

**STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING SESSION – OFFICE OF ENFORCEMENT
FEBRUARY 3, 2009**

ITEM 9

SUBJECT

CONSIDERATION OF A PROPOSED POLICY FOR USE OF THE STATE WATER POLLUTION CLEANUP AND ABATEMENT ACCOUNT FOR REGIONAL WATER QUALITY IMPROVEMENT PROJECTS

DISCUSSION

Sections 13440-13443 of the California Water Code establish a State Water Pollution Cleanup and Abatement Account (CAA) that is administered by the State Water Resources Control Boards (State Water Board). The CAA is funded through court judgments, administrative civil liabilities (ACLs), and other specified sources that are deposited into the account and the State Water Board has discretion to approve the expenditure of these funds if the requirements in the Water Code section 13442 or 13443 are met, subject to the limitations in Water Code section 13441.

This Policy creates a means for the Regional Water Boards to address water quality protection needs of interest to them, other than through the use of a supplemental environmental project (SEP), by allocating funds from the CAA for regional water quality improvement projects in order to ensure that some portion of civil liabilities collected is used for projects that benefit water quality within the Regional Water Board jurisdictional area where the violation occurred. If adopted, this Policy will allocate 50 percent of funds (less any funds allocated to supplemental environmental projects) deposited into the CAA from administrative or civil enforcement actions brought by or on behalf of a Regional Board, excluding funds for reimbursement of staff costs for investigation and enforcement, to be reserved for regional water quality improvement projects.

POLICY ISSUE

Should the State Water Board adopt the proposed Policy?

FISCAL IMPACT

The proposed activity can be completed with existing resources.

REGIONAL WATER BOARD IMPACT

Yes, all Regional Water Quality Control Boards.

STAFF RECOMMENDATION

The State Water Board should adopt the proposed Policy.

State Water Board action on this item will assist the Water Boards in reaching Goal 6 of the Strategic Plan Update: 2008-2012 to enhance consistency across the Water Boards, on an ongoing basis, to ensure our processes are effective, efficient, and predictable, and to promote fair and equitable application of laws, regulations, policies, and procedures. In particular, approval of this item will assist in fulfilling Objective 6.1 to target consistency improvements in process and policy for Water Board enforcement activities to promote compliance.

DRAFT

STATE WATER RESOURCES CONTROL BOARD RESOLUTION NO. 2009-

ADOPT THE PROPOSED POLICY FOR USE OF THE STATE WATER POLLUTION CLEANUP AND ABATEMENT ACCOUNT FOR REGIONAL WATER QUALITY IMPROVEMENT 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 Sections 13440-13443 establish a State Water Pollution Cleanup and Abatement Account (CAA) that is administered by the State Water Board Division of Financial Assistance (DFA) to provide funding to address problems requiring clean up and abatement actions and other significant unforeseen water pollution problems in the absence of financial assistance. The CAA receives funding from court judgments, administrative civil liabilities (ACLs), and other specified sources;
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 for Use of the State Water Pollution Cleanup and Abatement Account for Regional Water Quality Improvement Projects as an option for the Regional Water Boards to address environmental projects of interest to them;
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 14 CCR, Section 15321.

DRAFT

THEREFORE BE IT RESOLVED THAT:

The State Water Board adopts the [Policy for Use of the State Water Pollution Cleanup and Abatement Account for Regional Water Quality Improvement Projects](#) to improve program efficiency and transparency.

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 Board held on February 3, 2009.

Jeanine Townsend
Clerk to the Board