
State Water Resources Control Board

NOTICE OF PROPOSED EMERGENCY RULEMAKING

State Fiscal Year (SFY) 2025-26 Proposition 4 Water Recycling Funding

Amendments to Title 23, Division 3, Chapter 24 of the California Code of Regulations

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

Proposition 4, the Safe Drinking Water Wildfire Prevention, Drought Preparedness, and Clean Air Bond Act of 2024 (Senate Bill 867) authorized \$10 billion in general obligation bonds for projects related to safe drinking water, wildfire prevention, drought preparedness, and clean air. Section 91014 of Proposition 4 allocated \$386,250,000 to the State Water Resources Control Board (State Water Board or Board) for grants and projects related to water reuse and recycling. Fiscal Year 2025-26 appropriation bill (Senate Bill 105) appropriated \$150,000,000 of this allocation during this fiscal year. Senate Bill 149 separately authorized the administration of Proposition 4 funds to be adopted as emergency regulations in accordance with the Administrative Procedures Act.

As such, the State Water Board is proposing to adopt emergency regulations amending the California Code of Regulations title 23, division 3, chapter 24, to add sections 3430 through 3440 Proposed Emergency Regulation Text.

Proposed emergency regulation text is attached to this notice and can also be found on https://www.waterboards.ca.gov/water_issues/programs/grants_loans/water_recycling/.

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

Senate Bill 149 authorized the administration of Proposition 4 funds to be adopted as emergency regulations in accordance with the Administrative Procedures Act.

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

Water Code section 1058 and Public Resources Code section 90135(e) provide emergency regulation authority for this emergency rulemaking. Public Resources Code section 90135(e) provides deemed emergency regulation authority for the sections adopted as a part of this emergency rulemaking. The proposed emergency regulations implement, interpret, or make specific Public Resources Code sections 91000, 91010, and 91014.

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

The State Water Board currently implements the Water Recycling Funding Program which administers State general fund and bond funds for water recycling projects. The State Water Board has been administering bond funds for water recycling projects as early as the 1978 bond. Historically, the program implemented its own Board adopted guidelines to administer funding for water recycling projects. The program has an established and refined procedure for project prioritization, application review, entering into funding agreements, and cost reimbursements.

This emergency regulations specifically discuss the administration of Proposition 4 funds for water recycling projects, including eligible applicants and projects, the application process, project selection, required reviews, and reimbursement procedures. The proposed administration rules largely follow the existing procedures used by the Water Recycling Funding Program, with Proposition 4 specific requirements incorporated within.

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

The proposed regulations implement Proposition 4 funds for water recycling projects. No other matters are prescribed by statute or regulation.

Policy Statement (Gov. Code, § 11346.5, subd. (a)(3)(C).)

The proposed emergency regulations establishing rules governing the administration of Proposition 4 funds in the Water Recycling Funding Program is necessary to allow the State Water Board to fairly and efficiently fund Water Recycling Projects which benefit California communities and water resources.

Consistency Statement (Gov. Code, § 11346.5, subds. (a)(3)(B) and (a)(3)(D).)

The proposed emergency regulations are an administrative framework for implementing the purposes of Proposition 4 and governing the administration of Proposition 4 funds in and through the State Water Board's Water Recycling Funding Program. The proposed regulations are not inconsistent or incompatible with federal statutes and regulations. There are no existing state regulations governing the State Water Board's use of Proposition 4 funds, nor are there existing state regulations governing the administration of the State Water Board's Water Recycling Funding Program. The proposed emergency regulations are not inconsistent or incompatible with existing state regulations.

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

The proposed emergency regulations do not impose a mandate on local agencies or school districts.

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

This proposal does not impose costs on any local agency or school district for which reimbursement would be required pursuant to Section 7 (commencing with Section 17500) of Division 4 of the Government Code. The cost of this proposal to the State of California has already been voter-approved through Proposition 4.

This proposal will create cost savings for local agencies. Please see Form 399 and Fiscal Impact Statement for more detail.

Availability of Documents on The Internet

The proposed regulatory language for the emergency regulations can be accessed through our website at:

https://www.waterboards.ca.gov/water_issues/programs/grants_loans/water_recycling/.

If you have questions regarding the process of the proposed emergency action, please contact the Water Recycling Funding Program at wrfp@waterboards.ca.gov.