

**STATE WATER RESOURCES CONTROL BOARD
RESOLUTION NO. 2017-0047**

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

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 Office of Administrative Law approved the Policy on September 27, 2010, and the Policy became fully effective on October 1, 2010.
4. The Policy establishes uniform, technology-based standards to implement 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 eleven 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 nineteen once-through cooling power plants, but eight of these plants have ceased all once-through cooling operations since adoption of the Policy.
6. The Policy establishes a schedule that provides the latest compliance date for the replacement, repowering, or retirement of each remaining power plant still utilizing once-through cooling operations.
7. The Policy was amended on [July 19, 2011](#), making changes to compliance dates for the Los Angeles Department of Water and Power on a unit-by-unit basis rather than a facility-wide basis. The Policy was amended again on [June 18, 2013](#), authorizing the Regional Water Quality Control Boards to issue NPDES permits to point source dischargers in California, including power plants subject to the Policy. The Policy was last amended on [April 7, 2015](#), to extend the compliance date for the Moss Landing Power Plant from December 31, 2017 to December 31, 2020.

8. Section 3.A of the Policy requires the owner or operator of an affected fossil-fuel power plant to submit an implementation plan to the State Water Board by April 1, 2011, selecting one of two Policy compliance alternatives and describing the general design, construction or operational measures to implement the alternative. The State Water Board received implementation plans from all owners and/or operators as requested, including the implementation plan for the NRG Energy Encina Power Station.
9. The Statewide Advisory Committee on Cooling Water Intake Structures (SACCWIS) was convened pursuant to the Policy. The committee is 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 committee 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.
10. In February 2017, the SACCWIS released the Encina Power Station 2018 Reliability Study, which assessed electric system reliability under study assumptions and scenarios. The analyses showed that it is necessary for the Encina Power Station to be operational through the summer of 2018 in order to ensure local grid reliability.
11. On February 23, 2017, the SACCWIS recommended that the State Water Board consider extending the compliance deadline for the Encina Power Station from December 31, 2017, to December 31, 2018, in order to maintain grid reliability in the Southern California region during 2018.
12. An amendment to the Policy is necessary in order to extend the once-through cooling compliance deadline for the Encina Power Station Units 2 through 5 from December 31, 2017, to December 31, 2018. The amendment will be made to the implementation schedule as a new line for Milestone 25 of Table 1 in section 3.E.
13. The California Natural Resources Agency 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 (California Code of Regulations, title 23, section 3777). A substitute environmental document (SED) is used in place of an environmental impact report as CEQA environmental documentation.
14. The change in compliance date does not constitute a project within the meaning of CEQA. Nonetheless, State Water Board staff prepared an addendum to the Final SED adopted with the Policy on May 4, 2010, concluding that the amendment does not lead to new significant environmental effects or a substantial increase in the severity of previously identified environmental effects.
15. Consistent with CEQA, the State Water Board finds 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.

THEREFORE BE IT RESOLVED THAT:

The State Water Board:

1. Approves the [Staff Report and 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 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 the Office of Administrative Law for review and approval.
4. Directs the Executive Director or designee to make minor, non-substantive modifications to the language of the amendment, if the Office of Administrative Law determines during its approval process that such changes are needed, 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 August 15, 2017.

AYE: Chair Felicia Marcus
Vice Chair Steven Moore
Board Member E. Joaquin Esquivel

NAY: None

ABSENT: Board Member Tam M. Doduc
Board Member Dorene D'Adamo

ABSTAIN: None



Jeanine Townsend
Clerk to the Board