



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 1
5 Post Office Square, Suite 100
Boston, MA 02109-3912

September 26, 2019

Brian Thompson, Acting Chief
Bureau of Water Protection and Land Reuse
Connecticut Department of Energy and Environmental Protection
79 Elm Street
Hartford, CT 06106

Dear Mr. Thompson:

Thank you for your submittal of the 2018 Clean Water Act (“CWA”) Section 303(d) list, Connecticut’s 2018 list of water bodies not meeting water quality standards. In accordance with Section 303(d) of the CWA and 40 CFR §130.7, the U.S. Environmental Protection Agency, Region 1 (EPA) conducted a complete review of Connecticut’s 2018 Section 303(d) list and supporting documentation. Based on this review, EPA has determined that Connecticut’s list of water quality limited segments still requiring total maximum daily loads meets the requirements of Section 303(d) of the CWA and EPA’s implementing regulations. Therefore, by this letter, EPA hereby approves Connecticut’s 2018 Section 303(d) list.

The Section 303(d) list was submitted as Appendix B-1 of the State of Connecticut’s 2018 Integrated Water Quality Report. Appendix B-1 comprises the list of those waters for which technology based and other required controls for point and nonpoint sources are not stringent enough to attain or maintain compliance with the state’s water quality standards. The submittal also presents Connecticut’s total maximum daily load strategy which describes the priority setting approach and identifies those waters for which total maximum daily loads will be completed and submitted during the next two years. The State’s priority ranking for action plan development, including TMDLs, for the next two years is included as Appendix C-1 of the 2018 Integrated Water Quality Report. The statutory and regulatory requirements, and EPA’s review of Connecticut’s compliance with each requirement, are described in detail in the enclosed approval document.

The Connecticut Department of Energy and Environmental Protection (“CT DEEP”) has also successfully completed a public participation process during which the public was given the opportunity to review and comment on the 2018 Section 303(d) list. As a result of this effort, Connecticut has considered public comments in the development of the final list. The public comments and CT DEEP’s responses to those comments were included in the state’s final submittal.

Your staff has prepared a comprehensive and informative 2018 Integrated Water Quality Report incorporating the State’s 303(d) list and has also provided EPA with supporting

documentation and assistance to aid in our review and approval. The 2018 Integrated Water Quality Report reflects the state's larger vision for addressing impaired and protecting unimpaired waters through CT's Integrated Water Resource Management process. My staff and I look forward to continued cooperation with CT DEEP in implementing the requirements under Section 303(d) of the CWA.

Please feel free to contact Mary Garren at 617-918-1322 if you have any questions about or comments on our review.

Sincerely,

/s/

Ken Moraff, Director
Water Division

Enclosure

cc: Chris Bellucci, CT DEEP
Traci Iott, CT DEEP
Philip Trowbridge, CT DEEP
Denise Rudzicka, CT DEEP
Ralph Abele, EPA
Greg Dain, EPA

EPA NEW ENGLAND'S REVIEW OF CONNECTICUT'S 2018 CWA SECTION 303(d) LIST

I. INTRODUCTION

EPA has conducted a complete review of Connecticut's (CT) 2018 Section 303(d) list and supporting documentation and information and, based on this review, has determined that Connecticut's list of water quality-limited segments (WQLSs) still requiring total maximum daily loads (TMDLs) meets the requirements of Section 303(d) of the Clean Water Act ("CWA" or "the Act") and EPA implementing regulations. Therefore, by this order, EPA hereby approves Connecticut's final 2018 Section 303(d) list, included as part of the *State of Connecticut 2018 Integrated Water Quality Report (IWQR)*, dated August 1, 2019. The final IWQR was received by EPA on August 29, 2019. The statutory and regulatory requirements, and EPA's review of Connecticut's compliance with each requirement, are described in detail below.

II. STATUTORY AND REGULATORY BACKGROUND

Identification of WQLSs for Inclusion on Section 303(d) List

Section 303(d)(1) of the Act directs states to identify those waters within its jurisdiction for which effluent limitations required by Section 301(b)(1)(A) and (B) are not stringent enough to implement any applicable water quality standard, and to establish a priority ranking for such waters, taking into account the severity of the pollution and the uses to be made of such waters. The Section 303(d) listing requirement applies to waters impaired by point and/or nonpoint sources, pursuant to EPA's long-standing interpretation of Section 303(d).

EPA regulations provide that states do not need to list waters where the following controls are adequate to implement applicable standards: (1) technology-based effluent limitations required by the Act, (2) more stringent effluent limitations required by state or local authority, and (3) other pollution control requirements required by state, local, or federal authority. See 40 CFR Section 130.7(b)(1).

Consideration of Existing and Readily Available Water Quality-Related Data and Information

In developing Section 303(d) lists, states are required to assemble and evaluate all existing and readily available water quality related data and information, including, at a minimum, consideration of existing and readily available data and information about the following categories of waters: (1) waters identified as partially meeting or not meeting designated uses, or as threatened, in the state's most recent Section 305(b) report; (2) waters for which dilution calculations or predictive modeling indicate nonattainment of applicable standards; (3) waters for which water quality problems have been reported by governmental agencies, members of the public, or academic institutions; and (4) waters identified as impaired or threatened in any Section 319 nonpoint assessment submitted to EPA. See 40 CFR §130.7(b)(5). In addition to these minimum categories, states are required to consider any other data and information that is existing and readily available.

EPA's 2006 Integrated Report Guidance describes categories of water quality related data and information that may be existing and readily available. All EPA integrated reporting guidance under CWA Section 303(d), 305(b) and 314 may be found at <https://www.epa.gov/tmdl/integrated-reporting-guidance-under-cwa-sections-303d-305b-and-314>. While states are required to evaluate all existing and readily available water quality related data and information, states may decide to rely or not rely on particular data or information in determining whether to list particular waters.

In addition to requiring states to assemble and evaluate all existing and readily available water quality related data and information, EPA regulations at 40 CFR §130.7(b)(6) require states to include, as part of their submissions to EPA, documentation to support decisions to rely or not rely on particular data and information and decisions to list or not list waters. Such documentation needs to include, at a minimum, the following information: (1) a description of the methodology used to develop the list; (2) a description of the data and information used to identify waters; and (3) any other reasonable information requested by the Region.

Priority Ranking

EPA regulations also codify and interpret the requirement in Section 303(d)(1)(A) of the Act that states establish a priority ranking for listed waters. The regulations at 40 CFR §130.7(b)(4) require states to prioritize waters on their Section 303(d) lists for TMDL development, and also to identify those WQLSs targeted for TMDL development in the next two years. In prioritizing and targeting waters, states must, at a minimum, take in to account the severity of the pollution and the uses to be made of such waters. See Section 303(d)(1)(A). As long as these factors are taken in to account, the Act provides that states establish priorities. States may consider other factors relevant to prioritizing waters for TMDL development, including immediate programmatic needs, vulnerability of particular waters as aquatic habitats, recreational, economic, and aesthetic importance of particular waters, degree of public interest and support, and state or national policies and priorities. See 57 FR 33040, 33045 (July 24, 1992), and EPA's 2006 Integrated Report Guidance and the 2006, 2009, 2010, 2011, 2013, 2015 and 2017 memoranda and attachments.

III. REVIEW OF CONNECTICUT'S SECTION 303(d) SUBMISSION

The Connecticut Department of Energy and Environmental Protection (CT DEEP) submitted the final 2018 Section 303(d) list to EPA along with a cover letter, dated August 28, 2019, requesting EPA review and approval. The integrated listing format (i.e., a combination of the state's Section 305(b) report and the state's Section 303(d) list) allows states to provide the status of all assessed waters in a single multi-part list or document. CT's 2018 IWQR can be found at: https://www.ct.gov/deep/cwp/view.asp?a=2719&q=325610&deepNav_GID=1654. The final 2018 Section 303(d) list is found in Appendix B-1 of the 2018 IWQR.

Chapter 1 of the IWQR, *Connecticut Consolidated Assessment and Listing Methodology (CT CALM)*, describes the procedure used by the CT DEEP to assess the quality of the State's waters relative to attainment of Connecticut Water Quality Standards Regulations. Chapter 2, *305(b) Assessment Results*, provides a series of figures and tables presenting the results of CT

DEEP's assessment of all readily available data relating to designated use attainment in Connecticut waters. Chapter 3, *Waterbodies identified for restoration and protection strategies pursuant to Section 303 of the Clean Water Act*, provides additional information concerning those assessed waters that do not currently meet water quality standards and includes the State's 2018 Section 303(d) list.

States may include each waterbody or segment thereof into one or more of the following five categories as part of an IWQR; however, only waterbodies or segments placed in Category 5 (impaired by a pollutant and for which a TMDL is needed) constitute a state's Section 303(d) list:

- 1) *All designated uses are supported, no use is threatened;*
- 2) *Available data and/or information indicate that some, but not all of the designated uses are supported;*
- 3) *There is insufficient available data and/or information to make a use support determination;*
- 4) *Available data and/or information indicate that at least one designated use is not being supported or is threatened, but a TMDL is not needed;*
 - 4-A) *A state-developed TMDL has been approved by EPA or a TMDL has been established by EPA for any segment-pollutant combination;*
 - 4-B) *Other required control measures are expected to result in the attainment of an applicable water quality standard in a reasonable period of time;*
 - 4-C) *The non-attainment of any applicable water quality standard for the segment is the result of pollution and is not caused by a pollutant;*
- 5) *Available data and/or information indicate that at least one designated use is not being supported or is threatened, and a TMDL is needed; and*
 - 5-Alt) *Impaired without a TMDL completed but assigned a low priority for TMDL development because an alternative restoration approach is being pursued.*

Chapter 3 of Connecticut's IWQR presents the State's discussion on placement of waters in particular categories and for prioritizing TMDL or TMDL alternative development for Category 5 waterbody segments and their associated impairments. The Section 303(d) list includes all waters that have been assigned to Category 5. Waters listed by Connecticut in Appendix B-1 of the IWQR represent the State's 2018 Section 303(d) list, which the State is required to submit to EPA for review and approval or disapproval. Appendix C-1 presents the State's prioritization of waters on their Section 303(d) list for TMDL development in the next two years. Appendix C-2 identifies waters for action plan (TMDL, TMDL alternative, or protection plan) development through 2022.

1.) Final 2018 State of Connecticut Integrated Water Quality Report

Connecticut's IWQR includes extensive information on all waters assessed in the State. All waters known or suspected not to be meeting water quality standards and in need of TMDLs have been included on the Section 303(d) list in the IWQR. Under its current listing approach, Connecticut keeps a water on its impaired waters list until it is shown that water quality standards are being attained, revision of the water quality standards support a change

in assessment status, data indicates that the designated uses of the waterbody are being met, criteria are met for its placement in Category 4, or the initial listing is confirmed as having been incorrect. TMDLs for listed waters will be completed in accordance with the schedule established, which reflects priority rankings and other relevant factors.

The IWQR specifies waters in Category 4. These are waters that are currently not meeting water quality standards but do not need a TMDL completed due to one of three reasons. Waters for which TMDLs have already been approved are listed in Category 4-A. Category 4-B includes waters for which a functionally equivalent control action has been developed, i.e., an impairment caused by a pollutant is being addressed through other pollution control requirements. Waters in Category 4-C are not attaining water quality standards; however, the cause is not associated with a pollutant. EPA reviews the Category 4 list to ensure that the waters are categorized appropriately and do not belong in Category 5. Category 4 waters are listed in Appendices B-2, B-3, and B-4 of the IWQR.

As noted above, Category 5 contains waters where available data and/or other information indicate that at least one designated use is not being supported or is threatened, and a TMDL is needed. Federal Regulations in 40 CFR Section 130.7 require EPA to review and approve or disapprove the Category 5 list of impaired waters.

2.) Response to Public Comments

CT DEEP published a draft *2018 Integrated Water Quality Report* on May 24, 2019. The State's *List of Impaired Waters for Connecticut (EPA Category 5)* was included as Appendix B-1 of the draft report. The public notice notifying stakeholders of the opportunity to comment on the draft report was sent to interested parties by email, posted on the CT DEEP website, and published in five newspapers throughout the State. A public informational meeting was held on June 7, 2019. The sign-in sheet for the public meeting as well as the public notice document were submitted along with the final IWQR. Comments were accepted from the public from May 24, 2019 to June 26, 2019. Five parties submitted comments during the public comment period. The State published a detailed response to comments, including the original comment letters, along with the final IWQR. The text of the response to comments provided a summary of the public comments and the State's responses to each question or issue raised.

CT DEEP received comments during the public comment period from: Industrial Water/Wastewater Consultancy, LLC; SE CT Stormwater Collaborative Eastern CT Conservation District; Town of Thompson, CT; Rivers Alliance of Connecticut; and Connecticut Fund for the Environment, Inc. Save the Sound. CT DEEP reviewed information provided by the commenters and made certain changes to the final IWQR based on public comment. In addition, the State provided answers to the questions raised by the public that were responsive and clarified why the State made decisions regarding listing or delisting of certain waterbody segment/impairments.

The draft IWQR contained a new listing in Category 5 for Backwater Brook (Thompson)-01(CT3300-05_01) for impairment of its recreational use support due to the presence of *E. coli*. In response to information supplied by two commenters, the SE CT Stormwater Collaborative Eastern CT Conservation District and the Town of Thompson, the State agreed not to place the

brook in Category 5, but instead to place it in Category 3 as having insufficient information for making a recreational use support decision. There is reason to believe the E. coli issue associated with water fowl has been resolved. The State placed the water in Category 3 in the final IWQR and will reassess the brook in the future.

CT DEEP also addressed other concerns raised by the public. The agency examined data and consequently updated two segment/impairment assessments from unassessed to assessed as having insufficient information. The State advised commenters on data needs to meet quality assurance guidelines. The State provided requested data. CT DEEP answered questions regarding data, standards, prioritization, and the IWQR. The agency reaffirmed its commitment to work with outside partners through its Integrated Water Management process and its data solicitation outreach. Finally, the State corrected or explained language found in the final IWQR.

EPA has reviewed the language within CT DEEP's IWQR addressing areas of public concern as well as CT DEEP's responses to public comments. EPA concludes that Connecticut has appropriately and adequately responded to the public comments and concerns.

IV. IDENTIFICATION OF WATERS AND CONSIDERATION OF EXISTING AND READILY AVAILABLE WATER QUALITY-RELATED DATA AND INFORMATION

EPA has reviewed the State's submission and has concluded that the State developed its 2018 Section 303(d) list in compliance with Section 303(d) of the Act and 40 CFR Section 130.7. EPA's review is based on its analysis of whether the State reasonably considered existing and readily available water quality related data and information and reasonably identified waters required to be listed.

The State of Connecticut uses sources of data and information consistent with EPA regulations and EPA's 2006 Integrated Report Guidance when conducting water quality assessments. As outlined in the IWQR, these data include:

- Results from recent ambient monitoring;
- Recent Sections 305(b) reports, 303(d) lists, and 319(a) nonpoint assessments;
- Reports of water quality problems provided by local, state, territorial or federal agencies, volunteer monitoring networks, members of the public or academic institutions;
- Fish and shellfish advisories, restrictions on water sports or recreational contact;
- Reports of fish kills;
- Safe Drinking Water Act source water assessments;
- Superfund and Resource Conservation and Recovery Act reports;
- Results from predictive modeling, dilution calculations or landscape analysis; and
- Results from analysis of water quantity impacting aquatic life and other designated uses.

The primary sources of assessment information for rivers are ambient monitoring data collected by CT DEEP monitoring staff, and physical, chemical and bacteria data collected at fixed sites

by the United States Geological Survey (USGS). Lake assessments and trophic status are generally determined from studies conducted by CT DEEP, the Connecticut Agricultural Experiment Station, USGS and Connecticut College since 1979 (Frink and Norvell 1984, Canavan and Siver 1995, Healy and Kulp 1995, CT DEEP 1998) as well as recent studies by professional contractors. For estuaries, use assessments are based primarily on physical, chemical and biological monitoring by the CT DEEP for the Long Island Sound Study and National Coastal Assessment (Strobel 2000), bacterial monitoring for shellfish sanitation by the CT Department of Agriculture, Bureau of Aquaculture (CT DA-BA), and beach monitoring by State and local authorities. Reasonable efforts are also made to incorporate data from other state and federal agencies, municipalities, utilities, consultants, academia, and volunteer monitoring groups. (taken from Page 7 of the IWQR)

Connecticut relies upon data and/or other information from many sources to assess whether a water is meeting water quality standards and maintaining the water's designated uses. These sources are outlined above. The types of data used to assess the status of a water may include but are not limited to: ambient physical and chemical, benthic invertebrate and fish community, indicator bacteria, indicators of productivity and enrichment/eutrophication, aquatic toxicity, tissue contaminant, sediment chemistry/toxicity, and effluent analysis. The data and/or other information that meets CT DEEP's minimum standard for data acceptability is then used to assess the status of the waterbody.

In order to prepare the 2018 Section 303(d) list, the State established a date by which data would be considered for this listing cycle. Data available to CT DEEP as of November 1, 2017 are relied upon for these assessments. Connecticut permits data from catastrophic events, such as fish kills and chemical spills, to be used in the assessment even if collected after the November 1 cut-off date. Assessment data are maintained by the State in the EPA Assessment, Total Maximum Daily Load Tracking and Implementation System (ATTAINS) database, as well as databases designed for CT DEEP use.

The State provided its rationale for not relying on particular existing and readily available water quality related data and information as a basis for listing waters. Details as to why certain waters were not listed are provided in CT DEEP's response to comments. Waters included on the 2018 Section 303(d) list were assessed as impaired based upon failure of the water to attain its designated uses and attain water quality standards. Connecticut's waters may be placed in multiple categories to reflect the attainment or non-attainment of different particular designated uses. Table 2-1 of the IWQR summarizes the status of Connecticut's rivers, lakes, and estuarine waters.

EPA has reviewed Connecticut's description of the data and information considered in development of the 2018 Section 303(d) list, including but not limited to the State's methodology for identifying waters, data in ATTAINS, and the CT Water Quality Standards Regulations. EPA concludes that the State properly assembled and evaluated all existing and readily available data and information, including data and information relating to the categories of waters specified in 40 CFR Section 130.7(b)(5).

Waterbody Segment/Impairments newly listed on Connecticut's 2018 Section 303(d) list.

There are 307 waterbody segments on the Connecticut's 2018 Section 303(d) list, impaired for one or more designated uses. Additions to the 2018 Section 303(d) list, Category 5, involve a total of 46 water body segment/impairment causes. There are forty-five fresh waterbody segment/impairments and one estuarine segment/impairment. These listings were related to bacteria, total phosphorus, mercury, and unknown causes.

Table 1: New waterbody segment/impairments added to Connecticut's 2018 Section 303(d) list (Category 5 of the IWQR)

Segment ID	Waterbody name	Impaired Use	Associated Pollutant
CT3900-07_01	Kahn Brook (Bozrah)-01	Habitat for Fish, Other Aquatic life and Wildlife	phosphorus, total
CT3902-00_02	Bartlett Brook (Lebanon)-02	Recreation	Escherichia coli (E. coli)
CT3905-00_01a	Pease Brook (Bozrah/Franklin/Lebanon)-01a	Recreation	Escherichia coli (E. coli)
CT3907-00_01	Susquetonscut Brook-01	Recreation	Escherichia coli (E. coli)
CT4004-02_01	Farm Brook (South Windsor)-01	Habitat for Fish, Other Aquatic life and Wildlife	cause unknown
CT4300-00_01	Farmington River (Windsor)-01	Recreation	Escherichia coli (E. coli)
CT4300-00_02	Farmington River (Bloomfield/Farmington)-02	Recreation	Escherichia coli (E. coli)
CT4300-54_01	Phelps Brook (Windsor)-01	Recreation	Escherichia coli (E. coli)
CT4309-00_01	Cherry Brook (Canton)-01	Recreation	Escherichia coli (E. coli)
CT4311-00_01	Burlington Brook (Burlington)-01	Recreation	Escherichia coli (E. coli)
CT4315-00_01	Pequabuck River (Plainville)-01	Habitat for Fish, Other Aquatic life and Wildlife	phosphorus, total
CT4315-00_02	Pequabuck River-02	Habitat for Fish, Other Aquatic life and Wildlife	phosphorus, total
CT4315-00_05	Pequabuck River-05	Habitat for Fish, Other Aquatic life and Wildlife	phosphorus, total
CT4402-00_02	Piper Brook-02	Habitat for Fish, Other Aquatic life and Wildlife	phosphorus, total
CT4500-00_05	Hockanum River-05	Habitat for Fish, Other Aquatic life and Wildlife	phosphorus, total
CT4607-00_01	Coginchaug River-01	Habitat for Fish, Other Aquatic life and Wildlife	cause unknown
CT5000-55_02	Unnamed trib to Oyster River (Milford)-02	Habitat for Fish, Other Aquatic life and Wildlife	mercury
CT5102-02_02	Spring Lot Brook (Westbrook)-02	Habitat for Fish, Other Aquatic life and Wildlife	cause unknown
CT5200-00_02	Quinnipiac River (North Haven/Meriden)-02	Habitat for Fish, Other Aquatic life and Wildlife	phosphorus, total
CT5200-00_04	Quinnipiac River-04	Habitat for Fish, Other Aquatic life and Wildlife	phosphorus, total

CT5200-00_05	Quinnipiac River-05	Habitat for Fish, Other Aquatic life and Wildlife	phosphorus, total
CT5206-01_01	Spoon Shop Brook (Meriden)-01	Habitat for Fish, Other Aquatic life and Wildlife	cause unknown
CT6005-00_01	Factory Brook-01	Habitat for Fish, Other Aquatic life and Wildlife	cause unknown
CT6005-00_01	Factory Brook-01	Habitat for Fish, Other Aquatic life and Wildlife	phosphorus, total
CT6025-00_04	Farmill River-04	Recreation	Escherichia coli (E. coli)
CT6402-00_01	Ball Pond Brook (New Fairfield)-01	Habitat for Fish, Other Aquatic life and Wildlife	cause unknown
CT6600-00_02	Still River (Brookfield/Danbury)-02	Habitat for Fish, Other Aquatic life and Wildlife	phosphorus, total
CT6900-00_02	Naugatuck River (Seymour/Waterbury)-02	Habitat for Fish, Other Aquatic life and Wildlife	phosphorus, total
CT6900-00_07	Naugatuck River-07	Habitat for Fish, Other Aquatic life and Wildlife	phosphorus, total
CT6911-05_01	Todd Hollow Brook (Plymouth)-01	Habitat for Fish, Other Aquatic life and Wildlife	cause unknown
CT7102-00_01	Bruce Brook (Bridgeport/Stratford)-01	Recreation	Escherichia coli (E. coli)
CT7102-00_03	Bruce Brook (Stratford)-03	Recreation	Escherichia coli (E. coli)
CT7300-00_05	Norwalk River (Ridgefield)-05	Recreation	Escherichia coli (E. coli)
CT7300-02_01	Ridgefield Brook (Ridgefield)-01	Habitat for Fish, Other Aquatic life and Wildlife	phosphorus, total
CT7300-07_01	Cooper Pond Brook-01	Habitat for Fish, Other Aquatic life and Wildlife	cause unknown
CT7300-07_02	Cooper Pond Brook-02	Habitat for Fish, Other Aquatic life and Wildlife	cause unknown
CT7401-00_01	Fivemile River (New Canaan)-01	Habitat for Fish, Other Aquatic life and Wildlife	cause unknown
CT7401-00_01	Fivemile River (New Canaan)-01	Habitat for Fish, Other Aquatic life and Wildlife	phosphorus, total
CT7401-00_03	Fivemile River (New Canaan)-03	Recreation	Escherichia coli (E. coli)
CT7401-00_04	Fivemile River (New Canaan)-04	Habitat for Fish, Other Aquatic life and Wildlife	cause unknown
CT7403-00_01	Noroton River-01	Recreation	Escherichia coli (E. coli)
CT7403-00_02	Noroton River-02	Recreation	Escherichia coli (E. coli)
CT7403-00_03	Noroton River-03	Recreation	Escherichia coli (E. coli)
CT7405-00_01	Rippowam River-01	Recreation	Escherichia coli (E. coli)

CT7410-00_01	East Branch Byram River-01	Recreation	Escherichia coli (E. coli)
CT-C2_018-SB	LIS CB Shore - New Haven Harbor (West), West Haven	Recreation	Enterococcus

The waterbody segment/impairments noted above were identified by new assessments during this listing cycle and were thus newly placed in Category 5, the Section 303(d) list.

Additionally, EPA notes that while it is not acting to approve or disapprove Connecticut’s listing methodology set forth in its CALM, EPA has reviewed all of the relevant material and concludes that the methodology CT DEEP used to develop the impaired waters list is reasonable and consistent with Connecticut’s Water Quality Standards Regulations, the Clean Water Act, and EPA Section 303(d) regulations and guidelines.

Waterbody Segment/Impairments not listed on Connecticut’s 2018 Section 303(d) list that were listed on Connecticut’s 2016 Section 303(d) list.

EPA requested that Connecticut provide a rationale for its decision not to include on its 2018 Section 303(d) list previously listed waters. As discussed below, the State has demonstrated to EPA’s satisfaction good cause for not listing those waters, consistent with 40 C.F.R. §130.7(b)(6)(iv).

Category 5 in 2016 to Category 2 in 2018

For the 2018 Section 303(d) list cycle, the State has delisted two waterbody segment/impairments that were included on the State’s 2016 Section 303(d) list. These waterbody segment/impairments were listed in Category 5 in 2016 and are being placed in Category 2 in 2018. In these waterbody segments the designated use of the waterbody segment has been restored and the water is now meeting WQS for the pollutant that was causing the impairment. CT DEEP supplied to EPA up-to-date information on all the State’s waters as part of the 2018 assessment cycle. Summaries of this information can be found in the State’s IWQR. Information regarding waters in the IWQR is also available for review at EPA’s water information page for the State of Connecticut at:

<https://www.epa.gov/ct/environmental-information-connecticut#Water>. Additional information on the State of Connecticut’s water quality monitoring program and data is available at:

https://www.ct.gov/deep/cwp/view.asp?a=2719&q=325616&deepNav_GID=1654.

Table 2: Waterbody segment/impairments on Connecticut’s 2016 Section 303(d) list (Category 5 of the IWQR) that are being delisted in 2018.

Segment ID#	Waterbody name	Use restored	Pollutant meeting WQS
CT4312-00_01	Roaring Brook (Farmington)-01	Habitat for Fish, Other Aquatic life and Wildlife	Cause Unknown
CT6703-00_01	West Branch Bantam River (Litchfield/Goshen)-01	Habitat for Fish, Other Aquatic life and Wildlife	Cause Unknown

EPA has reviewed the specific bases for these two waterbody segment/impairments delisted on the 2018 Section 303(d) list and agrees with CT DEEP that these delistings are appropriate. Aquatic life use assessments were conducted in 2018 for Roaring Brook (Farmington)-01 and the West Branch Bantam River (Litchfield/Goshen)-01. Comprehensive assessments of biological information, water chemistry, physical parameters, toxicity, and acute impact events lead to the determination that the aquatic life use of both waterbody segments has been restored. Benthic community and fish survey Biological Condition Gradient assessments both showed that these waters are now meeting water quality criteria.

As with all of the State’s waters, if any designated use is determined to be impaired in the next listing cycle it will be fully or partially returned to Category 5 (the Section 303(d) list).

EPA’s conclusion regarding review of the CT DEEP’s delistings from Category 5

Appendix B-5 of the IWQR provides a full detailed reconciliation of all the changes made between the 2016 and 2018 Section 303(d) lists. For each of the waterbody segment/impairments delisted from Category 5, EPA agrees that the State has reasonably concluded that the identified waterbody segment/impairments no longer need to be on the 2018 Section 303(d) list because the segment is now meeting water quality standards for the identified impairment.

Other Changes Noted in Connecticut’s 2018 IWQR.

Waterbody Segments in Category 4-A

Nine waterbody segment/impairment causes included in Category 4A in 2016 are being removed from Category 4A and placed in Category 2 in 2018. All were on the 2016 IWQR in Category 4A because they were covered under the CT Statewide Bacteria TMDL. Recreational use assessments were conducted for each of the nine waterbody segments in 2018. United States Geological Survey, Farmington River Watershed Association, The Last Green Valley, and Earthplace/HarborWatch were the sources of the data used by CT DEEP to make those assessments. Each of those groups has a Quality Assurance/Quality Control plan approved by CT DEEP to ensure that the data meets the agency’s specifications. Sufficiently robust sets of E. coli data indicated that the CT freshwater water quality criteria of 126 CFU/100ml is being met. These nine waterbody segments are being placed in Category 2 as no longer impaired for recreation. The details of the recreational use criteria for fresh water can be found in Table 1-9 of the 2018 IWQR.

Table 4: Waterbody segment/impairments being removed from Category 4A and placed in Category 2 on the 2018 IWQR

Segment ID#	Waterbody name	Use restored	Pollutant meeting QQS
CT3800-00_05	Shetucket River (Windham)-05	Recreation	E. coli
CT4206-00_01	Broad Brook (East Windsor)-01	Recreation	E. coli
CT4319-00_01b	Salmon Brook, West Branch (Granby/Hartland)-01b	Recreation	E. coli

CT6600-00_02	Still River (Brookfield/Danbury)-02	Recreation	E. coli
CT6900-00_01	Naugatuck River (Derby/Seymour)-01	Recreation	E. coli
CT7108-00_02a	Mill River (Fairfield/Easton)-02a	Recreation	E. coli
CT7109-00_01	Sasco Brook (Westport/Fairfield)-01	Recreation	E. coli
CT7200-26_01	Poplar Plains Brook (Westport)-01	Recreation	E. coli
CT7300-02_01	Ridgefield Brook (Ridgefield)-01	Recreation	E. coli

These waterbodies are included in the IWQR and are included here for completeness sake. EPA is taking no action on the waters removed from Category 4-A.

Waterbody Segments in Category 4-B

Segments listed in Category 4-B have other required control measures which are expected to result in attainment of an applicable water quality standard in a reasonable period of time. The 2018 IWQR does not include any waterbody segment/impairments that are being added to Category 4-B. One waterbody segment, Unnamed Tributary to Oyster River (Milford)-02 (CT5000-55_02), is being removed from Category 4-B and placed back in Category 5. This segment is impaired for habitat for fish, other aquatic life, and wildlife due to the presence of mercury in sediment and fish tissue. It is being placed back in Category 5 due to the lapse in the implementation schedule for remediation that was ongoing. Due to this lapse in progress, this waterbody segment/impairment no longer meets the threshold for remaining in Category 4B. Attainment of applicable water quality standards is not being achieved within a reasonable time. The segment/impairment is being placed on the Section 303(d) list (Category 5) in this listing cycle.

Waterbody Segments in Category 4-C

Category 4-C contains water segments for which the State has demonstrated that the failure to meet water quality standards is not caused by a pollutant, but rather by other types of pollution. No additions or removals are being made to waters in Category 4-C of the IWQR during this listing cycle.

Priority Ranking

EPA reviewed Connecticut's priority ranking of listed waters for TMDL development and concludes that the State properly accounted for the severity of pollution and the uses to be made of such water in establishing that ranking. The State has also identified the pollutants causing or expected to cause violations of applicable WQS. 40 C.F.R. §130.7(b)(4) requires that "the priority ranking shall specifically include the identification of waters targeted for TMDL development in the next two years." While the CT DEEP identifies its priority waters for the next two years, EPA and CT DEEP assess yearly the State's plans for TMDL development versus the universe of impaired waters in the State. CT DEEP makes an annual commitment to EPA, as part of its Performance Partnership Agreement, as to the TMDLs the State will submit

during the coming year and provides updates on its progress during the year. Appendix C-1 of the 2018 IWQR details the priority ranking of waters for TMDL development by the State in the next two years.

CT DEEP's Integrated Water Resource Management program

https://www.ct.gov/deep/cwp/view.asp?a=2719&Q=580936&deepNav_GID=1654

details the State's larger vision for addressing impaired and protecting unimpaired waters in CT. Appendix C-2 of the 2018 IWQR lists the waters slated for action plan development by the year 2022. This larger planning effort is for preparation of action plans. These plans might include TMDLs, alternatives to TMDLs for impaired waters, or protection plans for unimpaired waters. If a water is listed on the 303(d) list as impaired, it remains in Category 5 as a TMDL alternative is being pursued. In establishing its priority ranking for development of TMDLs, as well as other action plans, the State considers factors such as ecological information, the designated use of the water, sources of potential pollution, land use conditions, existing planning efforts, and existing or potential partnerships within the watershed.

EPA concludes that Connecticut's prioritization and identification of waters targeted for TMDL study and/or development during the next two years is reasonable and sufficient for the purposes of 40 C.F.R. §130.7(b)(4). CT DEEP properly examined and considered the severity of pollution and uses of the listed waters, as well as other relevant factors identified in EPA regulations and described above. Further, EPA has determined that CT DEEP's priority ranking ensures reasonable progress in addressing high priority waters with challenging water quality problems (Memo from Geoffrey H. Grubbs, Supplemental Guidance on Section 303(d) Implementation, August 13, 1992).

EPA reviewed the State's identification of WQLSs targeted for TMDL development in the next two years and concludes that the targeted waters are appropriate for TMDL development in this time frame.

Water bodies on tribal lands

EPA's approval of Connecticut's 2018 Section 303(d) list extends to all waterbodies on the list with the exception of those waters, if any, that are within Indian Country, as defined in 18 U.S.C. Section 1151. EPA is taking no action to approve or disapprove the State's list with respect to waters within Indian country at this time. EPA, or any eligible Indian Tribe, as appropriate, will retain responsibilities under Section 303(d) for those waters. There are two Federally-recognized Indian Tribes in Connecticut. They are the Mashantucket Pequot Tribal Nation and the Mohegan Tribe.

Waters impaired by nonpoint sources of pollution

The State properly listed waters with nonpoint sources causing or expected to cause impairment, consistent with Section 303(d) and EPA guidance. Section 303(d) lists are to include all WQLSs still needing TMDLs, regardless of whether the source of the impairment is a point and/or nonpoint source. EPA's long-standing interpretation is that Section 303(d) applies to waters impacted by point and/or nonpoint sources. In 'Pronsolino v. Marcus,' the District Court for Northern District of California held that Section 303(d) of the Clean Water

Act authorizes EPA to identify and establish total maximum daily loads for waters impaired by nonpoint sources. Pronsolino v. Marcus, 91 F. Supp. 2d 1337, 1347 (N.D.CA. 2000). This decision was affirmed by the 9th Circuit court of appeals in Pronsolino v. Natri, 291 F.3d 1123 (9th Cir. 2002). See also EPA *Guidance for 2006 Assessment, Listing and Reporting Requirements Pursuant to Section 303(d), 305(b), and 314 of the Clean Water Act* – EPA Office of Water, July 29, 2005. Waters identified by the State as impaired or threatened by nonpoint sources of pollution (NPS) were appropriately considered for inclusion on Connecticut’s 2018 Section 303(d) list. Connecticut properly listed waters with nonpoint sources causing or expected to cause impairment, consistent with Section 303(d) regulations and EPA guidance.

EPA concludes that CT DEEP properly considered waters identified by the State as impaired or threatened in nonpoint assessments under Section 319 of the CWA in the development of the 2018 Section 303(d) list.