

**STATE WATER RESOURCES CONTROL BOARD
RESOLUTION NO. 2009-0013**

ADOPT THE POLICY ON SUPPLEMENTAL ENVIRONMENTAL PROJECTS

WHEREAS:

1. California Water Code (WC) section 13001 provides that it is the intent of the Legislature that the State Water Resources Control Board (State Water Board) and each Regional Water Quality Control Board (Regional Water Board) shall be the principal state agencies with primary responsibility for the coordination and control of water quality. The State and Regional Water Boards shall conform to and implement the policies of the Porter-Cologne Water Quality Control Act (Division 7, commencing with WC section 13000) and shall coordinate their respective agencies so as to achieve a unified and effective water quality control program in the state;
2. WC section 13140 provides that the State Water Board shall formulate and adopt State Policy for Water Quality Control;
3. WC section 13142(c) provides that State Policy for Water Quality Control shall consist of principles and guidelines deemed essential by the State Water Board for water quality control;
4. WC section 13240 provides that Water Quality Control Plans (Basin Plans) shall conform to any State Policy for Water Quality Control;
5. The State and Regional Water Boards have broad authority to take a variety of enforcement actions under the Porter-Cologne Water Quality Control Act;
6. WC section 13385(i) allows use of Supplemental Environmental Projects (SEPs) associated with mandatory minimum penalties. California WC section 13399.35 also allows use of SEPs for up to 50 percent of a penalty assessed under section 13399.33. Government Code section 11415.60 has been interpreted by the Office of Chief Counsel to allow the imposition of SEPs as part of the settlement of an administrative enforcement action;
7. The Water Quality Enforcement Policy requires that it "shall be reviewed and revised, as appropriate, not later than every five (5) years";
8. The State Water Board, upon the recommendation of the Management Coordinating Committee, developed the Policy on Supplemental Environmental Projects; to replace existing policy on SEPs set forth in the "Water Quality Enforcement Policy, Section IX, February 2002."
9. The State Water Board published a public notice of the proposed policy in October 2008. After consideration of the comments received, the proposed policy was revised;
10. Adoption of this policy is categorically exempt from the California Environmental Quality Act under California Code of Regulations, title 14, section 15321.

THEREFORE BE IT RESOLVED THAT:

The State Water Board:

1. Rescinds "Water Quality Enforcement Policy Section IX. Supplemental Environmental Projects";
2. Adopts the [Policy on Supplemental Environmental Projects](#);
3. Authorizes the Executive Director or designee to submit the Policy on Supplemental Environmental Projects to the Office of Administrative Law (OAL) for review and approval; and
4. If, during the OAL approval process, OAL determines that minor, non-substantive modifications to the language of the Policy are needed for clarity or consistency, directs the Executive Director or designee to make such changes and inform the State Water Board of any such changes.

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 February 3, 2009.

AYE: Chair Tam M. Doduc
Arthur G. Baggett, Jr.
Charles R. Hoppin
Frances Spivy-Weber

NAY: None

ABSENT: None

ABSTAIN: None



Jeanine Townsend
Clerk to the Board