California's Prioritization Framework for Plans to Restore Impaired Waterbodies

April 1, 2024

CALIFORNIA
Water Boards
STATE WATER RESOURCES CONTROL BOARD
REGIONAL WATER QUALITY CONTROL BOARDS

Contents

Introduction

The Clean Water Act (CWA) section 303(d) requires states to identify waters that do not meet, or are not expected to meet by the next listing cycle, applicable water quality standards after the application of certain technology-based controls. Regions will then prioritize and schedule such waters for development of total maximum daily loads (TMDLs) or other restoration plans.

This framework was developed by the State Water Resources Control Board (SWB) in coordination with the Regional Water Quality Control Boards (RWBs). The purpose of the framework is to provide guidance and best practices for regions to prioritize the development of TMDLs and other restoration plans developed for the purpose of restoring waterbodies identified as impaired on California's 303(d) List of Impaired Waterbodies.

United States Environmental Protection Agency's 2022-2032 Vision for the Clean Water Act Section 303(d) Program (2022-2032 Vision) encourages states to coordinate program activities and identify priorities that align with objectives of these programs. The United States Environmental Protection Agency (U.S. EPA) encouraged states submit a Prioritization Framework document that outlines long-term priorities to fulfill the CWA Section 303(d) program. Moreover, the 2023-2025 California State Water Resources Control Board Racial Equity Action Plan (Racial Equity Action Plan) directs SWB staff to provide revised guidance to the RWBs on setting priorities to address impaired waters through the development of TMDLs or other restoration actions. Prioritization factors should include impacts to Black, Indigenous, People of Color (BIPOC) communities and consider environmental justice.

Background

Integrated Report

Under sections 303(d) and 305(b) of the CWA, states, territories, and authorized tribes are required to assemble, evaluate, and if appropriate, assess all readily available water quality-related data and information to develop a list of waters that do not meet water quality standards and those that currently meet water quality standards but may exceed them in the next reporting cycle.

The 305(b) condition report, commonly known as "305(b) report," assigns an overall water quality condition to all assessed waterbody segments. Waterbody-pollutant combinations are categorized into one of five condition categories. Category 1 indicates that at least one beneficial use is supported, with no known impairments. Categories 2 and 3 signify insufficient data to determine beneficial use support, with category 3 suggesting potential threats to beneficial uses and often referred to as the watch list. Waterbody-pollutant combinations in categories 4a, 4b, or 5 are deemed impaired and form the California 303(d) List. Category 4 includes combinations where at least one beneficial use is not supported, but a TMDL is not required because one has been developed and approved by the U.S. EPA (category 4a) or another regulatory program is expected to achieve water quality standards within a reasonable timeframe (category 4b). Category 4c, which denotes impairments resulting from pollution (i.e., hydromodification), instead of a pollutant, does not require a TMDL. Waterbody-pollutant combinations in category 5 have at least one impaired beneficial use and require a TMDL or an alternative regulatory program that is reasonably expected to result in attainment of the water quality standard within a reasonable, specified time frame.

Since the 2002 reporting cycle, U.S. EPA has encouraged states to prepare a single integrated report that satisfies the reporting requirements of sections 305(b) and 303(d) of the CWA. The SWB and RWBs work together to develop the integrated report. California develops the 303(d) list consistent with the Water Quality Control Policy for Developing California's Clean Water Act Section 303(d) List (Listing Policy). Each integrated report consists primarily of data assessments from waters within the boundaries of three RWBs that are identified in a notice of public solicitation of water quality data. The other six RWBs may assess high-priority data to inform listing or delisting recommendations or propose changes to the 305(b) condition report as an "off-cycle" assessments. Once a waterbody is identified as impaired and placed on the 303(d) list, regions then must develop a TMDL or other restoration plan to bring the waterbody back into compliance with water quality standards. The RWBs must also establish priority rankings for impaired waters and develop restoration plans by priority.

Restoration Plans for Impaired Waters

The California Impaired Waters Guidance offers guidance for creating plans to restore impaired waters. The Water Quality Control Policy for Addressing Impaired Waters: Regulatory Structure and Options summaries the regulatory structure available to

implement TMDLs in California. Both documents were adopted in 2005 and primarily emphasize TMDL development. More recently, California has been exploring different options to address impaired waters, including advanced restoration plans and Category 4b Plans.

A TMDL establishes the maximum amount of a pollutant allowed in a waterbody and serves as the starting point or planning tool for restoring water quality. TMDLs examine water quality problems, identify sources of pollutants, and specify actions that create solutions. Essential components of a TMDL are the calculation of the maximum amount of a pollutant that can occur in waterbody and still meet water quality standards, load allocations to sources, and implementation actions with a schedule to attain the TMDL and standards. TMDLs are primarily implemented through permits. Once a TMDL has been approved by the U.S. EPA, the listing is moved to integrated report Category 4a.

An Advance Restoration Plan (ARP) is a near-term plan, or description of actions, with a schedule and milestones, that is more immediately beneficial or practicable than a TMDL to achieving water quality standards. ARPs are submitted to the U.S. EPA, but not subject to their review or approval. A waterbody-pollutant combination with an ARP remains in Category 5 until a TMDL is developed or standards are attained.

A Category 4b Plan is a demonstration that another regulatory program is reasonably expected to result in attainment of the water quality standard within a reasonable, specified time frame. A Category 4b Plan must be approved by the U.S. EPA. A TMDL is not needed for waters with a U.S. EPA-approved Category 4b Plan.

U.S. EPA's 2022-2032 Vision

This document is intended to fulfill the goals of the 2022-2032 Vision. The 2022-2032 Vision identifies five goals:

1. *Planning and Prioritization Goal:* States, territories, and tribes develop a holistic strategy for implementation of Vision Goals, systematically prioritize waters or watersheds for TMDL and other plan development (restoration and/or protection), and report on the progress towards development of plans for priority waters.
2. *Restoration Goal:* States, territories, and tribes design TMDLs and other restoration plans to attain and maintain water quality standards, facilitate effective implementation, and drive restoration of impaired waters.
3. *Protection Goal*: In addition to recognizing the protection benefits that TMDLs and other restoration plans can provide, states, territories, and tribes may develop protection plans to prevent impairments and improve water quality, as part of a holistic watershed approach.
4. *Data and Analysis Goal:* The CWA Section 303(d) program coordinates with other government and non-governmental stakeholders to facilitate data production and sharing, and effectively analyzes data and information necessary to fulfill its multiple functions.

5. *Partnerships Goal:* The CWA Section 303(d) program meaningfully communicates and collaborates with other government programs and non-governmental stakeholders to restore and protect water quality effectively and sustainably.

State Water Board's Racial Equity Action Plan

The Racial Equity Action Plan sets goals for the SWB to address racial inequities and identifies metrics to measure progress. This document is intended to address the following The Racial Equity Action Plan goal, action, and performance indicator:

- *Goal 1b*: Programs and policies are evaluated and realigned to address racial injustices.
- *Action:* Provide guidance to RWBs on the consideration of impacts to BIPOC communities and environmental justice when addressing impaired waters through development of TMDLs or other actions to restore clean water. Use prioritization to inform allocation of funding for environmental cleanup projects.
- *Performance Indicator:* Provide revised guidance to RWBs on setting priorities to address impaired waters through the development of TMDLs or other restoration actions. Prioritization factors should include impacts to BIPOC communities and consider environmental justice.

Prioritization Framework

The Water Boards should consider the following factors when prioritizing efforts to address impaired waters. These factors were derived from the priority factors in Section 5 of the Listing Policy, the Racial Equity Action Plan, and other factors currently used to identify priorities.

1. Significance and Severity of Impairment

The significance of the waterbody and the severity of impairment should be considered during the prioritization process. Prioritization factors in this category include:

- Severity that water quality objectives are not met or beneficial uses are not attained or threatened (such as the severity of the pollution or number of pollutants/stressors of concern)
- Ecologically important areas
- Relevance to human health protection
- Relevance to threatened and endangered species protection
- Intensity of use of the waterbody
- Number of beneficial uses impacted

2. Environmental Justice

Factors that address racial inequalities to BIPOC communities and consider the needs and concerns of tribal, disadvantaged, and other underserved communities should be prioritized. Prioritization factors in this category include:

- Use of the waterbody by California Native American Tribes
- Use of the waterbody by disadvantaged or underserved communities
- Actions that promote equity

3. Climate Change

Climate change factors consider the potential to reduce greenhouse gas emissions as well as risks from hazards caused by climate change, including extreme weather events, flooding, sea level and groundwater rise; increased aridity and extreme heat; and increased wildfire. Prioritization factors in this category include:

- Adaptation: actions taken to build resilience and to adjust to the impacts of climate change. Decisions that don't worsen the situation or transfer the challenge from one area, sector, or social group to another.
- Resilience: capacity to prepare for, recover from, and grow from disruptions.
- Mitigation: actions taken to reduce the concentration of greenhouse gases in the atmosphere.
- Vulnerable communities: actions to decrease heightened risk and decrease sensitivity to climate change. Measures to support communities with less capacity and fewer resources to cope with, adapt to, or recover from climate impacts.
- Natural and green infrastructure solutions to enhance and protect natural resources.
- Consideration of future climate conditions.
- Actions likely to reduce present and near future (within 20 years) climate change risks for all Californians.

4. Readiness and Potential for Success

A project's readiness and potential for success are important considerations. Prioritization factors in this category include:

- Water quality benefits of activities ongoing in the watershed
- Potential for beneficial use protection and recovery
- Availability of data and information to address the water quality problem
- Water quality impacts and benefits
- Feasibility
- Have multi-benefit outcomes, such as addressing multiple impairments
- Ability to leverage ongoing implementation

5. Resource Availability

The success of restoring impaired waters depends on the resources available. Prioritization factors in this category include:

- Availability of funding
- Ongoing projects with allocated resources

- Availability of staff capacity, necessary expertise, and other resources

6. Public Interest and Commitment

Public interest is an important consideration. Prioritization factors in this category include:

- Degree of public concern
- Public interest, internal and external commitments
- Requests of interested parties

7. Regulatory and Policy Alignment

Regulatory and policy alignment should be considered in the prioritization framework. Prioritization factors in this category include:

- Importance to the implementation of other RWB programs
- Projects aligned with the stated priorities of the SWB or the U.S. EPA

The above framework categories and factors are intended to be used by RWBs and the SWB when developing and implementing region-specific or statewide prioritization approaches in light of regional/statewide priorities, regional/statewide strategic workplans, and input from Water Board members and the public. Furthermore, the framework may be helpful when considering regional TMDL priorities or regional/statewide water quality standards actions priorities during the triennial review processes and when setting one-year and five-year priorities via workplans.