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## State Water Resources Control Board

# NOTICE OF OPPORTUNITY TO COMMENT

## PROPOSED AMENDMENT TO THE WATER QUALITY CONTROL POLICY FOR DEVELOPING THE CLEAN WATER ACT SECTION 303(d) LIST

**NOTICE IS HEREBY GIVEN THAT** the State Water Resources Control Board (State Water Board) will accept comments on the proposed approval of the amendment to the Water Quality Control Policy for Developing the Clean Water Act Section 303(d) List (Listing Policy). The existing Listing Policy and Functional Equivalent Document were approved by the State Water Board on September 30, 2004 ([Resolution No. 2004-0063](#)) and are available for review at: [http://www.waterboards.ca.gov/water\\_issues/programs/tmdl/303d\\_listing.shtml](http://www.waterboards.ca.gov/water_issues/programs/tmdl/303d_listing.shtml).

The proposed amendment to the Listing Policy includes four significant process changes:

First, modify the definition for “readily available information” to mean all information submitted to the California Environmental Data Exchange Network (CEDEN), a website location for sharing and collecting information about the State’s waterbodies. If CEDEN cannot accept a particular subset of data, the notice of solicitation will detail the submittal requirements.

Second, clarify that the 303(d) List is not required to include assessments from all regions every listing cycle. At the beginning of each listing cycle, the State Water Board shall identify, in its notice of solicitation, which Regional Water Quality Control Boards (Regional Water Boards) shall make listing recommendations for that cycle. Regional Water Boards which are “off cycle” may nevertheless make recommended listing changes for high priority data. U.S. EPA staff have indicated that they support this approach.

Third, add that the State Water Board shall have discretion to administer a Regional Water Board’s assessment, evaluation, and listing recommendation process and approval on behalf of that region. This process should only occur in cases where a certain region is not or cannot complete their regional integrated report in a timely manner.

Fourth, add that after the State Water Board staff consolidates the Regional Water Board list recommendations, the State Water Board Executive Director has the discretion and authority to finalize the proposed 303(d) List and submit it directly to U.S. EPA. The Executive Director shall provide the public with notice of the proposed approval and its opportunity to provide written comments to which the Executive Director shall provide written responses. Alternatively, at the Executive Director’s discretion, the consolidated statewide list may be set for a State Water Board meeting for its approval after advance notice to the public and an opportunity to comment is provided. The Executive Director and the State Water Board shall only consider changes to the waters that are timely requested for review, or at the election of the Executive Director or the State Water Board other list recommendations are noticed for consideration and comment.

The foregoing proposed changes to the Listing Policy involve changes to the process by which the 303(d) List is compiled, promotes efficiencies in the manner in which data is solicited and assessed, and streamlines public participation and review process. The proposal will allow for timelier 303(d) List submittals by the State Water Board.

Additionally, the Listing Policy was adopted prior to the development of sediment quality objectives. By [Resolution No. 2008-0070](#) (September 16, 2008), the State Water Board adopted the Water Quality Control Plan for Enclosed Bays and Estuaries—Part 1 Sediment Quality, which contained narrative sediment quality objectives to protect benthic communities and human health. In Resolution No. 2008-0070, the State Water Board acknowledged the need to ensure the Listing Policy is updated to be consistent with the adopted sediment quality objectives. Accordingly, the proposed changes to the Listing Policy include amending Section 6.1.3 to correlate with the adopted sediment quality objectives.

#### **DOCUMENT AVAILABILITY**

The proposed amendment to the Listing Policy and associated documents can be found at: [http://www.waterboards.ca.gov/water\\_issues/programs/tmdl/303d\\_listing.shtml](http://www.waterboards.ca.gov/water_issues/programs/tmdl/303d_listing.shtml).

A copy of the Listing Policy and proposed amendment can also be received by mail by contacting Mr. Nick Martorano at [nicholas.martorano@waterboards.ca.gov](mailto:nicholas.martorano@waterboards.ca.gov) or (916)-341-5290.

#### **REQUEST NOTICE OF STATE BOARD MEETINGS**

The State Water Board will separately provide notice of the date and agenda for the meeting at which it will consider adopting a resolution approving the Listing Policy amendment. Oral comments at the State Water Board meeting will generally be limited to a summary of the written comments submitted during the written comment period. Persons interested (including those who submit oral or written comments to the State Water Board) in receiving notice of the meeting at which the State Water Board will consider approving the Listing Policy amendment **must subscribe** to the Integrated Report – 303(d)/305(b) lyrlist list at:

[http://www.waterboards.ca.gov/resources/email\\_subscriptions/swrcb\\_subscribe.shtml](http://www.waterboards.ca.gov/resources/email_subscriptions/swrcb_subscribe.shtml). The State Water Board encourages use of its electronic mailing list. Persons who require notice by regular mail must submit such request to the State Water Board contact identified below.

#### **SUBMISSION OF WRITTEN COMMENTS**

Persons interested in the Listing Policy amendment are encouraged to submit comments electronically. Comment letters **must be received by 12:00 noon on Friday, December 22, 2014**. Comment letters received after the deadline will not be accepted unless the State Water Board determines otherwise. Comment letters can be submitted by email to [commentletters@waterboards.ca.gov](mailto:commentletters@waterboards.ca.gov) (if less than 15 megabytes) or by fax at (916) 341-5620 with the subject “**Comment Letter—Listing Policy Amendment.**”

Written comments may also be delivered by mail to:

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

Couriers delivering comment letters must check in with lobby security personnel, who can contact Ms. Townsend at (916) 341-5600.

**REQUIREMENTS FOR SUBMITTING COMMENTS**

The State Water Board may refuse to accept any comments that are not limited to and specifically address the proposed amendment to the Listing Policy (23 Cal. Code Regs., § 3779, subd. (f)).

**ADDITIONAL INFORMATION**

Please direct any questions about this notice to Mr. Nick Martorano, Chief, Water Quality Assessment Unit at the State Water Board, at (916) 341-5290 ([nicholas.martorano@waterboards.ca.gov](mailto:nicholas.martorano@waterboards.ca.gov)), or Ms. Stacy Gillespie, Senior Staff Counsel at (916) 341-5190 ([stacy.gillespie@waterboards.ca.gov](mailto:stacy.gillespie@waterboards.ca.gov)).

November 20, 2014  
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Date

  
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Jeanine Townsend  
Clerk to the Board