

State Water Resources Control Board

NOTICE OF PUBLIC HEARING AND CONSIDERATION OF ADOPTION

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 hold a public hearing to consider adoption of a resolution approving the proposed amendment to the Water Quality Control Policy for Developing the Clean Water Act Section 303(d) List (Listing Policy Amendment or amendment). The hearing will be held on:

Tuesday, February 3, 2015 – 9:00 a.m.
Joe Serna Jr. – Cal/EPA Headquarters Building
Byron Sher Auditorium
1001 I Street, Second Floor
Sacramento, CA 95814

BACKGROUND

On September 30, 2004, by [Resolution No. 2004-0063](#), the State Water Board adopted the Water Quality Control Policy for Developing the Clean Water Act Section 303(d) List which describes the process by which the State Water Board and the nine Regional Water Quality Control Boards (Regional Water Boards) comply with the listing requirements of Clean Water Act section 303(d) and establishes a standard process to develop the section 303(d) List.

The proposed Listing Policy Amendment primarily includes four significant process changes:

- 1) The amendment would 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. The amendment provides that the State Water Board’s notice of solicitation would detail the submittal requirements for any particular subset of data that cannot be submitted through CEDEN.
- 2) The amendment would clarify that the 303(d) List is not required to include listing assessments from every Regional Water Board. The amendment provides that the State Water Board would identify at the beginning of each listing cycle, in its notice of solicitation, which Regional Water Boards would make listing recommendations for that listing cycle. Regional Water Boards which are “off cycle” could nevertheless make recommended listing changes for high priority data. United States Environmental Protection Agency (U.S. EPA) staff has indicated that they support this approach.
- 3) The amendment would add that the State Water Board would have discretion to administer a Regional Water Board’s assessment, evaluation, and listing recommendation process and approval on behalf of that region. This process would likely only occur in cases where a certain region could not complete their regional

integrated report in a timely manner consistent with other regions. Having the Regional Water Board staff perform the assessment, evaluation, and listing recommendations is the preferred process due to regional staff knowledge of local waterbodies and Basin Plan objectives.

- 4) The amendment would add that after the State Water Board staff consolidates the Regional Water Board list recommendations, the State Water Board Executive Director would have 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 advanced notice of the proposed approval and its opportunity to provide written comments to which the Executive Director would provide written responses. Alternatively, at the Executive Director's discretion, the consolidated statewide list could be scheduled for consideration by the State Water Board at a public meeting after advance notice to the public and an opportunity to comment is provided. The Executive Director and the State Water Board would only receive comments and consider changes that are timely requested for review, or at the election of the Executive Director or the State Water Board, other list recommendations that are noticed for consideration and comment.

The foregoing involves changes to the process by which the 303(d) List is compiled, promote efficiencies in the manner in which data is solicited and assessed, and streamline the public participation and review process. The proposal will allow for increasingly timely 303(d) List submittals by the State Water Board to U.S. EPA.

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 contains 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 that the Listing Policy is updated to be consistent with the adopted sediment quality objectives. Accordingly, the amendment revises Section 6.1.3 of the Listing Policy to correlate with the adopted sediment quality objectives.

CALIFORNIA ENVIRONMENTAL QUALITY ACT

The State Water Board's regulations for implementing the California Environmental Quality Act (Pub. Res. Code §§ 21000 et seq.) (CEQA) require the State Water Board to conduct environmental review of its certified exempt regulatory programs, which include state policies affecting water quality control. (23 Cal. Code Regs., § 3775, 3777.) The requirement to perform an environmental review is inapplicable, however, if the State Water Board "determines that the activity is not subject to CEQA." (Ibid., § 3720, subd. (b).) A governmental agency's discretionary action is subject to CEQA if it is approving a "project" as defined in section 21065 of the Public Resources Code. The State Water Board's adoption of the Listing Policy Amendment is not a "project" subject to CEQA because such action has no potential to result in a "direct physical change in the environment, or a reasonably foreseeable indirect physical change on the environment." (Pub. Res. Code § 21065.)

PROCEDURAL MATTERS

At the public hearing, there will be no sworn testimony or cross-examination of participants. However, the State Water Board and its staff may ask clarifying questions. 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. The State Water Board previously provided the public with [notice of the written comment](#) period in a separate notice. The deadline for the written comment period is December 22, 2014. Any written or documentary evidence must be

submitted during that written comment period. At the hearing, participants will be given opportunity to summarize and supplement their written materials with oral presentations. To ensure a productive and efficient hearing in which all participants have an opportunity to participate, oral presentations may be time-limited. For other presentation recommendations, go to:

http://www.waterboards.ca.gov/board_info/meetings/board_presentations.shtml

DOCUMENT AVAILABILITY

The proposed Listing Policy Amendment and associated documents, including the notice of the public comment period, are located at:

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 or (916) 341-5290.

PARKING AND ACCESSIBILITY

For directions to the Joe Serna, Jr. (Cal/EPA) Building and public parking information, please refer to the map on the State Water Board Web site:

<http://www.calepa.ca.gov/EPABldg/location.htm>. The Cal/EPA Building is accessible to persons with disabilities. Individuals requiring special accommodations are requested to call (916) 341-5880 at least 5 working days prior to the meeting. TDD users may contact the California Relay Service at (800) 735-2929 or voice line at (800) 735-2922. An audio broadcast of the meeting will be available via the internet and can be accessed at:

<http://www.calepa.ca.gov/broadcast/>.

All visitors to the Cal/EPA Building are required to sign in and obtain a badge at the Visitor Services Center located just inside the main entrance (10th Street entrance). Valid picture identification may be required. Please allow up to 15 minutes for receiving security clearance.

FUTURE NOTICES

The State Water Board will hold the public hearing at the time and place noted above. Any change in the date, time, and place of the public hearing will be noticed on the Lyris e-mail list. The State Water Board will separately provide the agenda for the meeting at which it will consider adopting a resolution approving the Listing Policy amendment. Any persons desiring to receive future notices concerning the proposed amendment to the Listing Policy, including any changes to the notice of public hearing and consideration of adoption **must subscribe** to the Integrated Report – 303(d)/305(b) Lyris list at:

http://www.waterboards.ca.gov/resources/email_subscriptions/swrcb_subscribe.shtml.

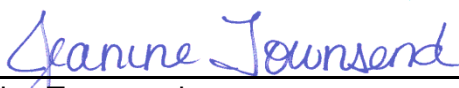
The State Water Board encourages use of its electronic mailing list. Persons who require notice by regular mail must submit such request to the State Water Board contact identified below.

CONTACT 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), or Ms. Stacy Gillespie, Senior Staff Counsel at (916) 341-5190 (stacy.gillespie@waterboards.ca.gov).

December 17, 2014

Date



Jeanine Townsend
Clerk to the Board