

CALIFORNIA ENERGY COMMISSION STAFF COMMENTS

STATE WATER RESOURCES CONTROL BOARD WORKSHOP ON 316(b) AND ONCE THROUGH COOLING

December 7, 2005

Oakland, CA

Energy Commission Staff is pleased that the State Water Resources Control Board is investigating the policy and regulatory issues associated with implementing the US EPA's Phase II Rule for once-through cooling at coastal power plants. We look forward to sharing our expertise during your proceeding and potential rulemaking.

Summary of Energy Commission Findings and Policy Recommendations on Once-Through Cooling from the 2005 Integrated Energy Policy Report

1. "Once-Through Cooling can contribute to declining fisheries and the degradation of estuaries, bay and coastal waters."
2. Energy Commission has the opportunity to work with the Ocean Protection Council, State Water Resources Control Board, and other agencies to address once-through cooling issues in the broader context of protecting the state's fragile coastal marine ecosystem.
3. The Public Interest Energy Research Program should continue to collaborate with the State Water Board and other agencies and stakeholders to develop sampling and other analytical protocols that will provide clear and consistent approaches for assessing the ecological effects of once-through cooling.
4. The Energy Commission should update its MOA with the State Water Board, Regional Water Boards and the Coastal Commission to develop a consistent regulatory approach for the use of once-through cooling, including investigating retrofit control technologies (BARCT) to minimize impacts to the marine environment.
5. Commission Staff should update Data Adequacy Regulations with respect to once through cooling at coastal power plants. Existing regulations do not provide sufficient guidance regarding the type and extent of data needed to complete an environmental analysis.

Energy Commission Staff Comments on the Need for a New State Water Board Policy on 316(b)

The fact that US EPA promulgated a new rule for once-through cooling intakes recognizes the long-standing concerns over impacts to near shore marine and estuarine ecosystems from long-term use of this cooling technology. California Energy Commission Staff believes that new rules should lead to measurable reductions in biological resource impacts.

The California Energy Commission has the general authority to balance energy needs with environmental quality and specific authority to limit environmental impacts related to power generation on a case-by-case basis. But we do not have a legislative mandate to set environmental policy goals for ocean or inland waters. Under the Porter-Cologne and federal Clean Water Acts, the State Water Resources Control Board has substantial authority and public responsibility to create policies and regulatory controls that limit impacts to the State's waters, protect public health, and improve environmental quality. Energy Commission Staff look forward to supporting the Board in the exercise of its authorities on this topic.

Since the first coastal repowering case came before us in 1999, the Energy Commission has worked to understand how to measure and assess the ecological impacts of once-through cooling. We have been joined in this effort by the very capable staff at Regional Board 3 on the Central Coast, and at the Coastal Commission. The State Water Board can exercise its environmental quality mandates to set clear policy guidance for 316(b) that will enable the Energy Commission to set license conditions that conform with a State Water Board policy to protect sensitive marine and estuarine ecosystems.

The many Regional Boards charged with interpreting the new 316(b) studies and permit renewal applications have important authority and discretion. They will be on the front lines during implementation of the 316(b) Phase II rule. We hope the State Water Board will work with them to develop a strong and consistent regulatory approach to study protocols, impact assessment and determination, and imposition of impact reduction requirement or mitigation.

The California energy industry and markets are going through substantive changes which may impact the role of coastal power plants in meeting the state's resource adequacy needs. The Board needs to consider these changes while evaluating the potential effects of State Water Board policy changes on coastal generators. Many coastal plants are operating at very low capacity factors. Because of the current market, coastal plants may choose to retire or repower regardless of what the State Board determines to do with 316(b) requirements. It is a normal part of power plant life cycles that they retire and are replaced with newer and more efficient technologies. Many of the coastal plants are using old and inefficient generation technologies with high heat rates and out-moded cooling technologies. We can help the Board interpret the state of the energy market and actions by coastal generators.