

**State of California
Office of Administrative Law**

In re:
State Water Resources Control Board

**NOTICE OF APPROVAL OF REGULATORY
ACTION**

Regulatory Action:

Government Code Section 11353

Title 23, California Code of Regulations

OAL File No. 2010-0813-05 S

Adopt sections: 2922

This action adopts a policy on the use of coastal and estuarine waters for power plant cooling, requiring the location, design, construction and capacity of cooling water intake structures to utilize the best technology available for reducing adverse environmental impact.

OAL approves this regulatory action pursuant to section 11353 of the Government Code.

Date: 9/27/2010



David D. Potter
Senior Staff Counsel

For: SUSAN LAPSLEY
Director

Original: Thomas Howard
Copy: Joanna Jensen

NOTICE PUBLICATION/REGULATIONS SUBMISSION

REGULAR (See instructions on reverse)

For use by Secretary of State only

ENDORSED FILED
IN THE OFFICE OF

2010 SEP 27 PM 2:57

Debra Bowen
DEBRA POWEN
SECRETARY OF STATE

STD. 400 (REV. 01-09)

OAL FILE NUMBERS Z-	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER 2010-0813-055	EMERGENCY NUMBER
For use by Office of Administrative Law (OAL) only		2010 AUG 13 PM 6:25	
NOTICE		REGULATIONS	

AGENCY WITH RULEMAKING AUTHORITY State Water Resources Control Board (SWRCB)	AGENCY FILE NUMBER (if any)
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A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE Once-through Cooling Water Policy	TITLE(S) 23	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other	4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	NOTICE REGISTER NUMBER	PUBLICATION DATE	

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Once-through Cooling Water Policy	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)
ADOPT 2921 2922
AMEND
REPEAL
TITLE(S) 23

3. TYPE OF FILING

<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §511346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §511349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))		<input checked="" type="checkbox"/> Other (Specify) <u>Gov. Code §11353</u>	

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)

<input type="checkbox"/> Effective 30th day after filing with Secretary of State	<input type="checkbox"/> Effective on filing with Secretary of State	<input type="checkbox"/> \$100 Changes Without Regulatory Effect	<input checked="" type="checkbox"/> Effective other (Specify) <u>Upon approval (Gov. Code §11353)</u>
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6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal
<input type="checkbox"/> Other (Specify) _____		

7. CONTACT PERSON Joanna Jensen	TELEPHONE NUMBER (916) 341-5582	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) jjensen@waterboards.ca.gov
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE <i>Elizabeth Haven</i>	DATE 8/4/10
TYPED NAME AND TITLE OF SIGNATORY Elizabeth Haven, Assistant Deputy Director, Division of Water Quality, SWRCB	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

SEP 27 2010

Office of Administrative Law

CONCISE SUMMARY OF REGULATORY PROVISIONS

California Code of Regulations, Title 23, Division 3, Chapter 22:

2922

Section 2924. "Policy on the Use of Coastal and Estuarine Waters for Power Plant Cooling"

On May 4, 2010, the State Water Resources Control Board (State Water Board) adopted a statewide policy (Policy) on the use of coastal and estuarine waters for power plant cooling under Resolution No. 2010-0020. The Policy establishes uniform, technology-based standards to implement federal 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.

The Policy applies to 19 existing power plants, including two nuclear plants. An owner or operator of an existing power plant must reduce the intake flow rate at each unit, at a minimum, to a level commensurate with that which can be attained by a closed-cycle wet cooling system (a minimum 93% reduction compared to the design intake flow rate). Additionally, the through-screen intake velocity must not exceed 0.5 foot per second.

If the owner or operator can demonstrate that this is not feasible, the owner or operator may comply by reducing environmental impacts for the facility comparably through other means, using operational or structural controls, or both. Previous technology-based improvements, specifically designed to reduce impacts or resulting from the replacement of steam turbine power-generating units with combined-cycle power-generating units, may be counted towards meeting the alternate requirements. Monitoring requirements are dependent upon the type of control technology chosen for compliance.

No later than one year after the effective date of this Policy, all facilities must install large organism exclusion devices and cease intake flows if not engaging in power-generating activities or critical system maintenance. The owner or operator must further mitigate any interim impacts from five years after the effective date until final compliance is achieved.

The Policy employs an adaptive management strategy that will be implemented through National Pollutant Discharge Elimination System permits. The State Water Board will convene a Statewide Advisory Committee on Cooling Water Intake Structures (SACCWIS) with representatives from relevant state agencies and the California Independent System Operator to review plans and schedules submitted by dischargers and to ensure that the implementation schedule is realistic and will not jeopardize the reliability of the electric system. SACCWIS will present its recommendations to the State Water Board at least annually, and the State Water Board will amend the Policy as appropriate based on these recommendations. The schedule may also be temporarily suspended, if necessary for grid reliability purposes.

The Policy requires special studies for the nuclear-fueled power plants to address their unique issues and to evaluate appropriate requirements for those plants. The special studies shall be conducted by an independent third party overseen by a Review Committee. Within three years after the Policy's effective date, the Review Committee shall report to the State Water Board on the ability of these plants to achieve compliance, the cost of compliance, and potential environmental impacts of compliance.