

STATE OF CALIFORNIA
CENTRAL VALLEY FLOOD PROTECTION BOARD
3310 EL CAMINO AVE., SUITE 170
SACRAMENTO, CA 95821

TITLE 23, CALIFORNIA CODE OF REGULATIONS
Administrative Permit Revocation: Adoption of Sections 28(d) and 28.1, Amendment of Section 5(a) and
28(b) and Repeal of Section 5(g)

NOTICE OF PROPOSED RULEMAKING

The Central Valley Flood Protection Board (“Board”) proposes to adopt the regulation described below after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

The Board did not schedule a public hearing on this proposed action. However, the Board will hold a hearing if it receives a written request for a public hearing from any interested person, or their authorized representative, no later than 15 days before the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person, or their authorized representative, may submit written comments relevant to the proposed regulatory action to:

CENTRAL VALLEY FLOOD PROTECTION BOARD
ATTENTION: SARAH BACKUS
3310 EL CAMINO AVE., SUITE 170
SACRAMENTO, CA 95821

Comments may also be submitted by e-mail to sarah.backus@cvflood.ca.gov or by fax to: (916) 574-0682. The written comment period closes on November 29, 2021. The Board will consider only timely received comments. When commenting, please indicate the proposed rulemaking action to which your comment refers.

AUTHORITY AND REFERENCE

Water Code section 8571 authorizes the Board to adopt these proposed regulations. The proposed regulation implements, interprets, and makes specific sections 8534, 8598, 8700 and 8702 of the Water Code.

INFORMATIVE DIGEST

Summary of Existing Laws and Effect of the Proposed Action

Existing administrative law regarding the revocation of encroachment permits that were previously issued by the Board is found in California Code of Regulations, title 23, section 28, incorporating the

procedural requirements contained in section 25. These rules require that whenever the Board wishes to revoke a previously issued permit it must hold an evidentiary hearing before the Board. Notice of this hearing must be made to the permittee thirty days prior to the hearing. The notice must contain a staff report and a proposed revocation order, both of which must also be served on the permittee thirty days prior to the hearing. Staff must prepare for a public hearing before the Board at a regular or special board meeting. These procedures are required whether the permitted encroachment was ever constructed, if it has been removed or abandoned and when the permittee wishes to surrender the permit.

The proposed action will streamline the revocation process in situations in which the permit is no longer needed or is no longer desired by the permit holder.

Objective and Anticipated Benefits of the Proposed Regulation

The objective of the proposed regulation is to streamline the permit revocation process in cases in which there is no opposition or controversy. It does not change the regulatory requirements for contested revocations. The benefits expected are that the Board's database of encroachment permits will be more accurate and Enforcement staff will be available for enforcement of serious violations of laws and regulations which protect the flood control system.

Evaluation of Inconsistency/incompatibility with Existing State Regulations

The Board determined that these proposed amendments are not incompatible or inconsistent with existing regulations.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Board has made the following initial determinations:

- Mandate on local agencies or school districts: None
- Cost or savings to any state agency: None
- Cost or savings to any federal funding to the State: None
- Cost to any local agency or school district which must be reimbursed in accordance with Government Code section 17500 through 17630: None.
- Other nondiscretionary costs or savings imposed on local agencies: None.
- Cost impacts on a representative private person or business: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in compliance with the proposed action.
- Significant, statewide adverse economic impact directly affecting businesses including the ability of California businesses to compete with businesses in other states: None.

- Significant effect on housing costs: None.
- Small Business Determination. The Board has determined that the proposed regulation does not affect small businesses because no cost is imposed on any business or individual because of the implementation of these regulations.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS/ASSESSMENT

The Board concludes that it is unlikely that the proposal will eliminate or create jobs. The Board also concludes that it is unlikely that the proposal will eliminate or create any businesses. The Board does not anticipate that the proposed action will result in the expansion of businesses currently doing business within the State.

Benefits of the Proposed Action: The proposed action will benefit the health and welfare of California residents, worker safety, and the State's environment as it will streamline a procedure and allow Board Enforcement Staff to focus their attention on illegal encroachments thereby protecting lives, property, environment and infrastructure within the State's Central Valley from catastrophic flooding.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5 subdivision (a)(13), the Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law.

The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation during the written comment period.

CONTACT PERSONS

Inquiries concerning the proposed action may be directed to:

Sarah Backus
Central Valley Flood Protection Board
3310 El Camino Ave., Ste 170
Sacramento, CA 95821
Tel: (916) 574-1448
EMAIL: sarah.backus@cvflood.ca.gov

The backup contact person for this proposed action is:

Jit Dua
Central Valley Flood Protection Board
3310 El Camino Ave., Ste 170
Sacramento, CA 95821
Tel: (916)574-1766

EMAIL: dua.jit@cvflood.ca.gov

Please direct requests for copies of the proposed text (the “express terms”) of the regulation, the Initial Statement of Reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based to Sarah Backus using the contact information above.

AVAILABILITY OF DOCUMENTS

Availability of Statement of Reasons, Text of Proposed Regulations, and Rulemaking File

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this Notice is published in the Notice Register, the rulemaking file consists of this Notice, the proposed text of the regulation, the Initial Statement of Reasons, and the documents relied upon. Copies may be obtained by contacting Sarah Backus using the contact information above.

Availability of Changed or Modified Text

After holding the hearing, if any, and considering all timely and relevant comments received the Board may adopt the proposed regulations substantially as described in this Notice. If the Board makes modifications which are sufficiently related to the original proposed text it will make the modified text, with changes clearly indicated, available to the public for at least 15 days before the Board adopts the regulations as revised. Please send requests for copies of any modified text to the attention of Sarah Backus using the contact information above. The Board will accept written comments on the modified text for 15 days after the date on which it is made available.

Availability of Final Statement of Reasons

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Sarah Backus using the contact information above.

Availability of Document on the Internet

Copies of this Notice, the proposed text of the regulations, and the Initial Statement of Reasons can be accessed on the Board’s website at: <http://cvfpb.ca.gov/>.