

**STATE WATER RESOURCES CONTROL BOARD
RESOLUTION NO. 2017-0074**

ADOPTION OF THE POLICY ON SUPPLEMENTAL ENVIRONMENTAL PROJECTS

WHEREAS:

1. The State Water Resources Control Board (State Water Board) and the Regional Water Quality Control Boards (Regional Water Boards) (together, Water Boards) are the principal state agencies with primary responsibility for the coordination and control of water quality. The Water Boards are required to conform to and implement the policies of the Porter-Cologne Water Quality Control Act (Division 7, commencing with Water Code section 13000) and to coordinate their respective agencies so as to achieve a unified and effective water quality control program in the state.
2. California Water Code section 13140 provides that the State Water Board shall formulate and adopt state policy for water quality control. Water Code section 13142 provides that such policy may consist of water quality principles, guidelines and objectives deemed essential for water quality control.
3. The Water Boards have broad authority to take a variety of enforcement actions under the Porter-Cologne Water Quality Control Act.
4. California Public Resources Code section 71118, subdivision (b) requires the Water Boards to establish a policy on Supplemental Environmental Projects (SEPs) that benefits disadvantaged communities. The Policy establishes specific incentives for SEPs that benefit disadvantaged communities to promote and help ensure that SEPs address the needs of disadvantaged communities.
5. Water Code section 13385(i) allows use of SEPs associated with mandatory minimum penalties. California Water Code 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. The Policy amendments effectuate these statutory provisions.
6. The State Water Board solicited comments from the Regional Water Boards and evaluated comments and provided input for the proposed Policy revisions.
7. The State Water Board published a public notice of the proposed Policy revisions on July 21, 2017, issued a revised notice on August 23, 2017, and accepted written comments until September 25, 2017.
8. The State Water Board conducted a public hearing on September 20, 2017, to receive oral comments on the proposed policy revisions. After consideration of the oral and written comments received, the proposed policy was further revised. Additional changes were made after the September 20, 2017 hearing and after the close of the public comment period.
9. Adoption of this policy is categorically exempt from the California Environmental Quality Act under California Code of Regulations, title 14, section 15308.

10. A state policy for water quality control does not become effective until adopted by the State Water Board and the regulatory provisions are approved by the Office of Administrative Law (OAL).

THEREFORE BE IT RESOLVED THAT:

The State Water Board:

1. Adopts the amendments to the [Policy on Supplemental Environmental Projects](https://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/2017/120517_9_sep_policy_amd.pdf) (https://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/2017/120517_9_sep_policy_amd.pdf);
2. Authorizes the Executive Director or designee to submit the updated Policy on Supplemental Environmental Projects to OAL for review and approval consistent with Government Code section 11353;
3. Directs the Executive Director or designee to make minor, non-substantive modifications to the language of the proposed policy revisions, if OAL determines during its approval process that such changes are needed, and inform the State Water Board of any such changes;
4. Rescinds [Resolution No. 2009-0013](https://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/2009/rs2009_0013.pdf) (https://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/2009/rs2009_0013.pdf) adopting the 2009 Policy on Supplemental Environmental Projects, effective upon OAL's approval of the 2017 Policy on Supplemental Environmental Projects.

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 December 5, 2017.

AYE: Chair Felicia Marcus
Vice Chair Steven Moore
Board Member Tam M. Doduc
Board Member Dorene D'Adamo
Board Member E. Joaquin Esquivel

NAY: None

ABSENT: None

ABSTAIN: None



Jeanine Townsend
Clerk to the Board