
State Water Resources Control Board

NOTICE OF PROPOSED EMERGENCY RULEMAKING

Annual Waste Discharge Permit Fees

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, the adopting agency 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 submission of the proposed emergency to the Office of Administrative Law, the Office of Administrative Law shall allow interested persons five calendar days to submit comments on the proposed emergency regulations as set forth in Government Code section 11349.6.

Proposed Emergency Action

Water Code section 13260(f) requires the State Water Board to adopt emergency regulations revising and establishing fees to be deposited in the Waste Discharge Permit Fund in the State Treasury. Water Code section 13260(f)(1) requires the State Water Board to adjust the fee schedule each fiscal year to conform to the revenue levels set forth in the annual Budget Act. On September 18, 2024, the State Water Board will consider adopting emergency regulations that adjust waste discharge permit fees to conform to the revenue levels set forth in the Budget Act for Fiscal Year (FY) 2024-25. These changes will revise Title 23, Division 3, Chapter 9, Article 1, Sections 2200, 2200.6, 2200.7 and 2200.8 of the California Code of Regulations.

Proposed Text of Emergency Regulations

The proposed text of the emergency regulations is attached. The State Water Board is not required to provide any additional public notice prior to adopting revisions to the proposed emergency regulations.

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

The State Water Board has a mandatory legal duty to adopt emergency regulations revising the fees as necessary each fiscal year pursuant to Water Code section 13260(f). Water Code section 13260(f)(2) 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

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1 of Division 3 of Title 2 of the Government Code, any emergency regulations . . . shall remain in effect until revised by the State Water Board.”

Authority and Reference (Gov. Code, § 11346.5, subd. (a)(2))
Water Code section 13260(f).

Informative Digest (Gov. Code, § 11346.5, subd. (a)(3))
Under Water Code section 13260(d)(1)(A), any person discharging waste, or proposing to discharge waste, that could affect the quality of the waters of the state must pay an annual fee in accordance with the fee schedule adopted by the State Water Board.

The proposed emergency regulations will revise the fees for waste discharge permit holders for FY 2024-25 as follows:

Waste Discharge Requirement (WDR)
Increase fees by an average of 5.3 percent to all fee categories. All applicable surcharges will remain unchanged for FY 2024-25.

Land Disposal – Tipping and No Tipping
Increase fees by an average of 2.3 percent to all fee categories. All applicable surcharges will remain unchanged for FY 2024-25.

Water Quality Certification (WQC)
Increase fees by an average of 41.1 percent to all fee categories except Category (H) as it is generating sufficient revenue to support program expenditures. All applicable surcharges will remain unchanged for FY 2024-25.

NPDES Stormwater
Increase fees by an average of 3.0 percent to all fee categories.

NPDES Wastewater
Increase fees by an average of 1.5 percent to all fee categories. All applicable surcharges will remain unchanged for FY 2024-25.

Confined Animal Facilities (CAF)
Increase fees by an average of 5.4 percent to all fee categories. All applicable surcharges will remain unchanged for FY 2024-25.

Agricultural (Ag) Lands
Increase fees by an average of 5.5 percent to all fee categories.

Cannabis Cultivation
Increase fees by an average of 5.7 percent to all fee categories. All applicable surcharges will remain unchanged for FY 2024-25.

Water Recycling Requirements

As a result of changes to Water Code section 13260 providing authority for the State Water Board to assess fees for recycled water facilities, staff is proposing to assess the fee below for the production of recycled water, distinguishing between potable and non-potable recycled water produced.

Recycled Water Production	Potable Fee	Non-Potable Fee
Permits issued for recycled water production	\$16,000	\$2,800

For permits for the distribution or use of recycled water (exclusive of production), facilities would be assessed a flat fee of \$1,500. These fees would be assessed as a surcharge for NPDES permits and WDRs that contain recycling requirements and as flat fee for Water Recycling Requirements (WRRs).

There is no comparable federal statute or regulation.

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

No other matters prescribed by statute or regulation are 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 fee schedule 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 for this fiscal year, most local and state agencies will pay increased fees over last year. The amended fee schedule will result in a total estimated increase to state agencies of approximately \$355,568. There is no cost to any local agency or school district for which reimbursement is required or other non-discretionary cost or savings imposed on local agencies. There is no cost or savings in federal funding to the state.