
State Water Resources Control Board

TITLE 23. WATERS DIVISION 3. STATE WATER RESOURCES CONTROL BOARD AND REGIONAL WATER QUALITY CONTROL BOARDS CHAPTER 26. WASTEWATER TREATMENT PLANT CLASSIFICATION, OPERATOR CERTIFICATION, AND CONTRACT OPERATOR REGISTRATION

NOTICE OF PROPOSED EMERGENCY RULEMAKING

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 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 action to the OAL, the 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.

The State Water Resources Control Board (State Water Board) is sending this notice out to interested parties via electronic mail for proposed changes to sections 3677.1, 3677.5, 3717, and 3719.16 of the California Code of Regulations, title 23, division 3, chapter 26 (commencing with section 3670) (WWOCP Regulations). This notification satisfies the notification requirements of Government Code section 11346.1(a)(2).

Proposed Emergency Action

Pursuant to subdivision(e) of Water Code section 13628, the State Water Board is required to review its fees each fiscal year to ensure that the fees collected provide sufficient revenue to recover the costs of the Wastewater Operator Certification Program (WWOCP) and to compensate for past over-collection or under-collection of revenue. (See Wat. Code, § 13628, subds. (b) & (d).)

At its June 5, 2024 meeting, the WWOCP Advisory Committee discussed the proposed emergency regulations. (See Wat. Code, § 13631.)

At its July 16, 2024 meeting, the State Water Board adopted emergency regulations amending sections 3677.1, 3677.5, 3717, and 3719.16 of the WWOCP Regulations revising the fees for all fee categories except for the fees for provisional operators.

E. JOAQUIN ESQUIVEL, CHAIR | ERIC OPPENHEIMER, EXECUTIVE DIRECTOR

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).)

Water Code section 13628, subdivision (e) allows the State Water Board to adopt amendments to the fee schedules through the emergency rulemaking process and provides that the emergency regulation will remain in effect until it is revised by the State Water Board.

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

Water Code sections 1058, 13627, and 13628.

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

The proposed amendments to the WWOCP fee schedule will increase fees to ensure that the fees collected provide sufficient revenue to recover the costs of the WWOCP and to compensate for past under-collection of revenue. As proposed, all WWOCP fee categories except for the fees for provisional operators are increased by 35 percent rounded to the nearest whole dollar.

The WWOCP fee schedules were reduced in 2017 with the intent to reduce the fund balance to a level consistent with a prudent reserve within 6 to 6.5 fiscal years. A reduction of the fund surplus balance has been achieved and a fee increase is now necessary to begin bringing expected revenues back in line with expenditures.

The proposed emergency regulations do not differ substantially from comparable federal law. The State Water Board has thoroughly evaluated the current WWOCP Regulations and the proposed emergency regulations and determined that the proposed regulations are not inconsistent or incompatible with existing state regulations.

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

The proposed emergency regulations increasing the fees for operators and operators-in-training is necessary to allow the State Water Board to continue to operator the WWOCP.

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

The proposed emergency regulations do not differ substantially from comparable federal law. The State Water Board has thoroughly evaluated the current WWOCP Regulations and the proposed emergency regulations and determined that the proposed regulations are not inconsistent or incompatible with existing state regulations.

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 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).)

The proposed emergency regulations will increase revenue to the WWOCP by approximately \$238,000 to cover expenditures and compensate for past under-collection of revenue. There are no savings to any state agency. There is no cost to any local agency or school district for which reimbursement is required or other nondiscretionary cost or savings imposed on local agencies. There is no cost or savings in federal funding to the state.