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MATTHEW RODRIGUEZ  
SECRETARY FOR  
ENVIRONMENTAL PROTECTION

## State Water Resources Control Board

### REVISED NOTICE OF PROPOSED RULEMAKING AND OPPORTUNITY FOR PUBLIC COMMENT

AMENDMENTS TO THE STATE WATER RESOURCES CONTROL BOARD'S  
WATER QUALITY ENFORCEMENT POLICY

**WRITTEN COMMENTS DUE NO LATER THAN  
October 18, 2016 by 12:00 noon**

**NOTICE IS HEREBY GIVEN (Gov. Code 11346.5(a)(1))** that the State Water Resources Control Board (State Water Board) will hold a public hearing to consider adoption of proposed amendments to the Water Quality Enforcement Policy. The public hearing to consider adoption of the proposed changes will be at 9:00 a.m. on ~~October 18~~ December 6, 2016, at the Joe Serna Jr. – CalEPA Headquarters Building, Coastal Hearing Room, 1001 I Street, Second Floor, Sacramento, California.

**AUTHORITY AND REFERENCE (Gov. Code 11346.5(a)(2)):**

Water Code sections 13000 and 13140 authorize the State Water Board to adopt these proposed regulations. The proposed regulations implement, interpret, and make specific State Board powers and duties under the Porter-Cologne Water Quality Control Act.

**INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW/ANTICIPATED BENEFITS (Gov. Code 11346.5(a)(3)):**

The Porter-Cologne Water Quality Control Act (Wat. Code sections 13000 et seq.) grants the Regional Water Quality Control Boards (Regional Water Boards) and the State Water Board (together Water Boards) the authority to implement and enforce water quality laws, regulations, policies, and plans, to protect waters of the State. In 2010, the State Water Board adopted the Water Quality Enforcement Policy (Enforcement Policy) to protect and enhance the quality of the waters of the State by defining an enforcement process that addresses water quality problems in the most firm, fair, efficient, effective, and consistent manner. The current regulations, embodied in the Enforcement Policy, establish a case prioritization process and an administrative civil liability methodology.

The amendments<sup>1</sup> proposed in this rulemaking action would clarify certain principles that are central to the Water Boards' duties under the Porter-Cologne Water Quality Control Act as they relate to the State Water Board's Enforcement Policy, and will help ensure more transparent and consistent application of the Enforcement Policy. The amendments would change the case

<sup>1</sup> See Initial Statement of Reasons

FELICIA MARCUS, CHAIR | THOMAS HOWARD, EXECUTIVE DIRECTOR

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prioritization process to make it more efficient and consistent throughout the state. The amendments are also intended to bring greater transparency to the Water Boards' enforcement process and penalty methodology application. The amendments would also make non-substantive technical changes to increase comprehensibility and clarity. The proposed amendments would further the Water Boards' goals of preserving, enhancing, and restoring the quality of California's water resources and drinking water for the protection of the environment and public health, and advancing environmental justice in enforcement.

***Determination of Inconsistency/Incompatibility with Existing State Regulations (Gov. Code 11346.5(a)(3)(D)):*** The State Water Board evaluated whether the proposed regulations are inconsistent or incompatible with existing state regulations. No state regulations exist that would conflict with the proposed amendments.

**DISCLOSURES REGARDING THE PROPOSED ACTION:** The State Water Board has made the following initial determinations:

***Mandate on local agencies and school districts (Gov. Code 11346.5(a)(5)):*** The State Water Board has determined that the proposed regulation would not impose a mandate on local agencies or school districts that requires state reimbursement.

***Cost or savings to any state agency (Gov. Code 11346.5(a)(6)):*** None.

***Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630 (Gov. Code 11346.5(a)(6)):*** None.

***Other nondiscretionary cost or savings imposed on local agencies (Gov. Code 11346.5(a)(6)):*** None.

***Cost or savings in federal funding to the state (Gov. Code 11346.5(a)(6)):*** None.

***Statewide adverse economic impact directly affecting businesses and individuals (Gov. Code 11346.5(a)(8)):*** The State Water Board concludes that the adverse economic impact directly affecting businesses and individuals, including the ability of California businesses to compete with businesses in other states, will not be significant. The proposed amendment does not affect the cost of compliance with applicable laws and regulations.

***Cost impacts on a representative private person or businesses (Gov. Code 11346.5(a)(9)):*** The State Water Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. Similarly, the State Water Board has determined that the proposed amendments will not affect small business as the amendments proposed do not significantly alter the penalty methodology currently in existence. The proposed amendment does not affect the cost of compliance with applicable laws and regulations.

***Results of the Economic Impact Analysis/Assessment (Gov. Code 11346.5(a)(10)):*** The State Water Board has determined that the proposed regulations would not significantly affect the following: The creation or elimination of jobs within the State of California; the creation of new businesses, or the elimination of existing businesses within the State of California, or; the expansion of businesses currently doing business within the State of California. The proposed amendment does not affect the cost of compliance with applicable laws and regulations.

**Benefits of the Proposed Action:** The amendments will further the health and welfare of California residents, worker safety, and the state's environment. The State Water Board has made a determination that the proposed amendments would improve the quality of California's water resources and drinking water and protect the public's health and welfare and the state's environment by clarifying and improving existing case prioritization processes and enforcement policy methodology application.

**Significant effect on housing costs (Gov. Code 11346.5(a)(12)):** None.

**Consideration of alternatives (Gov. Code 11346.5(a)(13)):**

In accordance with Government Code section 11346.5, subdivision (a)(13), the State Water Board must determine that no reasonable alternative it considered, or that has otherwise been identified and brought to the attention of the agency, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. The State Water Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

**CONTACT PERSONS (Gov. Code 11346.5(a)(14)):**

Inquiries concerning the proposed administrative action may be directed to:

Ms. Naomi Kaplowitz, Attorney  
State Water Board  
1001 I Street, 16th Floor  
Sacramento, California 95814  
Telephone: (916) 341-5677

The backup contact person for these inquiries is:

Mr. David Boyers, Assistant Chief Counsel  
State Water Board  
1001 I Street, 16th Floor  
Sacramento, California 95814  
Telephone: (916) 341-5276

Please direct requests for copies of the proposed text (the "express terms") of the regulations, the initial statement of reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based to Ms. CJ Croyts-Schooley at 1001 I Street, Sacramento, California 95814, (916) 341-5522, [cj.croyts-schooley@waterboards.ca.gov](mailto:cj.croyts-schooley@waterboards.ca.gov).

**AVAILABILITY OF STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS, AND RULEMAKING FILE**

The proposed amended Enforcement Policy, Initial Statement of Reasons, and rulemaking file is available to view or download on the State Water Board website at:

[http://www.waterboards.ca.gov/public\\_notices/comments/index.shtml](http://www.waterboards.ca.gov/public_notices/comments/index.shtml), or under the Enforcement link at [http://www.waterboards.ca.gov/water\\_issues/programs/enforcement](http://www.waterboards.ca.gov/water_issues/programs/enforcement).

The State Water Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, and the initial statement of reasons.

#### **AVAILABILITY OF CHANGED OR MODIFIED TEXT**

After holding the hearing and considering all timely and relevant comments received, the State Water Board may adopt the proposed regulations substantially as described in this notice. If the State Water Board makes modifications that are sufficiently related to the originally-proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Board adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Ms. Crofts-Schooley at the address indicated above. The State Water Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

#### **AVAILABILITY OF THE FINAL STATEMENT OF REASONS**

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Ms. Crofts-Schooley at the above address.

#### **SUBMISSION OF WRITTEN COMMENTS/COMMENT PERIOD (Gov. Code 11346.5(a)(15))**

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action. The written comment period closes at **12:00 noon on September 13 October 18, 2016**. The State Water Board will consider only comments received by that time. Submit comments to:

Jeanine Townsend  
Clerk to the Board  
State Water Resources Control Board  
1001 I Street, 24th floor  
Sacramento, CA 95814

Comment letters may be submitted to the Clerk of the Board via email at: [commentletters@waterboards.ca.gov](mailto:commentletters@waterboards.ca.gov) (15 megabytes or less in size) or by fax at (916) 341-5620. Please indicate in the subject line "**Comment Letter – Water Quality Enforcement Policy.**"

Please provide a courtesy copy of comments to:

CJ Crofts-Schooley  
State Water Resources Control Board  
1001 I Street, 16<sup>th</sup> Floor  
Sacramento, CA 95814  
[cj.crofts-schooley@waterboards.ca.gov](mailto:cj.crofts-schooley@waterboards.ca.gov)

Comments may also be hand-delivered. Couriers delivering comment letters must check in with lobby security personnel on the first floor of the CalEPA Building at the above address.

Questions on comment submittals may be directed to Ms. Townsend, at (916) 341-5600.

Please direct other questions about this notice to Ms. Crofts-Schooley at (916) 341-5522 or by email at [cj.crofts-schooley@waterboards.ca.gov](mailto:cj.crofts-schooley@waterboards.ca.gov).

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August 25, 2016

Date

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Jeanine Townsend  
Clerk to the Board

