



CASQA

California Stormwater Quality Association

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Mr. Craig J. Wilson
TMDL Listing Unit
Division of Water Quality
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100

Subject: Water Quality Control Policy for Developing California's Clean Water Act Section 303(d) List and Draft Functional Equivalent Document (FED)

Dear Mr. Wilson:

On behalf of the California Stormwater Quality Association (CASQA), thank you for the opportunity to provide our comments on the Water Quality Control Policy for Developing California's Clean Water Act Section 303(d) List and Draft Functional Equivalent Document (FED). Although we provided our initial comments during the January 28, 2004 workshop, we appreciate the opportunity to provide additional, detailed written comments.

CASQA is composed of stormwater quality management organizations and individuals, including cities, counties, special districts, industries, and consulting firms throughout the state, and was formed in 1989 to recommend approaches to the State Water Resources Control Board (State Board) for stormwater quality management in California. In this capacity, we have assisted and continue to assist the State Board with the development and implementation of stormwater permitting processes.

As we previously stated at the workshop, CASQA supports the State Board's goal to establish a standardized approach for developing California's Section 303(d) list. The process employed in developing the 2002 list was an improvement over the processes used in the past. Although CASQA was supportive of the approach that was proposed within the July 2003 draft policy, which built on experience gained in the 2002 listing process, we have several major concerns with the December 3, 2003 Draft Water Control Policy and the associated Functional Equivalent Document.

Several of these concerns are related to what appears to be a policy reversal from the July to the December drafts. Instead of building on the listing process improvements that resulted in the 2002 303(d) list, the December draft policy moves back toward the policy that produced the inclusive but flawed 1998 303(d) list in which many water segments were erroneously listed. We offer the following comments and recommendations to assist the State Board in correcting some of the reversals in order to continue to build on progress made in 2002.

General Comments on the Draft Water Quality Control Policy

Definition of a 303(d) Water Quality Limited Segment

CASQA is concerned that the December draft policy does not comply with the federal regulations for implementing section 303(d) of the federal Clean Water Act. As noted on page 1 of the Notice of Public Hearing for the January 28 and February 5 hearings on the draft listing policy, "The section 303(d) list must include the water quality limited segments, associated pollutants, and a priority ranking of the waters for purposes of developing Total Maximum Daily Loads (TMDLs) in the next two years."

The draft policy and the Functional Equivalent Document frequently cite portions of 40 CFR 130.7, including 40 CFR 130.7(b), which specifies criteria for "Identification and priority setting for water quality-limited segments still requiring TMDLs." The term water quality-limited segment is correctly defined on page 1 of the *FED* as "any segment [of a water body] where it is known that water quality is not meeting water standards, and/or is not expected to meet applicable water quality standards, even after application of technology-based effluent limitations required by [CWA] sections 301(b) or 306(e)." (40 CFR 130.2(j).)

CASQA has reviewed the State's 2002 303(d) list and has observed that hundreds of water segments are listed without specific pollutants being identified. These listings do not comply with the second part of the definition of water quality-limited segments. If specific pollutants have not been identified, how can the State Board certify that a water segment is not expected to meet applicable water quality standards, even after application of applicable technology-based effluent limitations? Further, if we do not know the pollutants causing the impairment, we cannot know the applicable technology-based effluent limitations.

Water quality impairments without pollutants identified do not meet the definition of water quality-limited segments that should be considered for inclusion on a 303(d) list. Water segments previously listed without specific pollutants identified were erroneously listed and should be removed from the list rather than being carried forward as done during the 2002 and previous listing cycles.

Need for a TMDL

Furthermore, the December 2003 draft is not consistent with 40 CFR 130.7(a) and 40 CFR 130.7(b), which specify that the State is to identify those water quality limited segments still requiring TMDLs. It is for this reason that USEPA's *Guidance for 2004 Assessment, Listing, and Reporting Requirements Pursuant to Sections 303(d) and 305(b) of the Clean Water Act*, separated waters that are "impaired or threatened and a TMDL is needed" from other waters that are "impaired or threatened but a TMDL is not needed." Waters included in the "TMDL is needed" category are waters for which specific pollutants have been identified. The July 2003 draft came closer to complying with 40CFR 130.7(b) than the December 2003 draft, even though neither removes the improperly listed water segments for which pollutants have not been identified.

Integrated Water Quality Report

CASQA is also concerned that the revised draft policy appears to have abandoned the concept of an Integrated Water Quality Report. Use of an Integrated Report would be consistent with the 2001 USEPA memorandum that provided guidance for integrating the development and submission of Section 305(b) water quality reports and Section 303(d) lists of impaired waters. Use of such a report would also be consistent with the *Guidance for 2004 Assessment, Listing, and Reporting Requirements Pursuant to Sections 303(d) and 305(b) of the Clean Water Act*, issued by USEPA on July 21, 2003. In this Guidance USEPA recommends that "a transparent methodology, driving scientifically-based assessment decisions, fits within the Agency's goal of an information-based strategy to environmental protection."

USEPA has recommended the Integrated Report format in order to provide the public and other interested stakeholders with a comprehensive summary of the water quality statistics of the State's waters. The 2004 guidance stresses the use of the five assessment categories introduced in the 2002 guidance. In general terms, the five recommended assessment categories are:

- Category 1: All designated uses are met;
- Category 2: Some of the designated uses are met but there is insufficient data to determine if remaining designated uses are met;
- Category 3: Insufficient data to determine whether any designated uses are met;
- Category 4: Water is impaired or threatened but a TMDL is not needed
- Category 5: Water is impaired or threatened and a TMDL is needed.

As USEPA notes in the Introduction of the 2004 guidance, the placement of all of the States' waters into one of the five categories is the most significant aspect of the Integrated Report. This integrated approach to reporting on water quality would allow the State Board "to demonstrate progress of the State's efforts to identify water quality problems, develop and implement restoration actions, and to ultimately achieve WQSs in all of the State's waters."

The 2004 guidance specifies that states may use subcategories or additional categories in their Integrated Reports. Examples presented in the guidance are generally consistent with the categories proposed for the California Integrated Report in the July 2003 draft of Water Control Policy. However, in the December 2003 draft, not only was the proposed California Integrated Report abandoned, but two previously separate lists have been included in the 303(d) list. The 2002 303(d) List was accompanied by separate "TMDLs Completed" and "Alternative Enforceable Program" lists. Maintenance of these separate lists was provided for in the July 2003 Draft Water Control Policy, but in the recent version, these lists have been included as categories of the 303(d) list. This is contrary to 40 CFR 130.7, which specifies that "Each State shall identify those water quality-limited segments still requiring TMDLs within its boundaries" (Section 130.7(b)(1)).

Once a TMDL has been developed and approved by USEPA, development of a new TMDL is no longer needed. Likewise, in accordance with the requirements of 40 CFR 130.7 (b)(i), (ii), and (iii), if alternative enforceable programs have been identified, a TMDL is not needed. CASQA asks that you remove the "TMDLs Completed" category and the "Enforceable Program" category from the 303(d) list and maintain them as separate lists.

We support the State Board's intent of tracking waterbody-pollutant combinations, but we do not support diluting the specific purpose of 303(d) list through inappropriately combining it with other kinds of lists.

Comments on Sections of the Draft Water Control Policy

Section 1: Introduction

The Introduction is very important because it sets the stage for the remainder of the Policy. It should explain more clearly the State Board's understanding of its responsibilities pursuant to CWA Section 303(d) and 40 CFR 130.7 as well as the relationship between the 303(d) list and the 305(b) report or the California Integrated Report should the State decide to follow USEPA's recommended Integrated Report format.

Section 1 of the Water Control Policy should be expanded to include a more comprehensive description of CWA Section 303(d) and 40 CFR 130.7. It should also include a discussion of Section IIF of the USEPA's *Guidance for 2004 Assessment, Listing, and Reporting Requirements Pursuant to Sections 303(d) and 305(b) of the Clean Water Act*. This section of the Guidance describes which waters belong in category 5 of an Integrated Report and explain that category 5 "constitutes the 303(d) list that USEPA will approve or disapprove under the CWA."

The Introduction should also include the statement from the Notice of Public Hearing that specifies that the Section 303(d) list must include water quality limited segments,

associated pollutants, and a priority ranking of the waters for the purpose of developing total maximum daily loads (TMDLs) in the next two years.

Section 2: Structure of the CWA Section 303(d) List

This section should be rewritten to describe either one list of only those impaired waters where a pollutant has been identified and a TMDL is still required pursuant to 40 CFR 130.7 or a comprehensive Impaired Waters List, with the 303(d) List as one category of the comprehensive list. CASQA recommends a comprehensive Impaired Waters List (with subcategories) that would be consistent with categories 4 and 5 of the Integrated Report format specified in Section II of USEPA's Guidelines for 2004.

In order to be comprehensive and to not lose the information base established during the 2002 listing process, the Impaired Waters List should include multiple categories or sub-lists (including the 303(d) List as one category or sub-list) similar to those specified in the July 2003 draft policy. These lists could become subcategories of categories 4 and 5 of the Integrated Report. CASQA recommends the following categories in a California Impaired Waters List:

- TMDLs Completed Category
- Enforceable Programs Category
- Pollution Category
- Pollutant Identification Category
- 303(d) Water Quality Limited Category

In addition, CASQA recommends a separate Planning and Monitoring list that would correspond to category 3 in the Integrated Report structure recommended by USEPA in the guidance for 2004. The combination of a comprehensive Impaired Waters List and the Planning and Monitoring List would give the State Board, the environmental community, and the regulated community a legally structured and clear set of lists to help guide water quality management in California. When combined with the Standards Fully Attained List and the Standards Partially Attained List prepared pursuant to CWA 305(b) requirements, the State Board would have the categorical components for a California Integrated Report.

Section 3: California Listing Factors

This section should be rewritten to clarify that the only factors to be used to develop the California Section 303(d) list are those factors in Section 3.1 Water Quality Limited Segment Factors.

- Section 3.1 should be rewritten to clarify that it provides the methodology for developing the 303(d) list – not just a portion of the 303(d) list.
- Subsections 3.1.4, 3.1.6, 3.1.7, 3.1.8, and 3.1.9 should be rewritten to clarify that water segment-pollutant combinations identified through the use of these factors

would be placed on the 303(d) list only if pollutants causing the impairments are identified. If pollutants have not been identified the water segment-pollutant combination would be added to a Pollutant Identification List.

- Subsection 3.1.10 should be deleted. Water segments showing a trend of declining water quality standards attainment, but where pollutant-specific water quality standards have not been exceeded, should be placed on the Planning and Monitoring List to watch.
- Subsection 3.1.11 should be modified to delete the reference to toxicity. A toxic pollutant, not just a condition of toxicity, must be identified before a water segment is added to the 303(d) list pursuant to 40 CFR 130.7.
- Subsections 3.2 and 3.3 should be deleted from Section 3. The TMDLs Completed Category and the Enforceable Programs Category should either be categories of a comprehensive Impaired Waters List or separate lists if the State Board chooses to not have a comprehensive Impaired Waters List. Separating the TMDLs Completed and the Enforceable Programs list from the 303(d) list would bring the State's listing policy and future 303(d) lists into conformity with 40 CFR 130.7.
- In addition, the special condition of current subsection 3.2 should be revised to specify that a TMDL has either been approved by or established by USEPA for the pollutant-water segment combination. The special condition that an Implementation Plan has been approved for the TMDL should be deleted since implementation plans are not required by the CWA and USEPA establishes technical TMDLs without implementation plans.
- Subsection 3.1.11 should be renumbered 3.2.

Section 4: California Delisting Factors

This section should be revised to be structured in a manner similar to Section 3.

- Subsections 4.1 through 4.9 should be renumbered 4.1.1 through 4.1.9.
- Subsection 4.10 should be renumbered 4.2.
- A new subsection 4.3 should be added to specify that all previous listings for which specific pollutants have not been identified shall be removed from the 303(d) list and placed on a Pollutant Identification List. These water segment-pollutant combinations should be given high priority for monitoring in order to identify the pollutants causing impairments so that they may be placed on the 303(d) list in compliance with 40 CFR 130.7 or placed on a Pollution List if it is determined that the water quality impairment is not caused by a pollutant.

Section 5: Priority Setting and Schedule

CASQA agrees that 303(d) listings should be ranked to set priorities for development of TMDLs and that a general schedule for TMDL development established. Scheduling for TMDLs should be related to the severity of the impairment. This will be much easier if water segments are not placed on the 303(d) List until the pollutants causing the impairment have been identified. The schedule for TMDL development should be continually reviewed and amended as necessary.

Section 6: Policy Implementation

CASQA has major concerns about certain aspects of Section 6, Policy Implementation. Section 6.1 eliminates the commitment to re-evaluate each waterbody and pollutant combination on the 2002 303(d) list. The re-evaluation specified in the July 2003 Draft Water Control Policy would have taken some time to complete, but would have been a worthwhile investment. Considering the State estimated in its AB 982 report (January 2001) that it costs on average \$600,000 to develop and implement each TMDL, revisions (including de-listings) or refinements to previous listings will strengthen their scientific basis, resulting in more cost-effective TMDL development. Without such a re-evaluation, many of the historical listings, which were based solely on data that does not meet the new proposed criteria for age or quality, will become even more questionable. California literally cannot afford to develop TMDLs on the basis of scientifically questionable information.

We also question the aggregation of data by reach/area in Section 6.2.5.6. This section says that "Data related to the same pollutant from two or more adjoining segments shall be combined provided that they are at least one measurement above the applicable water quality objective in each segment of the water body." This is inconsistent with requirements for a minimum number of samples. Once one segment has been listed, the listing could be expanded with just one sample in each succeeding reach or area. This concept needs to be rethought and limits should be placed on aggregation of data in order to prevent erroneous listings. Each segment should be analyzed independently so that no loopholes are created.

CASQA generally supports the Process for Evaluation of Readily Available Data and Information. States are required to assemble and evaluate all existing and readily available water quality data and information. The procedure for managing the listing process and for evaluating the quality and quantity of data presented in the draft guidance constitute a sophisticated and technically valid method of assembling and evaluating data. This procedure also complies with the requirement in the 2001 Budget Act Supplemental Report that the State use a weight of evidence approach in developing the Policy for listing and delisting waters and that this approach include criteria to ensure that the data and information used are accurate and verifiable. However, we are concerned that subsection 6.2.1 appears to include several categories of data that do not require pollutant identification. This subsection should be revised to clarify that pollutant identification is required before a water segment-pollutant

combination will be added to the 303(d) list pursuant to 40 CFR 130.7. Also, subsection 6.2.4 should be revised to clarify that photographic documentation is used only as supportive information since listing requires scheduling of a TMDL and development of a TMDL requires data suitable for calculation in order to develop load allocations and waste load allocations.

CASQA supports the use of statistical evaluations and the use of the binomial model, especially since it is already used by other states. Although the subject of many of the comments during the previous workshops, it should be noted that the United States District Court for the Northern District of Florida found that the State of Florida neither formally nor, in effect, established new or modified existing water standards or policies generally affecting those water quality standards through the implementation of a listing methodology that incorporates statistical analysis utilizing the binomial distribution model.

Comments on the Functional Equivalent Document

Although the State Board staff have prepared a comprehensive, well-researched document to support the December Draft Water Control Policy, it must be updated and revised to address the alternative policy recommendations that we and other interested parties made in response to the State Board's request for comments on the Draft Policy and the FED. We submit the following comments on the issues addressed in the FED to help the State Board strengthen the document.

Issue 1: Scope of Listing/Delisting Policy

Issue: What factors should be addressed by the Listing/Delisting Policy?

In light of the State's current budget situation and the two-year cycle for adopting 303(d) Lists, CASQA appreciates the State Board's preference to incorporate guidance on listing/delisting factors only. However, developing a meaningful 303(d) list depends upon the integrity of existing water quality standards, and many standards were adopted without review years ago and continue to be used.

A third alternative should be included in the Issue 1 discussion that would incorporate aspects of Alternatives 1 and 2 while facilitating the completion of 303(d) Lists on the two-year cycle currently mandated by federal regulations. This third alternative could provide guidance to assure that future listings are consistent with 40 CFR 130.7 and the existing listings were reviewed for compliance. It could also partially address the 2001 recommendations of the National Academy of Science committee concerning development and refinement of use designations prior to TMDL development.

This Alternative should include guidance that the adoption of Implementation Plans for TMDLs be delayed until the applicable use designations and water quality objectives are reviewed and refined, if necessary. Such a procedure could be incorporated into the Implementation Plan chapters of the water quality control plans (Basin Plans)

adopted by the various Regional Water Quality Control Boards and into statewide plans such as the Ocean Plan. Incorporation of the procedures into the water quality management plan would be consistent with CWA section 303(d) and with California Water Code (CWC) section 13242. The CWA does not require Implementation Plans be adopted with TMDLs, and CWC section 13242 does not mandate the contents of the program of implementation for achieving water quality objectives.

Another policy guidance that could be included in Alternative 3 would be direction to the Regional Boards to correct their beneficial use designations to be consistent with CWC section 13241(a) to consider "probable future beneficial uses" not "potential" beneficial uses. The potential beneficial use category found in today's basin plans is consistent with State law and has resulted in listings based on uses that do not exist and are highly improbable in the future.

Issue 2: Structure of the Section 303(d) List

Issue: Should the State integrate the federal CWQ requirements for assessing water quality? What structure should be used?

CASQA considers the policy decision on how to structure the State's listing policy to address water body segments identified as not meeting water quality standards to be critical. A number of water bodies were listed on the 2002 303(d) list despite the lack of an identified pollutant. 40 CFR 130.7 states that the 303(d) list is for those impairments for which pollutants have been identified and TMDLs are still required.

CASQA requests that a new Alternative 6 be prepared incorporating our comments and policy recommendations above about the structure of the CWA Section 303(d) List. We further recommend that the new Alternative become the recommended Alternative.

Issue 3: Weight of Evidence for Listing and Delisting

Issue: What factors should comprise California's weight of evidence approach? What should the relationship among the factors be?

CASQA supports recommended Alternative 1. It represents a balance between providing a specific description of the weight of evidence approach and the open-ended best professional judgment approach.

CASQA further suggests limiting the use of listing factors that require multiple lines of evidence unless a pollutant is identified.

Issue 4: Listing or Delisting with Single Line of Evidence

- *Issue 4A: Interpreting Numeric Water Quality Objectives and Criteria*

CASQA generally supports the recommended Alternative 2. However, we disagree with the proposal that a single sample be allowed to represent a four-day average if the Regional Board has only one sample for a four-day consecutive period. This would, in effect, change the standard into an instantaneous maximum. If a Regional Board does not have sufficient data, the water segment should be placed on an insufficient data list such as category 3 in USEPA's guidance for 2004.

- *4B: Interpreting Numeric Marine Bacterial Water Quality Standards*

CASQA supports the recommendation of Alternative 2.

- *4C: Interpreting Numeric Freshwater Bacterial Water Quality Standards*

CASQA supports the recommended Alternative 2.

- *4D: Interpreting Narrative Water Quality Objectives*

CASQA recommends that Alternative 4 be strengthened and recommended. We urge that the State Board recognize the need for impairments to be "suitable for calculation." Narrative water quality objectives are insufficient determiners of impairment. The ramifications of a 303(d) listing are too great to allow listings without scientific basis. If this is not done, narrative water quality objectives should require multiple lines of evidence until numeric translators are developed.

- *4E: Interpreting Aquatic Life Tissue Data*

CASQA supports the recommended Alternative 4.

- *4F: Interpreting Data on Trash Impacts to Water Bodies*

CASQA supports the recommended Alternative 3.

- *4G: Interpreting Nutrient Data*

CASQA recommends that a new Alternative 4 be prepared that would use the factors specified in Alternative 3 to place a water-segment on a Pollutant Identification List pending completion of the RTAG/STRTAG criteria. The water segment could be transferred to the 303(d) List if the adopted STRTAG criteria were exceeded.

- *4H: Impacts of Invasive Species on Water Quality*

CASQA supports the recommended Alternative 3.

We support USEPA's assertion that a pollution list would be an appropriate place for water bodies listed for invasive species.

Issue 5: Listing or Delisting with Multiple Lines of Evidence

- *5A: Interpreting Health Advisories*

CASQA supports recommended Alternatives 2 and 3 provided they clearly state that a water segment will not be placed on the 303(d) List unless a pollutant is identified.

In past 303(d) lists, water bodies were automatically listed if they had been subject to health advisories or shellfish bans. In the 2002 303(d) list multiple lines of evidence were required, which improved the process.

Historical listings carried forward from previous lists, however, remain. CASQA requests that these be delisted and placed on a pollution list. Historical listings should not be placed on the 303(d) unless pollutants identified are suitable for calculation. CASQA notes that this position is consistent with USEPA's position, expressed at the recent State Board workshop, that the listing policy be applied to current listings as well as future listings.

- *5B: Interpreting Data Related to Nuisance*

CASQA supports recommended Alternative 3.

- *5C: Interpreting Toxicity Data*

CASQA supports recommended Alternative 3, but we oppose recommended Alternative 2. The draft FED makes a valid point that it is difficult to establish a TMDL on toxicity alone; pollutants need to be identified. We further agree with the FED statement that toxicity is not itself a pollutant, but is a condition caused by pollutant concentrations. As stated in the FED, TMDLs would be difficult to develop when the cause of toxicity - a pollutant suitable for calculation - has not been identified. A water segment-pollutant combination placed on the 303(d) List must be suitable for calculation. Toxicity alone is not suitable for valuable calculations. Toxicity units are not valuable for assigning loads and wasteloads. However, they are useful as a basis for conducting toxicity identification evaluations. Water segments impaired for toxicity should be placed on a Pollutant Identification List. The fact that 2002 listings were based largely on exceedances of numeric objectives is an improvement that should be built upon.

- *5D: Interpreting Sedimentation Data*

CASQA supports Alternative 1, provided that it is revised to state that a water segment would only be placed on the 303(d) list if sedimentation was identified as the causative or limiting factor behind nuisance or adverse effects to a beneficial use. As stated

under Alternative 2: "Scientific understanding of linkage between sediment supply and specific impacts to aquatic species in a given watershed is often poor because habitat conditions in streams are shaped not just by sediment load, but also by the interactions of stream flow and in-channel and streamside vegetation and obstructions." If and until sedimentation was identified as the causative or limiting factor, the water segment should be placed on the Pollutant Identification List.

- *5E: Interpreting Temperature Water Quality Objectives*

CASQA supports Alternative 2, provided that it is revised to state that a water segment would only be placed on the 303(d) list if a thermal discharge is identified. Otherwise it should be placed on a pollution list.

The interpretation of water temperature data is difficult, since in most cases there is no record of "natural" receiving water temperature. The water temperature of water bodies such as streams and flood control channels varies greatly, and cannot be used to determine impairment.

- *5F: Interpreting Data Related to Adverse Biological Response*

CASQA disagrees with the recommended Alternative 1. Water segments impaired due to adverse biological response should be placed on a Pollutant Identification List until pollutants causing the adverse biological response have been identified or it is determined that pollutants are not causing the adverse biological response.

Data related to adverse biological responses were not recommended for use in the 2002 list. CASQA believes that these should be on another list, not the 303(d) list. Water bodies should not be listed for a condition in which a problem may be indicated, but where there is no identification of a pollutant.

- *5G: Degradation of Biological Regulations or Communities*

CASQA disagrees with the recommended Alternative 4, as well as the other three Alternatives. While bioassessments provide important information about water quality, they are not sufficient for listing. These sorts of assessments should be used in developing 305(b) reports. Pollutants must be identified to justify listing on the 303(d) list. CASQA supports the improvement the State Board made with the 2002 practice of requiring multiple lines of evidence identifying the pollutants that caused or contribute to the adverse condition.

- *5H: Trends in Water Quality*

CASQA disagrees with the recommended Alternative 2, as well as Alternative 1. Trends in water quality are another type of "finding" that would be appropriate for inclusion on a watch list or on the 305(b). No water segment should be on the 303(d) list unless a water quality standard has been exceeded and a TMDL is still required.

Issue 6: Statistical Evaluation of Numeric Water Quality Data

CASQA supports recommended Alternative 2. We support the idea that the use of statistical procedures would increase confidence in the decision making process for Section 303(d) listing. We agree that statistical analysis provides the most accurate and appropriate methodology for listing.

- 6A: *Selection of Hypothesis to Test*

CASQA supports recommended Alternative 1.

- 6B: *Choice of Tests for Evaluation of Water Quality*

CASQA supports recommended Alternative 7. It is used by other states and has withstood legal challenge.

- 6C: *Selection of Statistical Confidence Level*

CASQA supports recommended Alternative 3.

- 6D: *Critical Rate of Exceedance of Water Quality Standards*

CASQA supports recommended Alternative 4.

- 6E: *Minimum Sample Size*

CASQA supports recommended Alternative 4. It provides target sample sizes while satisfying USEPA guidance.

- 6F: *Quantitation of Chemical Measurements*

CASQA supports recommended Alternative 2.

Issue 7: Policy Implementation

- 7A: *Review of the Existing Section 303(d) List*

CASQA disagrees with recommended Alternative 2. We recommend that an Alternative 3 be developed. This Alternative should include delisting all listings for which pollutants have not been identified and creating a schedule to review the remainder of the water segments listed prior to adoption of the Policy. Priority should be given to reviewing water segment-pollutant combinations listed prior to 2002. The July draft provided for reviewing existing listings over three listing cycles. Three two-year listing cycles would be acceptable, but not three four-year listing cycles. The new Alternative 3 should address the possibility that the length of the listing cycle could be changed. CASQA

believes that the State Board needs to ensure that the proper documentation occurs for each of the listings (past, present, and future) so that the history and rationale for each listing is preserved. If past listings do not have proper documentation they need to be questioned instead of simply carried forward.

- *7B: Defining Existing Readily Available Data and Information*

CASQA supports recommended Alternative 2.

- *7C: Process for Soliciting Data and Information and Approval of the List*

CASQA supports recommended Alternative 3 with one change. Regional Boards should be required to consider the listing recommendations at workshops or hearings.

- *7D: Documentation of Data and Information*

CASQA supports recommended Alternative 2.

- *7E: Data Quality Requirements*

CASQA supports recommended Alternative 2.

- *7F: Spatial and Temporal Representation*

CASQA supports recommended Alternative 3. We concur that spatial and temporal representation of water body segments is essential information for use in the listing and delisting process. We also support the idea that samples can be less than 200 meters apart and still be considered spatially independent if justified in the fact sheet.

- *7G: Data Age Requirement*

The FED states that that an underlying assumption of the listing process is that the data and information assessments represent current conditions. With respect to a data age requirements, CASQA believes California should require that the data and information used to justify a listing decision are reasonably current. Other states have such requirements and we assert that this is another necessary method of infusing rationality into the listing process. CASQA agrees with recommended Alternative 1, although we would prefer a shorter time period such as the 7.5 year old data limit used by Florida.

- *7H: Determining Water Body Segmentation*

CASQA agrees with recommended Alternative 1.

- 71: *Natural Sources of Pollutants*

CASQA agrees with recommended Alternative 2. CASQA agrees with staff that waters should not be listed if the pollutant causing them to not meet water quality standards originated from natural sources.

Issue 8: Priority Ranking and TMDL Completion Schedule

Issue: How should priority ranking and TMDL scheduling be established for water quality limited segments?

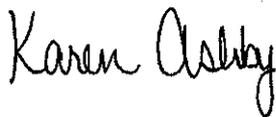
CASQA supports the FED Alternative 2 recommendation. The TMDL process should be prioritized based on the factors listed in Alternative 2 in order to result in improved water quality listings. Further, the development of TMDLs should be linked to the priority of the water quality problem.

Lastly, the Environmental Effects of the Proposed Policy section of the FED will also need to be revised. CASQA has not attempted to revise this section because we are not familiar with the other policy recommendations that you will receive. We recommend that you carefully consider all policy recommendations that you receive and make required changes to the FED.

In closing, since we regard the listing/delisting policy as one of the most important policy decisions that the State Board will make this year, we thank you for the opportunity to comment and request that you fully consider our recommendations.

Please contact me at (530) 753-6400, x232 if you have any questions regarding our comments.

Sincerely,



Karen Ashby, Chair
California Stormwater Quality Association