



December 22, 2014

Electronic Submission: commentletters@waterboards.ca.gov

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



Dear Ms. Townsend:

SUBJECT: COMMENT LETTER –PROPOSED AMENDMENT TO THE WATER QUALITY CONTROL POLICY FOR DEVELOPING THE CLEAN WATER ACT SECTION 303(D) LIST (LISTING POLICY)

The Sacramento Stormwater Quality Partnership (SSQP) appreciates this opportunity to provide comments on the November 19, 2014 proposed revisions to the Water Quality Control Policy for Developing the Clean Water Act Section 303(d) List (Listing Policy). The SSQP is comprised of the County of Sacramento and the cities of Citrus Heights, Elk Grove, Folsom, Galt, Sacramento and Rancho Cordova that are permittees in the municipal separate storm sewer system (MS4) National Pollutant Discharge Elimination System permit (NPDES No. CAS082597, Order No. R5-2008-0142). The SSQP is generally supportive of the proposed revisions, and have only a few suggested changes to further clarify the intent of the Listing Policy, especially how it relates to data submitted as part of our NPDES permit and other special studies evaluating support of beneficial uses.

Sections 6.1.1 and 6.1.4 Definition of ‘Readily Available Data’ and Data Evaluation

Proposed revisions to section 6.1.1 and 6.1.4 provide some necessary updates and helpful clarifications. The proposed revisions further affirm the discretion of the State Board and Regional Boards (collectively, Water Boards) in what data are considered and used as part of the listing and delisting process. While the Water Boards can consider other data the Listing Policy revisions remove references to specific data sources (e.g., “MS4 Reports”) and define readily available data as data that “can be submitted to the California Environmental Data Exchange Network (CEDEN)” and generally meet the data quality requirements of the Statewide Ambient Monitoring Program (SWAMP) as discussed in section 6.1.4. While Section 6.1.2 notes that “Discharge Monitoring Reports” need not be submitted separately, the list of these data sources that will always be evaluated and are already submitted to the Regional Board should be included in Section 6.1.1. “Discharge Monitoring Reports” is a limited and specific term that does not necessarily include a number of ambient data collected and reported according to NPDES permits and waste discharge requirements (WDR). *The SSQP requests that a list of “readily available data” be preserved in this section and include the following:*

The following data submittals to the Regional Boards will be considered “readily available data” and a summary of the evaluation and use of the data will be provided:

- Ambient monitoring data collected and/or reported as part of National Pollutant Discharge Elimination System (NPDES) permits or waste discharge requirements (WDRs)
- Special studies performed to evaluate the protection of beneficial uses or site specific objectives
- Ambient monitoring data from collaborative regional monitoring programs such as the San Francisco Regional Monitoring Program, the Delta Regional Monitoring Program, the Bight Regional Monitoring Program, and others.

We appreciate the historic efforts to consider all reasonable data sources and comprehensively document findings as it allows data submitters the opportunity to ensure the appropriate data were used and to provide more useful comments on proposed listing changes. The wide discretion the Water Boards have in the process may be necessary to evaluate large and diverse datasets, but this detailed documentation is necessary to verify the proposed listing decisions.

Section 6.1.2.1 “Off Cycle” Evaluations

Proposed language in November 2014 Listing Policy revisions: “In its notice of solicitation, the State Water Board shall identify which Regional Water Boards shall administer the listing process for that Listing Cycle and whether the State Water Board will administer a particular Regional Water Board’s listing process, pursuant to section 6.2, for that region. If a Regional Water Board is “off cycle” pursuant to the State Water Board’s notice of solicitation, that Regional Water Board may administer the process for one or more water segments that would result in a direct listing change from the previous Listing Cycle pursuant to section 6.2.”

These proposed revisions to the Listing Policy allow the State Board to make a determination of whether a Regional Board should be included in the listing evaluation for that cycle and whether the State Board should perform the listing evaluation for a particular Regional Board. The proposed changes indicate that a Regional Board that is “off cycle” (i.e., not scheduled for inclusion in the listing evaluation) can proceed with more targeted evaluations on water segments at their discretion. While we understand the resource constraints and need to optimize efforts, there should be a specific process for others to initiate a listing change. In some cases adequate evidence is available to delist a segment that may have time sensitive impacts on municipal agencies, including permit requirements or prohibitions. *The SSQP requests the following language be included at the end of the cited Listing Policy revision:*

During both “on cycle” and “off cycle” periods the Regional and State Boards will consider specific requests from interested parties relevant to listing changes through the data solicitation process. The Water Boards shall document the listing findings in the listing fact sheets or in a separate public response.

Section 4.1 Consideration of Site Specific Objectives and Conditions for Delisting

Delisting should consider numeric water quality objectives that are based on site specific conditions and not be limited to “maximum contaminant levels where applicable, or California/National Toxics Rule water quality criteria” (page 11). For example, USEPA criteria for metals include consideration of organic carbon and other factors that reduce the bioavailability of copper through the Biotic Ligand

Model (BLM). Another example is the use of only acute water quality criteria when examining short-lived wet weather conditions. Water effects ratios and other information such as exposure periods should be considered when selecting water quality objectives for site specific conditions. *The SSQP requests the following revisions to Section 4.1:*

Numeric water quality objectives for toxic pollutants, including maximum contaminant levels where applicable, ~~or~~ California/National Toxics Rule water quality criteria, and other site specific numeric objectives are not exceeded...

Please let us know if you have questions or would like more details on the requested revisions.

Sincerely,



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