



# COALITION FOR PRACTICAL REGULATION

"Cities Working on Practical Solutions"

17 June 2009

Via Electronic and U.S. Mail

California Regional Water Quality Control Board  
Los Angeles Region  
320 West 4<sup>th</sup> Street  
Los Angeles, CA 90013  
Attn.: Man Voong  
E-mail: [mvoong@waterboards.ca.gov](mailto:mvoong@waterboards.ca.gov)

**Subject: Comment Letter – 2008 Federal Clean Water Act  
(CWA) Section 303(d) List**

Dear Chair Lutz and Members of the Board:

On behalf of the Coalition for Practical Regulation (CPR), an *ad hoc* group of 39 cities within Los Angeles County that have come together to address water quality issues, I would like to submit the following comments regarding the proposed Revision to Federal Clean Water Act Section 303(d) List of Water Quality Limited Segments for California.

First, CPR commends the Water Boards for updating the 303(d) list within the context of the Integrated Report. This approach presents a more comprehensive assessment of water quality within the region. In addition, we would like to thank the Regional Water Board for following the Listing/Delisting Policy established by the State Water Board. The establishment and use of this policy facilitates the continued improvement of the 303(d) list. One of the areas in which CPR would like to acknowledge improvement is in delisting, due to Regional Board staff's application of the Delisting Policy.

State Board staff previously recommended correcting past mistakes by delisting erroneously listed water segment-pollution combinations. These proposed corrections included listings for which data used to list a pollutant was actually from a different water body, listings for which an insufficient number of samples exceeded the CTR criteria, listings for which biological impacts documented were not associated with toxicity or pollutant concentrations, listings for which the listing was based on faulty data, and listings for which data used to list a waterbody could not be

ARCADIA  
ARTESIA  
BALDWIN PARK  
BELL  
BELL GARDENS  
BELLFLOWER  
CARSON  
CERRITOS  
COMMERCE  
COVINA  
DIAMOND BAR  
DOWNEY  
GARDENA  
HAWAIIAN GARDENS  
INDUSTRY  
IRWINDALE  
LA CAÑADA FLINTRIDGE  
LA MIRADA  
LAKEWOOD  
LAWDALE  
MONTEREY PARK  
NORWALK  
PALOS VERDES ESTATES  
PARAMOUNT  
PICO RIVERA  
POMONA  
RANCHO PALOS VERDES  
ROSEMEAD  
SANTA FE SPRINGS  
SAN GABRIEL  
SIERRA MADRE  
SIGNAL HILL  
SOUTH EL MONTE  
SOUTH GATE  
SOUTH PASADENA  
VERNON  
WALNUT  
WEST COVINA  
WHITTIER

found. CPR is pleased to note that Regional Board staff recognizes the validity of those State Board suggestions. Many of the proposed delistings are the result of recognizing that there were flaws in the original listings. The delisting of waterbody-segment combinations that do not need to be addressed allows permittees to better focus water quality resources on real issues.

However, CPR continues to be concerned that additional work is required to ensure that the 303(d) list becomes a focused and technically defensible instrument. The proposed 2008 revision continues to include listings for conditions where actual pollutants have not been identified. Requiring permittees to treat for a condition rather than a listing is problematic at best; if the Regional Board staff and permittees do not have an understanding of *what* we should be controlling, and, by extension, how we should be controlling it, any attempts at source control or treatment will be unfocused and are unlikely to be successful. Further, the 303(d) list still contains listings that are based on potential future uses rather than probable future uses. As CPR has stated in the past, potentiality is an unreasonably broad concept on which to base listings. Erroneous listings such as these could trigger TMDLs for uses that do not exist and are not likely to exist and would be an extremely costly mistake that could potentially waste millions of dollars.

CPR requests that the Board direct staff to search out and remove any additional erroneous historic listings that were based on potential rather than probable future uses, and to remove all historic listings of conditions for which causative pollutants have not been identified. Given the absence of rules for listing before the Listing/Delisting Policy was adopted in September 2004, earlier listings were sometimes inconsistent, poorly documented, and ratified by the State Board without careful review. Additional work remains to ensure that all of the past listings are valid, supported by appropriate documentation, and based upon the application of a consistent set of standards. Further, because the determination of impairments is based on core beneficial uses associated with each waterbody segment, the beneficial uses defined in the Basin Plan should be thoroughly reviewed and revised as necessary before the next update to the 303(d) list.

CPR notes that the largest group of new listings in the 2008 303(d) list is for indicator bacteria. As acknowledged in the staff report, the “indicator bacteria” impairment category includes a range of bacterial indicators to protect water contact recreation and non-contact water recreation beneficial uses. Both the beneficial uses and the indicators of impairment require refinement to focus on existing and probable future beneficial uses and on human pathogens.

CPR is pleased to see that the subcategories of Water Quality Limited Segments Being Addressed by USEPA-Approved TMDL and Water Quality Limited Segments Being Addressed by Action Other than TMDL are being utilized in the 2008 list. Use of these subcategories implements suggestions made in the *State Guidance for Addressing*

*Impaired Waters* and provides encouragement to municipalities attempting to make improvements and comply with regulations.

CPR has a specific question about Los Cerritos Channel. In a meeting with stakeholders in the Los Cerritos Channel Watershed and Regional Board staff, Peter Kozelka from USEPA Region IX indicated that he thought that ammonia would be delisted for the channel during the current update to the 303(d) list. However, we do not see evidence that it was even considered for delisting. We would appreciate an explanation of the status of this listing and why there is no fact sheet for this waterbody/pollutant combination.

In conclusion, CPR acknowledges previously recommending that the State Board maintain leadership of the 303(d) listing process, but we are pleased to see the improvements made by the Regional Board in its application of the Listing/Delisting Policy. There are corrections and refinements yet to be made, but the proposed 2008 303(d) List produced by Regional Board staff represents a step in the right direction. Further, CPR appreciates staff's recommendation to solicit stakeholder comments on proposed criteria for the development of guidelines for listing waterbodies as impaired for biostimulative substances to be used in future updates of the 303(d) List. Developing a sound scientific basis for listing decisions is essential in order to focus resources on solving real water quality problems.

Thank you for the opportunity to provide these comments on the proposed Revision to Federal Clean Water Act Section 303(d) of Water Quality Limited Segments for California. We recognize that as soon as this 303(d) List is adopted, preparation of the next list will begin, and we look forward to continuing efforts by the State and Regional Water Boards to improve the list.

Sincerely,

COALITION FOR PRACTICAL REGULATION



Larry Forester  
CPR Steering Committee  
City Council Member, City of Signal Hill

cc: CPR Steering Committee  
CPR Members