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Arnold Schwarzenegger
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NOTICE OF PROPOSED EMERGENCY RULEMAKING

Electronic Report Filing

Amendments to Division 3 of Title 23 of the California Code of Regulations

Required Notice of Proposed Emergency Action

Government Code section 11346.1, subdivision (a)(2) requires that, at least five working days prior to submission of a proposed emergency action to the Office of Administrative Law (OAL), the adopting agency must 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 the submission of the proposed emergency to OAL, OAL shall allow interested persons five calendar days to submit comments on the proposed emergency regulations, as set forth in Government Code section 11349.6. This document provides the required notice.

Proposed Emergency Action

Effective November 6, 2009, the Water Code was amended to allow the State Water Resources Control Board (State Water Board) to adopt emergency regulations providing for the electronic filing of reports of water diversion or use required to be filed with the State Water Board including but not limited to any report required to be filed under part 5.1 (commencing with section 5100) of division 2 and any report required to be filed by a water right permittee or licensee. (Wat. Code, § 348.)

Proposed Text of Emergency Regulations

See the attached proposed text of the emergency regulations.

Finding of Emergency (Gov. Code, § 11346.1, subd. (b))

The State Water Board has authority to adopt emergency regulations requiring electronic filing of reports of water diversion or use as necessary pursuant to the Water Code (Wat. Code, § 348). Water Code section 348 (b) states that “[t]he adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health, safety, and general welfare.” Notwithstanding chapter 3.5 (commencing with section 11340) of part 1 of division 3 of title 2 of the Government Code, the emergency regulations shall remain in effect until revised by the State Water Board. (*Ibid.*)

Moreover, the State Water Board finds that these regulations must be adopted immediately in order to allow for the timely institution of electronic reporting. Continued administration of the water rights program is essential to the economy and environment of the State of California. The water right program also is important for the protection of public health. For example, the water right program applies and enforces Bay-Delta water quality standards that protect the drinking water supplies for 22 million Californians. In sum, adoption of the regulations is necessary for the immediate preservation of the public health and welfare.

The State Water Board is unable to address the situation through non-emergency regulations because, as discussed above, it has a legal duty to adopt the electronic report by emergency regulation.

Authority and Reference (Gov. Code, § 11346.5, subd. (a)(2))

Water Code sections 348 and 1058 provide authority for the emergency regulations. The emergency regulations implement, interpret, or make specific Water Code sections 348.

Informative Digest (Gov. Code, § 11346.5, subd. (a)(3))

Under the Water Code and existing regulations, a person filing reports of permittee, licensee, supplemental statements, groundwater recordation or other filings, must file an annual or tri-annual report with the State Water Board. Existing regulations allow for the filing of paper reports. With the availability of electronic reporting, more accurate and up-to-date information of reporting compliance can be achieved. Electronic reporting allows for the State Water Board to take necessary actions to enforce existing regulations for fines and/or penalties for non-filing or late filing of these reports. The adopted water right regulations will be contained in division 3 of title 23 of the California Code of Regulations.

The purpose of the emergency regulations is to add electronic reporting consistent with Water Code, section 348.

There is no comparable federal statute or regulation.

Other Matters Prescribed by Statute (Gov. Code, § 11346.5, subd. (a)(4))

No other matters are prescribed by statute or regulation applicable to the State Water Board.

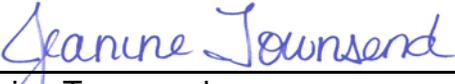
Local Mandate (Gov. Code, § 11346.5, subd. (a)(5))

The proposed emergency regulations do not impose a mandate on local agencies or school districts because they do not mandate a new program or a higher level of service of an existing program. The electronic reporting applies equally to public and private entities, and is not unique to local government. No state reimbursement is required by part 7 (commencing with section 17500) of division 4 of the Government Code.

Estimate of Cost or Savings (Gov. Code, § 11346.5, subd. (a)(6))

Under the proposed emergency regulations, there is no cost to any local agency or school district for which reimbursement is required. There is no cost or savings in federal funding to the state.

November 18, 2010
Date


Jeanine Townsend
Clerk to the Board

Attachments