

**STATE WATER RESOURCES CONTROL BOARD  
PROPOSED REGULATIONS**

**Draft Text of Proposed Regulations**

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

Add the following section:

1 § 740 Russian River, Special.

- 2 (a) After March 14, 2011, any **significant** diversion of water from the Russian River stream  
3 system, ~~including the pumping of closely connected groundwater~~, for purposes of frost  
4 protection between March 15 and ~~June 1~~ **May 15** that the board has determined to be significant  
5 shall be considered ~~unreasonable and a violation of Water Code section 100~~, unless the  
6 ~~water is diverted~~ **managed** pursuant to a board approved water demand management program. Any  
7 such water demand management program shall **to** ensure that the instantaneous cumulative  
8 diversion rate does not result in a reduction in stream **flow stage** that is harmful to ~~anadromous~~  
**salmonids**  
9 ~~fish~~. (B) The **water demand management** program shall be administered by an individual or governing  
body capable of  
10 ~~resolving disputes and ensuring that the goals of the program are met~~. In addition, the  
11 program shall include, for the March 15 through ~~June 1~~ **May 15** period, monitoring and reporting to  
12 the individual or governing body responsible for administering the program, and to the  
13 board of (1) **a record of** instantaneous-water diversion ~~rates~~ **times and volumes** for  
each **significant** water diversion ~~that the board~~  
14 ~~has determined to be significant and~~ (2) ~~flows~~ **stage** in the Russian River mainstem and any  
15 tributary ~~ies~~ streams **with significant diversions** that support ~~anadromous fish~~ **salmonids**. The  
program shall provide for the transmission of  
16 **monitoring stage** data, in an appropriate format, ~~not less than hourly, to an internet site~~  
17 accessible to the board.  
  
18. **Monitoring data will be provided for stream flow stations where in-stream studies have established a**  
19 **required stream flow stage needed for upstream salmonid habitat.**

1 (b) (c) For purposes of this section, any “significant diversion” means any direct diversion, diversion to  
storage or diversion by well, of water from the Russian River stream

2 system or its underflow, that causes or substantially contributes to an instantaneous cumulative  
reduction in stream stage that is harmful to anadromous fish salmonids. Including the pumping of  
closely connected groundwater, shall be considered

3 significant, unless the diverter can establish to the satisfaction of the board that the

4 A diversion of percolating ground water or diversion of surface water that will have a negligible effect  
on flows stage in any portion of the Russian River stream

5 system that provides habitat for anadromous fish salmonids is not a significant diversion.

6 The determination of significance for a diversion shall consider the cumulative effects of all diversions  
and wells including those used for frost protection and those not used for frost protection. The board will  
include and evaluate and quantify the effects of non-frost water diverters who contribute to changes in  
stream stage during the March 15 to June 1 May 15 period. These non-frost water diversions include:  
municipal wells, residential diversions and wells, and reservoir operations at Coyote and Warm Springs  
Dams that lead to rapid decline in river stage and stream stage in tributaries. Methods used in analyzing  
the effects of non-frost water diverters on stream stage shall be consistent with analytical methods  
accepted in the professions of civil engineering, hydrology and engineering geology.

The evaluation must also recognize the historic seniority of water rights and priority of use.

7 (c) For purposes of this section, groundwater shall be considered closely

8 connected groundwater if it is pumped from areas described as subterranean flow or

9 mapped active stream channels and associated alluvial deposits on maps prepared by

10 Stetson Engineers, Inc. dated February 22, March 8, or March 9, 2008, unless the person

11 pumping the groundwater can demonstrate to the satisfaction of the board that the

12 groundwater is not hydraulically connected to any surface stream within the Russian River

13 stream system.

14

15 (d) Any ~~initial proposed~~ water demand management program developed pursuant to this section  
16 shall be submitted to the board for review and approval at least ~~thirty sixty days~~ ~~prior to the start of the~~  
~~first frost season that the water demand management program would operate or other date~~  
~~approved by the board. before the date~~ by November 2010. If the board requires changes to any  
initial program, the board must notify the individual or governing body responsible for  
administering the program no later than January 15, 2011 and provide at least 30 days to address  
such proposed changes with final board approval of the revised water demand management  
program to be granted no later than March 14, 2011

17 ~~when approval is requested.~~ In subsequent years, ~~if~~ the board may ~~request~~ ~~ire~~ require changes to an  
~~existing~~ water demand

18 management program at any time ~~no less~~ later than November 15<sup>th</sup> in the year ~~prior to the beginning~~  
~~of the next frost protection season and shall give the program~~ individual or governing body responsible  
for administering the program at least 30 days to address such proposed changes with final board approval  
of the revised water demand management program to be granted no later than 30 days prior to the  
beginning of the next frost protection season.

19

20 (e) Compliance with this section shall constitute a condition of all water right

21 permits and licenses that authorize the diversion of water for frost protection from the Russian River  
stream

22 system. The board will retain jurisdiction to revise terms and conditions ~~pertaining to frost protection~~  
of all frost

23 protection permits should future conditions warrant.

24

25 NOTE: Authority cited: Section 1058, Water Code.

26 Reference: Section 2, Article X, California Constitution; and Sections 100, 275 and

27 1051.5, Water Code.

