

**STATE WATER RESOURCES CONTROL BOARD  
BOARD MEETING SESSION – DIVISION OF WATER QUALITY  
JUNE 18, 2013**

**ITEM 4**

**SUBJECT**

HEARING TO CONSIDER ADOPTION OF PROPOSED AMENDMENT TO THE STATEWIDE WATER QUALITY CONTROL POLICY ON THE USE OF COASTAL AND ESTUARINE WATERS FOR POWER PLANT COOLING, ALSO REFERRED TO AS THE ONCE-THROUGH COOLING POLICY

**DISCUSSION**

This is a proposed amendment to the statewide Water Quality Control Policy on the Use of Coastal and Estuarine Waters for Power Plant Cooling (Policy). The Policy establishes uniform, technology-based standards to implement federal Clean Water Act section 316(b) with the goal of reducing harmful effects associated with cooling water intake structures on marine and estuarine life. State Water Board staff is proposing an administrative change to the Policy.

**POLICY ISSUE**

Regulation of intake and surface water discharges from cooling water intake structures was previously implemented through National Pollutant Discharge Elimination System (NPDES) permits issued by the Regional Water Quality Control Boards (Regional Water Boards). To ensure a high level of statewide consistency in implementing Section 316(b), Section 1.N of the existing Policy was included, requiring the State Water Resources Control Board (State Water Board) to issue all NPDES permit actions for existing power plants subject to the Policy. This includes without limitation, actions to issue, modify, reissue, revoke, and terminate NPDES permits after October 1, 2010.

The proposed amendment returns the responsibility of NPDES permit actions for the existing power plants subject to this Policy to the Regional Water Boards. The intention of this action is for effective permitting that is consistent statewide, yet captures region-specific regulatory requirements. The State Water Board commits its staff to support the Regional Water Boards in assisting with permit writing related to implementation of this Policy, including the appropriate NPDES permit language and compliance schedules to be included in future permits that ensure statewide consistency, where appropriate.

**FISCAL IMPACT**

No fiscal impact.

**REGIONAL BOARD IMPACT**

The proposed policy amendment will return the administrative responsibility of NPDES permit actions to the Regional Water Boards.

## **STAFF RECOMMENDATION**

Staff recommends the State Water Board adopt the proposed amendment to the existing Policy to ensure appropriate regulation and permitting of surface water discharges from Once-Through Cooling Facilities.

State Water Board action on this item will assist the Water Boards in reaching Goal 6 of the Strategic Plan Update: 2008-2012. In particular, approval of this item will assist in fulfilling Objective 6.2 by targeting consistency improvements in program delivery identified through past input, and solicit input to identify consistency issues as they arise.

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## STATE WATER RESOURCES CONTROL BOARD RESOLUTION NO. 2013-

### ADOPTION OF AN AMENDMENT TO THE WATER QUALITY CONTROL POLICY ON THE USE OF COASTAL AND ESTUARINE WATERS FOR POWER PLANT COOLING

#### WHEREAS

1. The State Water Resources Control Board (State Water Board) is designated as the state water pollution control agency for all purposes stated in the Clean Water Act, including water quality control planning and waste discharge regulation.
2. The State Water Board is responsible for adopting state policy for water quality control, which may consist of water quality principles, guidelines, and objectives deemed essential for water quality control.
3. On May 4, 2010, the State Water Board adopted the statewide “*Water Quality Control Policy on the Use of Coastal and Estuarine Waters for Power Plant Cooling*” (Policy) under [Resolution No. 2010-0020](#). The Policy was approved by the Office of Administrative Law on September 27, 2010 and became fully effective on October 1, 2010.
4. The Policy establishes uniform, technology-based standards to implement federal Clean Water Act section 316(b), which requires that the location, design, construction, and capacity of cooling water intake structures reflect the best technology available for minimizing adverse environmental impact.
5. The Policy applies to 16 existing power plants located along the California coast, and is implemented through National Pollutant Discharge Elimination System (NPDES) permits, issued pursuant to Clean Water Act Section 402, which authorize the point source discharge of pollutants to navigable waters. The Policy originally affected 19 Once-Through Cooling (OTC) power plants, but three of these plants have ceased all once-through cooling operations since adoption of the Policy.
6. The Statewide Advisory Committee on Cooling Water Intake Structures (SACCWIS) was convened pursuant to the Policy, composed of representatives from the California Air Resources Board, the California Coastal Commission, the California Energy Commission, the California Public Utilities Commission, the California State Lands Commission, the California Independent System Operator, and the State Water Board. The purpose of the SACCWIS is to review implementation plans and schedules and to advise the State Water Board on Policy implementation, in order to ensure that the implementation schedule takes into account local area and grid reliability, including permitting constraints.
7. The Policy was amended on July 19, 2011, making changes to existing Policy compliance dates for the Los Angeles Department of Water and Power (LADWP) on a unit by unit basis rather than facility-wide basis. The changes allowed LADWP to commit to earlier deadlines than required for some of its OTC power-generating units, while meeting deadlines later than required. The amendments also included additional

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requirements for studies and implementation of technologies to reduce impingement and entrainment for facilities with compliance dates beyond 2022.

8. On September 29, 2011, the SACCWIS adopted a report recommending that the State Water Board modify the Policy's implementation schedule to reflect compliance on a unit-by-unit basis. As SACCWIS formulates recommendations for specific changes to the implementation schedule, it may do so on a unit-by-unit rather than facility-wide basis.
9. The State Water Board and Regional Water Quality Control Boards (Regional Water Boards) are authorized to issue NPDES permits to point source dischargers in California, including power plants subject to the Policy.
10. Section 1.N of the Policy placed the entire responsibility of all NPDES permit actions on the State Water Board for all existing power plants subject to this Policy. The State Water Board staff developed a schedule for permit adoption, starting with the older permits first. Due to the large number of OTC Power Plants, and minimal resources, the requirement has prevented the adoption of NPDES Permits on an efficient and timely manner.
11. The State Water Board has determined that it is in the best interest of the marine and estuarine life to have an NPDES Permit adopted by a power plant's corresponding Regional Water Boards as it has been in the past. It prevents delays in adoption of permits since more permits can be adopted by simultaneous Regional Water Boards. In addition, the Regional Water Boards are more aware of all the local water quality issues and concerns. Therefore, it is more effective to have the Regional Water Boards issue the NPDES Permits, and to ensure consistency on the OTC issues and implementation, it is appropriate for the Regional Water Boards to consult with State Water Board staff, when appropriate.
12. The Resources Agency has approved the State Water Board's water quality control planning process as a "certified regulatory program" that adequately satisfies the California Environmental Quality Act (CEQA) requirements for preparing environmental documents. A Substitute Environmental Document (SED) is used in place of an Environmental Impact Report (EIR) as CEQA environmental documentation.
13. State Water Board staff has prepared a Draft Staff Report for the amendment that contains the required environmental documentation under the State Water Board's CEQA regulations. (California Code of Regulations, title 23, section 3777). The changes to the Policy do not lead to new significant environmental effects or a substantial increase in the severity of previously identified environmental effects. Therefore, an addendum to the Final SED adopted with the Policy on May 4, 2010 has been prepared for this Policy amendment, explaining why no new environmental effects will result.
14. The Health and Safety Code section 57004 requires external scientific peer review of the scientific basis for any rule proposed by any board, office, or department within the California Environmental Protection Agency. However, because this amendment is strictly administrative and is not based on any scientific data, peer review requirements do not apply.

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15. Consistent with CEQA, the State Water Board considers that the Draft Staff Report does not engage in speculation, but rather analyzes the project and the alternatives to the project, and concludes that the project will not result in any additional environmental impacts.
16. An amendment to a policy for water quality control does not become effective until adopted by the State Water Board and until the regulatory provisions are approved by the Office of Administrative Law (OAL).

THEREFORE BE IT RESOLVED THAT:

The State Water Board:

1. Approves the final [Draft Staff Report](#) and as an addendum to the 2010 Final SED of the Water Quality Control Policy on the Use of Coastal and Estuarine Waters for Power Plant Cooling.
2. Adopts the amendment ([Appendix A](#) of the Final draft Staff Report) to the Water Quality Control Policy on the Use of Coastal and Estuarine Waters for Power Plant Cooling.
3. Authorizes the Executive Director or designee to submit the amendment to OAL for review and approval.
4. Directs the Executive Director or designee to make minor, non-substantive modifications to the language of the amendment, if OAL determines during its approval process that such changes are needed, and inform the State Water Board of any such changes.
5. Directs staff to solicit annual updates covering any substantive changes to implementation plans or compliance schedules for each of the power plants subject to the Water Quality Control Policy on the Use of Coastal and Estuarine Waters for Power Plant Cooling, if appropriate.
6. Directs staff to bring any appropriate modifications to the implementation schedule, including modifications on a unit-by-unit basis, to the State Water Board for its consideration.”

## CERTIFICATION

The undersigned Clerk to the Board does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on June 18, 2013.

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Jeanine Townsend  
Clerk to the Board