

# Comments on the Proposed Revisions to the 303(d) List

to the  
State Water Resources Control Board

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On behalf of  
The Coalition for Practical Regulation (CPR)

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# CPR Supports the Recommendations of the Sanitation Districts of Los Angeles County

- CPR particularly supports the following recommendations made by the Sanitation Districts:
  - Coyote Creek - do not list for nitrite
  - LA River Reach 1 - delist for aluminum
  - San Gabriel River Reach 2 - delist for lead
  - San Gabriel River Reach 3 - delist for toxicity
  - Walnut Creek - delist for toxicity

# Requested Addition to Assumption #7

7. Water body or pollutant listings are independent of the TMDLs that have been approved and are being implemented for a water body. If a pollutant listing is removed from the list for any reason, that fact has no immediate effect on the validity or requirements for implementing a TMDL that has been adopted and approved by USEPA. Implementation of Basin Plan provisions is not affected by the section 303(d) list. However, where a pollutant listing has been removed from the 303(d) list, any TMDL and/or NPDES permit requirement that has already been adopted based on such delisted pollutant is to be subsequently amended to eliminate any load allocation, discharge prohibition and/or receiving water limitation, as well as all accompanying implementation requirements developed based on such delisted pollutant. Any proposed or pending TMDLs or NPDES Permit amendments should similarly be revised.

# Erroneous Regional Board Listings Should Be Removed

- CPR requests that the Board direct Staff to find and remove any additional erroneous historic listings by Regional Boards that were based on potential rather than probable future uses and remove all historic listings by Regional Boards of conditions for which causative pollutants have not been identified.

# Request for Clarification

- In the Response to Comments (Volume IV) we found 11 instances in which staff said, “By adopting a TMDL, the Regional Boards confirm that there is a problem in the water body.”
- In several instances staff said, “The pollutant for this listing is being changed to...”
- TMDLs that were adopted for erroneously listed segment-pollutant combinations should not become the primary justification for such combinations to be listed or continue to be listed.

# Request for Amendment to Listing/Delisting Policy Item 6.3

- The existing Policy states that:
  - “During the development of the 2004 section 303(d) list, SWRCB shall perform all tasks required by this policy.
  - Subsequent to the 2004 listing cycle, SWRCB shall evaluate RWQCB-developed water body fact sheets for completeness, consistency with this Policy and consistency with applicable law. The SWRCB shall assemble the fact sheets and consolidate all the RWQCB lists into the statewide section 303(d) list.”
- CPR supports a continued division of labor in which the State Board develops the 303(d) list and the Regional Boards focus on water quality standards, the development of TMDLs, and other programs to address impaired waters and ensure that beneficial uses are attained. This system provides the most effective allocation of resources and should remain in place.
- We request that the State Board amend item 6.3 of the Listing/Delisting Policy to maintain the current process -- with the State Board retaining responsibility for developing fact sheets and the 303(d) list.