STATE OF CALIFORNIA - OFFICE OF ADMINISTRATIVE LAW
NOTICE PUBLICATION/REGULATIONS SUBMISSION

For use by Secretary of State only

OAL FILE NUMBERS Z-

For use by Office of Administrative Law (OAL) only

2016 MAR 21 P: 23
OFFICE OF ADMINISTRATIVE LAW

AGENCY WITH RULEMAKING AUTHORITY
State Water Resources Control Board

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE

2. REQUESTED PUBLICATION DATE

3. NOTICE TYPE

4. AGENCY CONTACT PERSON

5. TELEPHONE NUMBER

6. FAX NUMBER (Optional)

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7. E-MAIL ADDRESS (Optional)

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATIONS: Emergency Actions due to Insufficient Flow for Specific Fisheries in Tributaries to the Russian River

2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLES AND SECTIONS (Including title 24, if toxic related)

SECTION(S) AFFECTED
(List all section number(s) individually. Attach additional sheet if needed.)

TITLES

REPEAL

3. TYPE OF FILING

□ Regular Rulemaking (Gov. Code §11346)

□ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.

□ Emergency Readopt (Gov. Code, §11346.1(h))

□ Resubmittal of a withdrawn emergency filing (Gov. Code, §11346.1(b))

□ Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)

□ Other (Specify) emergency readopt (C & C, §1058.5)

□ Effective on filing with Secretary of State

□ Effective other (Specify)

□ $100 Changes Without Regulatory Effect

□ Effective other (Specify)

□ Department of Finance (Form STD. 399) (SAM §5660)

□ Fair Political Practices Commission

□ State Fire Marshal

□ Other (Specify)

□ Other (Specify)

7. CONTACT PERSON

□ Telephone NUMBER

□ FAX NUMBER (Optional)

□ E-MAIL ADDRESS (Optional)

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

TYPE NAME AND TITLE OF SIGNATORY:

Thomas Howard, Executive Director

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Emergency Actions due to Insufficient Flow for Specific Fisheries in Tributaries to the Russian River

In Title 23, Division 3, Chapter 2, amend the title of Article 24, and add section 876 to read:

Article 24. Curtailment of Diversions and Other Actions Based on Insufficient Flow to Meet All Needs

§ 875 [reserved]

§ 876 Additional Water User Information for the Protection of Specific Fisheries in Tributaries to the Russian River

(a) [reserved]
(b) [reserved]
(c) The State Water Resources Control Board (State Board) has authority to ensure the protection and preservation of streams and to limit diversions to protect critical flows for species, including for state- and federally-threatened and endangered salmon and steelhead species. The following watersheds have been identified as critical rearing habitat for juvenile state- and federally-listed Central California Coast coho salmon (CCC coho salmon) and Central California Coast steelhead (CCC steelhead).

1. The portion of the Mark West Creek watershed as defined by the United States Geological Survey- Watershed Boundary Dataset- Hydrologic Unit Code 180101100706. Mark West Creek enters the Russian River from the south at river mile 31, along the northern border of Forestville. This portion of the Mark West Creek watershed spans approximately 57 square miles.

2. Mill Creek. Mill Creek is a tributary to Dry Creek, which enters the Russian River from the west at river mile 42, approximately one mile south of Healdsburg. The Mill Creek watershed spans approximately 23 square miles.

3. Green Valley Creek. Green Valley Creek enters the Russian River from the south at river mile 29, along the northwestern border of Forestville. The Green Valley Creek watershed spans approximately 38 square miles.

4. Dutch Bill Creek. Dutch Bill Creek enters the Russian River from the south at river mile 13, within the town of Monte Rio. The Dutch Bill Creek watershed spans approximately 12 square miles.

(d) [reserved]

(e) Due to the known hydraulic connection between sub-surface water and surface streams in the Russian River watershed, as well as the limited water use information in the area, additional information on diversions, whether surface or subsurface, and use of water is needed to better assess impacts on surface stream flows. The Deputy Director for the Division of Water Rights
(Deputy Director) may issue informational orders to some or all landowners in, or suppliers of water from, the watersheds identified in subdivision (c), requiring them to provide additional information related to diversion and use of water, including but not limited to the: date of first use, location of diversion, type of diversion, types of beneficial uses, distance of well from the nearest surface stream, depth of the well, well screen interval(s), place of use, estimated diversion amount, estimated use amount, source of water, volume of storage, estimated pumping/diversion rate, amount of water anticipated to be needed this year, or any other information relevant to forecasting use and impacts to the surface streams in the current drought year or in contingency planning for continuation of the existing drought emergency. Any party receiving an order under this subdivision shall provide the requested information within 30 days. The Deputy Director may grant additional time for the submission of information regarding diversion and use of water upon substantial compliance with the 30-day deadline and a showing of good cause.

(1) Each landowner is responsible for immediately providing notice of any informational order(s) to all water users associated with the parcel of land related to the informational order.

(2) The failure to provide the information requested within 30 days or any additional time extension granted, is a violation subject to civil liability of up to $500 per day for each day the violation continues pursuant to Water Code section 1846.

(f) New Diversions. For purposes of this subdivision, a new diversion means a surface or subsurface diversion initiated after issuance of a watershed-wide informational order to landowners in the watershed in which the new diversion is located. The owner of any new diversion must submit to the Deputy Director any information required by a watershed-wide informational order issued under subdivision (e) prior to commencement of the new diversion, unless the Deputy Director approves commencement of the diversion based on substantial compliance.

(g) The State Board has established an email distribution list that landowners or others may join to receive notices and updates regarding informational orders and conservation measures required per this section. Notice provided by email or by posting on the State Board’s webpage shall be sufficient for all purposes related to notices and updates regarding the provisions of this section.

Authority:  Sections 1058, 1058.5, Water Code