Utility 52% (2-yr applicant analysis).**

Table 2 presents a summary of the applicant details in the dataset and reveals the breakdown of types of industries affected. Any given year may be different from this analysis, but the largest industries affected, including agriculture and utilities are estimated to continue to be the largest share of the industries affected.

## **C. ESTIMATED BENEFITS**

- 3. What are the total statewide benefits from this regulation over its lifetime?**

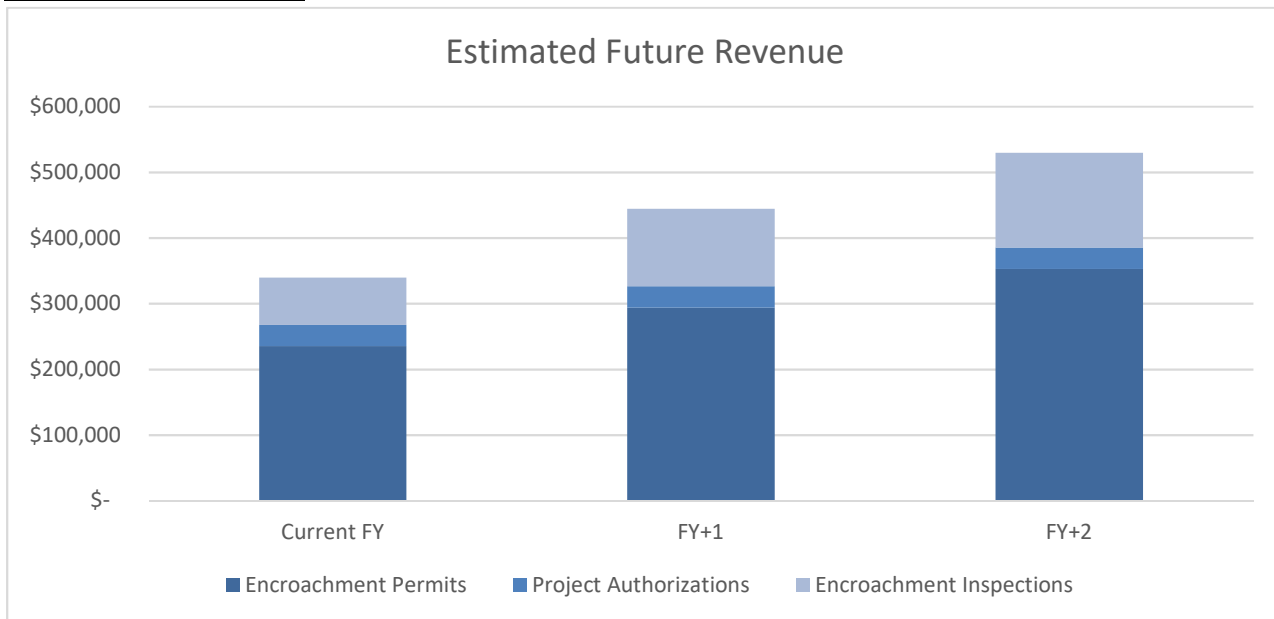
Permitting and inspection services are part of the State’s efforts to reduce the risk of flooding in the Central Valley. The ability to regulate and verify that encroachments

constructed and maintained within the adopted plan of flood control is crucial. Permitting ensures that responsibilities for construction, maintenance, and repairs are clearly defined; and inspections confirms that deficiencies are identified and corrected before emergencies. Implementing fees for these services make these programs sustainable in the long term. However, a direct monetary estimation of benefits from these services is unknown, because the damage from flood events vary widely depending on the nature and location of the event.

Table 1  
CVFPB Permit and Inspection Fee Regulations  
Estimated Future Revenue  
Revenue Estimated from September 2018 Onward

Estimated Future Revenue				
Proposed Permit Fees	Current FY (18/19)	FY+1	FY+2	Total
Number of Encroachment Permits	80	100	120	300
Average Fee Per Each	\$ 2,940	\$ 2,940	\$ 2,940	
	<b>\$ 235,200</b>	<b>\$ 294,000</b>	<b>\$ 352,800</b>	<b>\$ 882,000</b>
Proposed Project Authorization Fees	Current FY (18/19)	FY+1	FY+2	Total
Number of Project Authorizations	65	65	65	195
Average Fee Per Each	\$ 500	\$ 500	\$ 500	
	<b>\$ 32,500</b>	<b>\$ 32,500</b>	<b>\$ 32,500</b>	<b>\$ 97,500</b>
Proposed Inspection Fees	Current FY (18/19)	FY+1	FY+2	Total
Encroachment Construction Inspection	80	100	120	300
Encroachment Routine Inspection	30	80	100	210
Average Fee Per Each	\$ 655	\$ 655	\$ 655	
	<b>\$ 72,050</b>	<b>\$ 117,900</b>	<b>\$ 144,100</b>	<b>\$ 334,050</b>
<b>Total Estimated Revenue</b>	<b>\$ 339,750</b>	<b>\$ 444,400</b>	<b>\$ 529,400</b>	<b>\$ 1,313,550</b>

**Fees Vs Costs Chart Data**



**Notes**

- 1) Revenue and costs based on assumed number of permits processed in a given fiscal year.
- 2) Permitting Costs based on two years of application processing data as described in Economic and Fiscal Impact Statement Methodology.

Table 1A  
Weighted Average Fees  
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Attachment A: E&FIS  
Support Calculations

	Number Received	% of Total (rounded)	Proposed Permit Fee	Proposed Permit Fee x % of Total	Proposed Inspection Fee	Proposed Insp. Fee x % of Total	Total Fee	Total Fee x % of Total
BIKE TRAIL	1	1%	\$ 8,000	\$ 80	\$ 1,000	\$ 10	\$ 9,000	\$ 90.00
Boating Facilities	7	8%	\$ 3,000	\$ 240	\$ 500	\$ 40	\$ 3,500	\$ 280.00
Borings	2	2%	\$ 500	\$ 10	\$ -	\$ -	\$ 500	\$ 10.00
Bridges - Pedestrian	2	2%	\$ 3,500	\$ 70	\$ 1,000	\$ 20	\$ 4,500	\$ 90.00
Bridges - Vehicle	25	26%	\$ 3,500	\$ 910	\$ 1,000	\$ 260	\$ 4,500	\$ 1,170.00
Dams/Structures	2	2%	\$ 7,000	\$ 140	\$ 1,000	\$ 20	\$ 8,000	\$ 160.00
Dwellings	7	7%	\$ 3,000	\$ 210	\$ 500	\$ 35	\$ 3,500	\$ 245.00
Erosion Control	1	1%	\$ 3,000	\$ 30	\$ 500	\$ 5	\$ 3,500	\$ 35.00
Fences	2	2%	\$ 3,000	\$ 60	\$ 500	\$ 10	\$ 3,500	\$ 70.00
Overhead Utility	3	3%	\$ 2,500	\$ 75	\$ 500	\$ 15	\$ 3,000	\$ 90.00
Pipelines/Conduits	35	37%	\$ 2,500	\$ 925	\$ 500	\$ 185	\$ 3,000	\$ 1,110.00
Poles	3	3%	\$ 2,500	\$ 75	\$ 500	\$ 15	\$ 3,000	\$ 90.00
Ramp	1	1%	\$ 1,000	\$ 10	\$ 500	\$ 5	\$ 1,500	\$ 15.00
Retaining Wall	1	1%	\$ 2,500	\$ 25	\$ 500	\$ 5	\$ 3,000	\$ 30.00
Solar Array	1	1%	\$ 2,500	\$ 25	\$ 500	\$ 5	\$ 3,000	\$ 30.00
Stairs	1	1%	\$ 1,500	\$ 15	\$ 500	\$ 5	\$ 2,000	\$ 20.00
Structures	2	2%	\$ 2,000	\$ 40	\$ 1,000	\$ 20	\$ 3,000	\$ 60.00
	96	100%		\$ 2,940		\$ 655		\$ 3,595
				Weighted Average Permit Fee*		Weighted Average Insp. Fee**		Weighted Average Total Fee

\*Weighted Average Permit Fee Rate =  $\sum$  (% of Total Permits)\*(Proposed Permit Fee)

\*\*Weighted Average Inspection Fee Rate =  $\sum$  (% of Total Permits)\*(Proposed Insp Fee)



Table 2  
Applicant Analysis Summary  
STD 399

Permit Applicant Details July 1, 2015 to June 30, 2017			Project Authorization Applicant Details July 1, 2015 to June 30, 2017		
Applicant Type	Number of Applicants	Number of Small Businesses	Applicant Type	Number of Applicants	Number of Small Businesses
Agriculture	27	13	Aerospace	1	0
Construction	3	0	Agriculture	4	4
Individual*	59	0	Construction	7	6
Nonprofit	5	1	Design Firm	3	0
Public Agency*	145	0	Developer	1	0
Rail	5	0	Individual*	6	0
Recreation	4	2	Industrial	2	0
Utility	41	1	Nonprofit	1	1
Industrial	3	1	Public Agency*	71	0
<b>Grand Total</b>	<b>292</b>	<b>18</b>	Rail	1	0
*Not included in business total			Recreation	1	0
			Utility	32	0
			<b>Grand Total</b>	<b>130</b>	<b>11</b>
			*Not included in business total		

Private Sector Seeking Permits/Project Authorizations	
Total Private Sector	206
<b>% of Total</b>	<b>49%</b>

Seeking Permits/Project Authorizations		
	Over 2 Years	Avg/Yr
Total Businesses:	141	<b>71</b>
Total Small Businesses:	29	15
<b>% Small Business</b>		<b>21%</b>

Public Agencies Seeking Permits / Project Authorizations		
	Over 2 Years	Avg/Yr**
Total Public Agencies:	216	108
Federal Agency:	7	4
State Agency:	62	31
Local Agency:	147	74
School Districts:	0	0

\*\*Rounded to next whole number

Industry Analysis		
	Over 2 Years	% Share
Aerospace	1	1%
Agriculture	31	22%
Construction	10	7%
Design Firm	3	2%
Developer	1	1%
Industrial	5	4%
Nonprofit	6	4%
Rail	6	4%
Recreation	5	4%
Utility	73	52%
<b>Total Businesses</b>	<b>141</b>	<b>100%</b>

Table 3  
Revenue Source Analysis  
STD 399

Attachment A: E&FIS  
Support Calculations

	Percent of Total (From Table 2)	Current FY	FY+1	FY+2	Total
<b>Total Estimated Revenue (from Table 1)</b>		<b>\$ 339,750</b>	<b>\$ 444,400</b>	<b>\$ 529,400</b>	<b>\$ 1,313,550</b>
Private Sector (B1)	49%	\$ 166,478	\$ 217,756	\$ 259,406	<b>\$ 643,640</b>
Public Sector	51%	\$ 173,273	\$ 226,644	\$ 269,994	\$ 669,911

# REGULAR RULEMAKING

