

**STATE WATER RESOURCES CONTROL BOARD
RESOLUTION NO. 2022-0006**

**ADOPT THE CLEAN WATER ACT SECTION 303(d) LIST OF IMPAIRED WATERS
FOR THE 2020-2022 CALIFORNIA INTEGRATED REPORT**

WHEREAS:

1. Section 303(d)(1) of the Clean Water Act (33 U.S.C. § 1313(d)) requires states to regularly identify surface waters that do not meet applicable water quality standards after technology-based controls have been implemented (referred to as the “303(d) list” or “303(d) list of impaired waters”) and prioritize such surface waters for the purposes of developing a total maximum daily load (“TMDL”), unless other corrective action is appropriate (40 C.F.R. § 130.7(b)). The states are required to submit their 303(d) lists by April 1 of every even-numbered year to the United States Environmental Protection Agency (“U.S. EPA”) (40 C.F.R. § 130.7(d)). In addition to the 303(d) list, the Clean Water Act requires states to report on the health of all their surface waters (referred to as the “305(b) report”).
2. The State Water Resources Control Board (“State Water Board”) combines its Clean Water Act sections 303(d) and 305(b) reporting requirements into a “California Integrated Report.”
3. Only the 303(d) list component of the California Integrated Report requires approval by the State Water Board and U.S. EPA. Neither agency approves the 305(b) report component of the California Integrated Report. Because U.S. EPA may change the State Water Board’s recommended 303(d) list, the 303(d) list is only effective upon U.S. EPA’s approval.
4. The California Integrated Report is developed in cycles. Each cycle consists primarily of assessments from three Regional Water Quality Control Boards (“Regional Water Boards”) that are “on cycle.” The other six Regional Water Boards that are “off cycle” may also assess high-priority data and make recommendations for the 303(d) list or changes to the 305(b) report. All readily available data that were submitted during the public data solicitation period and in accordance with the applicable notice of public solicitation were evaluated.
5. The State Water Board combined its reporting obligations for the 2020 and the 2022 listing cycles into one report titled the “2020-2022 California Integrated Report for Clean Water Act Sections 303(d) and 305(b),” which is available on the State Water Board’s website at https://www.waterboards.ca.gov/water_issues/programs/water_quality_assessment/2020_2022_integrated_report.html.

6. The 2020-2022 California Integrated Report revises the 2018 California Integrated Report. The statewide 303(d) list portion of the 2020-2022 Integrated Report revises “on-cycle” 303(d) listing and delisting recommendations for waterbodies within the Central Coast, Central Valley, and San Diego regions, plus “off-cycle” recommendations for several waterbodies in the Colorado River Basin region. Finally, all listing recommendations for the remaining surface waters of the state contained in the 2018 California Integrated Report carry over to the 2020-2022 California Integrated Report.
7. The Water Quality Control Policy for Developing California’s Clean Water Act Section 303(d) list (“Listing Policy”) describes the methods and the process for developing and approving the 303(d) list.
8. The State Water Board is administering the listing process for all waters assessed during the 2020-2022 listing cycle, in accordance with section 6.2 of the Listing Policy. This list will satisfy the State Water Board’s obligation to submit the list for both the 2020 cycle and the 2022 cycle in accordance with the Settlement Agreement in *Earth Law Center v. State Water Resources Control Board* (Sacramento Superior Court Case No. 34-2017-80002726).
9. On May 7, 2019, the State Water Board released the Revised Notice of Public Solicitation for the 2020-2022 California Integrated Report to interested parties to solicit data and information regarding water quality conditions in surface waters of California, pursuant to section 6.1.2.1 of the Listing Policy.
10. In developing the new 303(d) listing and delisting recommendations for the 2020-2022 Integrated Report, the State and Regional Water Boards reviewed and considered over one million rows of data and developed approximately 53,187 lines of evidence to support approximately 3,246 waterbody-pollutant decisions.
11. The public comment period for the 303(d) portion of the 2020-2022 California Integrated Report and Staff Report began on June 4, 2021, and closed at 12 noon on July 16, 2021. On July 6, 2021, prior to the close of the public comment period, the State Water Board held a hearing to receive oral comments on the proposed 303(d) list portion of the 2020-2022 California Integrated Report. In response to the written and oral comments received, the State Water Board released a Summary of Comments and Responses along with the Proposed Final 2020-2022 Integrated Report and Staff Report on December 17, 2021.
12. Upon adoption, the California Integrated Report will be submitted to U.S. EPA, which may make changes to the 303(d) list before it approves the final 303(d) list for California. Neither agency takes formal approval action on the 305(b) report, which is an informational document that characterizes the state’s general water quality conditions. Generally, the State Water Board does not solicit comments or respond to comments pertaining to the 305(b) portion of the California Integrated Report.

13. Consistent with the Listing Policy, the 303(d) list component of the 2020-2022 California Integrated Report includes recommendations to list several segments of the Pacific Ocean as impaired by pathogenic indicator bacteria due to exceedances of the shellfish harvesting water quality objective, which is expressed in total coliform density. As part of the 2019 Ocean Plan Review, the State Water Board identified, as a high priority, a future planning project to consider revising the shellfish harvesting beneficial use to distinguish between recreation, commercial, or tribal types of harvesting; and to consider revising the shellfish harvesting water quality objective in the Water Quality Control Plan for Ocean Waters of California. Should the beneficial uses or the water quality objective be revised in the future, previously assessed data will be reassessed with the new water quality objective in a subsequent listing cycle. The State Water Board expects that any Ocean waterbody segment listed as impaired by indicator bacteria for the protection of shellfish harvesting would not be scheduled for TMDL development until after the State Water Board completes the planning project. In addition, the State Water Board encourages the Regional Water Boards to use their discretion where appropriate in establishing permitting, monitoring, and other data collection requirements.

14. In 2018, the U.S. EPA published the Final Aquatic Life Ambient Water Quality Criteria for Aluminum, which includes a chronic criterion to protect aquatic life from toxic effects of aluminum. The chronic criterion is expressed as a variable aluminum concentration calculated using pH, dissolved organic carbon, and total hardness data collected from the receiving water body. Aluminum data submitted for the 2020-2022 California Integrated Report did not include total hardness or dissolved organic carbon data. Some pH data were submitted. Because it was not possible to apply the 2018 criterion, the aluminum data were initially evaluated using the 1988 U.S. EPA Ambient Water Quality Criteria for Aluminum, which includes a chronic criterion expressed as a single aluminum concentration. Following a cursory review of three Central Valley waterbodies, aluminum concentrations appear to be well below the 2018 criterion when accounting for pH, dissolved organic carbon, and hardness data available from other sources, and the 1988 criterion may not be an appropriate evaluation guideline. Therefore, aluminum data considered for the first time in the 2020-2022 California Integrated Report were evaluated but not used to make listing or delisting recommendations for the 2020-2022 303(d) list. The aluminum listing decisions associated with aluminum data first submitted for the 2020-2022 California Integrated Report and evaluated for attainment of aquatic life beneficial uses will remain as identified in the 2018 California Integrated Report to afford adequate time to gather data and for staff and stakeholders to review any proposed changes. Data will be assessed during the 2024 California Integrated Report using the 2018 criterion following additional efforts to gather and apply pH, dissolved organic carbon, and hardness data.

15. The 2020-2022 California Integrated Report recommends placing Dry Creek (Tributary to Tuolumne River at Modesto, E. Stanislaus County) for pyrethroids in Category 4b. Category 4b includes waterbodies for which at least one beneficial use is not supported, but a TMDL is not needed because another regulatory program is reasonably expected to result in attainment of the water quality standard within a reasonable, specified time frame. Pyrethroids in Dry Creek are being addressed by an enforceable regulatory program that is reasonably expected to result in attainment of the water quality standards within a reasonable, specified time frame. Pyrethroids are being addressed through the implementation of the Central Valley Regional Water Quality Control Board's Irrigated Lands Regulatory Program Waste Discharge Requirements. A management plan for pyrethroids in Dry Creek was developed in 2020 and is being implemented and monitoring is ongoing. Dry Creek is also impaired by three individual types of pyrethroid pesticides, which were inadvertently left in Category 5 (TMDL needed) when the broader pyrethroids listing was placed in Category 4b. The control efforts in place for pyrethroids in Dry Creek apply equally to the individual pyrethroid pollutants. Therefore, Decision ID 118204 for Bifenthrin, Decision ID 118217 for Cyfluthrin, and Decision ID 118219 for Cyhalothrin, Lambda should be revised from Category 5 to Category 4b, along with conforming changes to the Staff Report and associated appendices, and the Response to Comments.
16. The 303(d) list component of the 2020-2022 California Integrated Report includes recommendations to list nine waterbodies in the Sacramento River, San Joaquin River, and Delta watersheds as impaired for temperature. The temperature evaluation guidelines utilized in these assessments to interpret the narrative temperature water quality objectives are based on temperatures that support salmonids in the Pacific Northwest, including California, and have been used to support temperature assessments in the San Francisco Bay, North Coast, and Central Valley regions for numerous integrated reporting cycles approved by U.S. EPA. Should the State Water Board determine that general or regional temperature studies meet the requirements of the Listing Policy applicable to selecting an evaluation guideline to interpret the narrative temperature water quality objectives, the State Water Board may use those studies to re-assess the attainment of temperature water quality standards for waterbodies in the Sacramento River, San Joaquin River, and Delta watersheds. The Central Valley Regional Water Quality Control Board has assigned a lower priority for the TMDL development for the temperature listings. In addition, the State Water Board encourages the Regional Water Boards to use their discretion where appropriate in establishing permitting, monitoring, and other data collection requirements.
17. The State Water Board is committed to submitting the 2020-2022 Integrated Report to the U.S. EPA by April 1, 2022 in accordance with the Settlement Agreement in *Earth Law Center v. State Water Resources Control Board* (Sacramento Superior Court Case No. 34-2017-80002726). During the public comment and review period, some errors were discovered that could not be

corrected due to time constraints. These errors are related to 1) monitoring station mapping errors in the Central Valley Region; 2) assessments for pyrethroids in sediment; 3) re-assessments for Westside San Joaquin Coalition Pesticide Data, and 4) application of chloride objectives in Delta waterbodies. Errors were corrected for the waterbodies identified in comments received on the draft 2020-2022 Integrated Report. Mapping errors were corrected for waterbodies which are recommended to be either listed or delisted for the 2020-2022 303(d) list. All other errors will be corrected during the 2024 Integrated Report cycle and are identified in the Proposed Final Staff Report for reference. The State Water Board expects that any waterbody listed as impaired associated with one of these errors will not be scheduled for TMDL development until after the errors are corrected. In addition, the State Water Board encourages the Regional Water Boards to use their discretion where appropriate in establishing permitting, monitoring, and other data collection requirements.

18. The State Water is committed to improving processes applied to the Integrated Report. This includes modernization of data analysis tools that will streamline integrated report processes and increase transparency.
19. The State Water Board's approval of the 303(d) list component of the 2020-2022 Integrated Report is not a "project" subject to the California Environmental Quality Act because it has no potential to result in a "direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment." (Pub. Res. Code, § 21065.) The 303(d) list satisfies reporting requirements of the Clean Water Act and provides information for setting priorities for future actions.

THEREFORE, BE IT RESOLVED THAT:

The State Water Board:

1. Adopts the [303\(d\) list](#) for the 2020-2022 California Integrated Report. Before submitting the 2020-2022 California Integrated Report to the U.S. EPA, staff is directed to revise Decision ID 118204 for Bifenthrin, Decision ID 118217 for Cyfluthrin, and Decision ID 118219 for Cyhalothrin, Lambda for Dry Creek (Tributary to Tuolumne River at Modesto, E. Stanislaus County) from Category 5 (TMDL needed) to Category 4b (being addressed by an action other than a TMDL) and make conforming changes to the [Staff Report](#) including associated appendices, and [Response to Comments](#). Staff is also directed to make any appropriate conforming changes to the Response to Comments to be consistent with the revisions to the aluminum listings described in Finding No. 14. Staff is further directed to post the changes online and distribute the changes via list-serve email distribution.
2. Authorizes the Executive Director or designee to transmit the 2020-2022 California Integrated Report and other supporting information to the U.S. EPA.

3. Staff is directed to discuss with U.S. EPA staff the creation of a new subcategory under Category 4 for waterbodies with impaired biological populations and/or communities listed in accordance with Section 3.9 of the Listing Policy where there is insufficient data and information to determine whether pollution is also a substantial cause of the impairment.
4. Staff is further directed to discuss with U.S. EPA staff options for dealing with listings resulting from water quality standards that are likely to be more stringent than necessary to protect all applicable beneficial uses, and to report back to the State Water Board on the outcome of those discussions.

CERTIFICATION

The undersigned Clerk to the Board does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly approved at a meeting of the State Water Board held on January 19, 2022.

AYE: Chair E. Joaquin Esquivel
Vice Chair Dorene D'Adamo
Board Member Sean Maguire
Board Member Laurel Firestone
Board Member Nichole Morgan

NAY: None

ABSENT: None

ABSTAIN: None



Jeanine Townsend
Clerk to the Board