



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

**Region 1**

**5 Post Office Square, Suite 100**

**Boston, MA 02109-3912**

June 8, 2017

Betsey Wingfield, Chief  
Bureau of Water Protection and Land Reuse  
Connecticut Department of Energy and Environmental Protection  
79 Elm Street  
Hartford, CT 06106

Dear Ms. Wingfield:

Thank you for your submittal of the 2016 Clean Water Act (“CWA”) Section 303(d) list, Connecticut’s 2016 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 2016 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 2016 Section 303(d) list.

The Section 303(d) list was submitted in Chapter 3 of the Connecticut’s 2016 Integrated Water Quality Report. Table 3-4 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 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 2016 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.

EPA is pleased with the quality of the state’s submittal and appreciates the level of effort that CT DEEP has devoted to preparing the 2016 Integrated Water Quality Report in general and 2016 Section 303(d) list in particular. Your staff has prepared a

comprehensive and informative list, and has also provided EPA with supporting documentation and assistance to aid in our review and approval. The 2016 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/*

Arthur Johnson, Acting Director  
Office of Ecosystem Protection

Enclosure

cc: Chris Bellucci, CT DEEP  
Traci Iott, CT DEEP  
Denise Rudzicka, CT DEEP  
Ralph Abele, EPA

# **EPA NEW ENGLAND'S REVIEW OF CONNECTICUT'S 2016 CWA SECTION 303(d) LIST**

## **I. INTRODUCTION**

EPA has conducted a complete review of Connecticut's (CT) 2016 Section 303(d) list and supporting documentation and information and, based on this review, EPA 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 2016 Section 303(d) list, included as part of the *State of Connecticut 2016 Integrated Water Quality Report established pursuant to Sections 305(b) and 303(d) of the Federal Clean Water Act (IWQR)*, dated April 25, 2017. The final IWQR was received by EPA on May 2, 2017. 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. See EPA's August 13, 2015 memorandum on *Information Concerning 2016 Clean Water Act Sections 303(d), 305(b), and 314 Integrated Reporting and Listing Decisions* which recommends that 2016 integrated water quality reports follow the *Guidance for 2006 Assessment, Listing and Reporting Requirements Pursuant to Sections 303(d), 305(b) and 314 of the Clean Water Act, issued July 29, 2005*, as supplemented by the October 12, 2006 memorandum and attachments, the May 5, 2009 memorandum and attachments, the November 15, 2010 memorandum, the March 21, 2011 memorandum and attachments, and the September 3, 2013 memorandum and attachments,. All guidance, memoranda, and attachments may be found at <https://www.epa.gov/tmdl/integrated-reporting-guidance>. 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 into 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 into 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 and 2015 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 2016 Section 303(d) list to EPA, along with responses to comments, dated April 25, 2017. 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 2016 IWQR can be found at: [http://www.ct.gov/deep/lib/deep/water/water\\_quality\\_management/305b/2016\\_iwqr\\_final.pdf](http://www.ct.gov/deep/lib/deep/water/water_quality_management/305b/2016_iwqr_final.pdf).

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 2016 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.*

The 2016 Section 303(d) list under review here is included in Chapter 3 of Connecticut's IWQR. The Section 303(d) list includes all waters that have been assigned to Category 5. Chapter 3 also presents the state's rationale for prioritizing TMDL development for Category 5 waterbody segments and their associated impairments. Waters listed by Connecticut in Table 3-4 of the IWQR represent the state's 2016 Section 303(d) list, which the state is required to submit to EPA for review and approval or disapproval.

#### 1.) Final 2016 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 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 but the cause is not associated with a pollutant. EPA reviews the Category 4 list to insure that the waters are categorized appropriately and do not belong in Category 5.

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 *2016 Integrated Water Quality Report* on January 30, 2017. The state's *List of Connecticut Waterbodies Not Meeting Water Quality Standards* was included in Chapter 3 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 six newspapers throughout the state. A public informational meeting was held on March 1, 2017. Comments were accepted from the public from February 6 through March 13, 2017. Seven 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 EPA New England, Eastern CT Conservation District, South Central CT Regional Water Authority, Tom Leone, and the Towns of Cromwell, Mansfield, and Thompson. CT DEEP reviewed information provided by the commenters and made certain changes to the final IWQR based on public comment. One waterbody segment/impairment, the recreational use of Bicentennial Pond, was removed from Category 4-A. In addition, some language in the document was changed or refined by the state based upon comments received. The state also agreed to consider certain locations for future sampling efforts. The agency affirmed its commitment to work with outside partners through its Integrated Water Management process. CT DEEP also provided guidance to the public for obtaining other sources of relevant information. Finally, Connecticut 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.

One commenter asked why two waters, Pumpkin Ground Brook and Pecks Mill Pond in Stratford, were not found in the IWQR. Listing every water in the state is the aim of the Integrated Report, however it is not uncommon for states to be in the process of cataloging many of their smaller waterbodies. CT DEEP committed to assessing Pumpkin Ground Brook during the next listing cycle and to consider Pecks Mill Pond for future monitoring. In response to the interest in these particular waters EPA requests that CT DEEP include Pumpkin Ground Brook and Pecks Mill Pond in the 2018 IWQR.

Bicentennial Pond remained listed on the draft 2016 IWQR as impaired for its recreational use at the designated bathing beach due to the presence of *Escherichia coli* (*E. coli*). The Town of Mansfield submitted a comment during the public comment period on Bicentennial Pond (CT3207-16-1-L1\_01) requesting that CT DEEP assess the pond as fully supporting its recreational use and that the state remove the pond from Category 4A. The request was accompanied by a report with data showing that since 2012 there have been no levels of *E. coli* above the single sample maximum and consequently no beach closures. The state agreed with the town's comment on Bicentennial Pond and made the change between the draft and final IWQR.

CT DEEP also responded to questions regarding three brooks raised by the Town of Thompson through direct communication with the town and in its response to comments. In a follow-up letter to CT DEEP the town disagreed with the state's assessment that all 3.27 miles of Wheaton Brook should be listed as impaired for its recreational use based upon the *E. coli* data used by CT DEEP to make that assessment. CT DEEP's use of the data is consistent with its CALM, CT Water Quality Standards Regulations, and is also consistent with how the state has treated assessments in similar small watersheds. There was no other data to justify delisting Wheatons Brook or splitting the segment at the town line. CT DEEP offered the Town of Thompson assistance on future work in the brooks. EPA agrees with the state's decisions to retain Wheaton Brook on the state's list of impaired waters and not to split the brook into more than one segment.

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 2016 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 the state's 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 2016 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, 2015 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 November 1st. Assessment data are maintained by the state in the EPA Section 305(b) Assessment Database (ADB) Version 2, as well as a number of 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 in Category

5 of the 2016 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 2016 Section 303(d) list, including but not limited to the state’s methodology for identifying waters, data in ADB, 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 2016 Section 303(d) list.**

There are 284 waterbody segments on the state’s 2016 Section 303(d) list, impaired for one or more designated uses. Additions to the 2016 Section 303(d) list, Category 5, involve a total of 63 water body segment/impairment causes. There are thirty-eight fresh waterbody segment/impairments and twenty-five estuarine segment/impairments. These listings were related to bacteria, nutrient-related impairments, unknown causes, lead, and PCB impairments.

**Table 1:** New waterbody segment/impairments added to Connecticut’s 2016 Section 303(d) list (Category 5 of the IWQR)

Segment ID#	Waterbody name	Impaired use listed	Associated pollutant
CT3004-00_01	Oxoboxo Brook-01	Habitat for Fish, Other Aquatic Life and Wildlife	Cause Unknown
CT3207-12_01	Roberts Brook (Mansfield)-01	Habitat for Fish, Other Aquatic Life and Wildlife	Cause Unknown
CT3300-10_01	Quinatissett Brook (Thompson)-01	Recreation	E. coli
CT3708-18_01	Wheatons Brook (Putnam/Thompson)-01	Recreation	E. coli
CT4312-00_01	Roaring Brook (Farmington)-01	Recreation	E. coli
CT4504-00_02	Hop Brook (Manchester)	Habitat for Fish, Other Aquatic Life and Wildlife	Cause Unknown
CT4600-00-trib_01	Unnamed tributary Connecticut River (Cromwell)-01	Habitat for Fish, Other Aquatic Life and Wildlife	Cause Unknown
CT4601-00_01	Belcher Brook-01	Habitat for Fish, Other Aquatic Life and Wildlife	Cause Unknown

CT4601-02_01	Hatchery Brook-01	Habitat for Fish, Other Aquatic Life and Wildlife	Cause Unknown
CT5111-00_02	Branford River-02	Habitat for Fish, Other Aquatic Life and Wildlife	Cause Unknown
CT5208-00_02a	Muddy River (North Haven)-02a	Habitat for Fish, Other Aquatic Life and Wildlife	Cause Unknown
CT6000-00-5+L2_01	Zoar, Lake	Recreation	Chlorophyll-a
CT6000-00-5+L2_01	Zoar, Lake	Recreation	Excess Algal Growth
CT6000-00-5+L2_01	Zoar, Lake	Recreation	Nutrient/Eutrophication Biological Indicators
CT6000-00-5+L2_02	Zoar, Lake	Recreation	Chlorophyll-a
CT6000-00-5+L2_02	Zoar, Lake	Recreation	Excess Algal Growth
CT6000-00-5+L2_02	Zoar, Lake	Recreation	Nutrient/Eutrophication Biological Indicators
CT6000-00-5+L4_01	Housatonic Lake	Recreation	Chlorophyll-a
CT6000-00-5+L4_01	Housatonic Lake	Recreation	Excess Algal Growth
CT6000-00-5+L4_01	Housatonic Lake	Recreation	Nutrient/Eutrophication Biological Indicators
CT6019-00-trib_01	Unnamed trib Deep Brook (Newtown)-01	Habitat for Fish, Other Aquatic Life and Wildlife	Cause Unknown
CT6502-00-1-L2_01	Waramaug, Lake	Recreation	Chlorophyll-a
CT6502-00-1-L2_01	Waramaug, Lake	Recreation	Excess Algal Growth
CT6502-00-1-L2_01	Waramaug, Lake	Recreation	Nutrient/Eutrophication Biological Indicators
CT6703-00_01	West Branch Bantam River (Litchfield/Goshen)-01	Habitat for Fish, Other Aquatic Life and Wildlife	Cause Unknown
CT6705-00-3-L3_01	Bantam Lake	Recreation	Chlorophyll-a
CT6705-00-3-L3_01	Bantam Lake	Recreation	Excess Algal Growth
CT6705-00-3-L3_01	Bantam Lake	Recreation	Nutrient/Eutrophication Biological Indicators
CT6916-00_01	Hop Brook (Naugatuck)-01	Habitat for Fish, Other Aquatic Life and Wildlife	Cause Unknown

CT7000-16_01	Muddy Brook (Westport)-01	Recreation	E. coli
CT7000-16-trib_01	Unnamed trib to Muddy Brook	Recreation	E. coli
CT7000-17_01	Unnamed trib, Muddy Brook (Westport)-01	Recreation	E. coli
CT7000-18_01	Unnamed trib, Sherwood Millpond LIS (Westport)-01	Recreation	E. coli
CT7000-29_01	Unnamed trib to Farm Creek LIS (Norwalk)-01	Recreation	E. coli
CT7103-00-2-L4_01	Stillman Pond (Bridgeport)	Fish Consumption	Polychlorinated biphenyls
CT7300-00_05	Norwalk River (Ridgefield)-05	Habitat for Fish, Other Aquatic Life and Wildlife	Cause Unknown
CT7302-13_01	Belden Hill Brook	Recreation	E. coli
CT7407-00_02	Mianus River-02	Habitat for Fish, Other Aquatic Life and Wildlife	Cause Unknown
CT-C2_024	LIS CB Shore - Housatonic River mouth, Stratford	Habitat for Marine Fish, Other Aquatic Life and Wildlife	Lead
CT-E1_002-SB	LIS EB Inner - Pawcatuck River (02), Stonington	Habitat for Marine Fish, Other Aquatic Life and Wildlife	Estuarine Bioassessments
CT-E1_002-SB	LIS EB Inner - Pawcatuck River (02), Stonington	Habitat for Marine Fish, Other Aquatic Life and Wildlife	Excess Algal Growth
CT-E1_002-SB	LIS EB Inner - Pawcatuck River (02), Stonington	Recreation	Estuarine Bioassessments
CT-E1_002-SB	LIS EB Inner - Pawcatuck River (02), Stonington	Recreation	Excess Algal Growth
CT-E1_003	LIS EB Inner - Inner Wequetequock Cove, Stonington	Habitat for Marine Fish, Other Aquatic Life and Wildlife	Estuarine Bioassessments
CT-E1_003	LIS EB Inner - Inner Wequetequock Cove, Stonington	Habitat for Marine Fish, Other Aquatic Life and Wildlife	Excess Algal Growth
CT-E1_003	LIS EB Inner - Inner Wequetequock Cove, Stonington	Recreation	Estuarine Bioassessments
CT-E1_003	LIS EB Inner - Inner Wequetequock Cove, Stonington	Recreation	Excess Algal Growth

CT-E1_007-SB	LIS EB Inner - Mystic River (Mouth), Stonington	Shellfish Harvesting	Fecal Coliform
CT-E1_033	LIS EB Inner - Pequotsepos Cove, Stonington	Habitat for Marine Fish, Other Aquatic Life and Wildlife	Dissolved Oxygen
CT-E1_033	LIS EB Inner - Pequotsepos Cove, Stonington	Shellfish Harvesting	Fecal Coliform
CT-E2_001	LIS EB Shore - Wequetequock Cove, Stonington	Habitat for Marine Fish, Other Aquatic Life and Wildlife	Estuarine Bioassessments
CT-E2_001	LIS EB Shore - Wequetequock Cove, Stonington	Habitat for Marine Fish, Other Aquatic Life and Wildlife	Excess Algal Growth
CT-E2_001	LIS EB Shore - Wequetequock Cove, Stonington	Recreation	Estuarine Bioassessments
CT-E2_001	LIS EB Shore - Wequetequock Cove, Stonington	Recreation	Excess Algal Growth
CT-E2_002	LIS EB Shore - Stonington Point, Stonington	Habitat for Marine Fish, Other Aquatic Life and Wildlife	Estuarine Bioassessments
CT-E2_002	LIS EB Shore - Stonington Point, Stonington	Habitat for Marine Fish, Other Aquatic Life and Wildlife	Excess Algal Growth
CT-E2_002	LIS EB Shore - Stonington Point, Stonington	Recreation	Estuarine Bioassessments
CT-E2_002	LIS EB Shore - Stonington Point, Stonington	Recreation	Excess Algal Growth
CT-E2_010-SB	LIS EB Shore - Thames River Mouth (West), New London	Shellfish Harvesting	Fecal Coliform
CT-E3_001	LIS EB Midshore - Stonington	Habitat for Marine Fish, Other Aquatic Life and Wildlife	Estuarine Bioassessments
CT-E3_001	LIS EB Midshore - Stonington	Habitat for Marine Fish, Other Aquatic Life and Wildlife	Excess Algal Growth
CT-E3_001	LIS EB Midshore - Stonington	Recreation	Estuarine Bioassessments
CT-E3_001	LIS EB Midshore - Stonington	Recreation	Excess Algal Growth

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 2016 Section 303(d) list that were listed on Connecticut’s 2014 Section 303(d) list.**

EPA requested that Connecticut provide a rationale for its decision not to include on its 2016 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 2014 to Category 2 in 2016*

For the 2016 Section 303(d) list cycle, the state has delisted eight waterbody segment/impairments that were included on the state’s 2014 Section 303(d) list. These waterbody segment/impairments were listed in Category 5 in 2014 and are being placed in Category 2 in 2016. In these waterbody segments either 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 or the reason for the original listing was incorrect. CT DEEP supplied to EPA up-to-date information on all the state’s waters as part of the 2016 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 quality assessment and TMDL information page for the State of Connecticut at:

[https://ofmpub.epa.gov/waters10/attains\\_state.control?p\\_state=CT](https://ofmpub.epa.gov/waters10/attains_state.control?p_state=CT)

**Table 2:** Waterbody segment/impairments on Connecticut’s 2014 Section 303(d) list (Category 5 of the IWQR) that are being delisted in 2016.

Segment ID#	Waterbody name	Use restored	Pollutant meeting WQS
CT3700-00_01	Quinebaug River	Recreation	E. coli
CT3800-00_05	Shetucket River (Windham)-05	Habitat for Fish, Other Aquatic Life and Wildlife	Cause Unknown
CT5200-00-04	Quinnipiac River-04	Fish Consumption	PCBs
CT5200-00-05	Quinnipiac River-05	Fish Consumption	PCBs
CT5200-00-06	Quinnipiac River-06	Fish Consumption	PCBs
CT-C1_002-SB	LIS CB Inner - Inner Clinton Harbor, Clinton	Commercial Shellfish Harvesting Where Authorized	Fecal Coliform
CT-E2_021	LIS EB Shore - Plum Bank, Old Saybrook	Shellfish Harvesting	Fecal Coliform
CT-W1_014-SB	LIS WB Inner - Fivemile River (mouth), Norwalk	Shellfish Harvesting	Fecal Coliform

EPA has reviewed the specific bases for the eight waterbody segment/impairments delisted on

the 2016 Section 303(d) list and agrees with CT DEEP that these delistings are appropriate. The details of these changes from the 2014 to the 2016 IWQR are presented below.

The recreational use of the Quinebaug River, CT3700-00\_01, was impaired due to E. coli and listed in Category 5 on the state's 2014 list. No designated bathing beach is found on this segment. A robust data set from USGS confirms that the recreational use is no longer impaired and the segment is meeting CT's geomean bacteria criterion for E. coli. Neither were there single sample maximum exceedances. EPA agrees with the state's decision to delist this segment to Category 2.

The Shetucket River (Windham)-05, CT3800-00\_05, had an impairment of its habitat for fish, other aquatic life and wildlife. It was listed in Category 5 on the state's 2014 list with the cause unknown. CT DEEP collected extensive data for the 2016 listing cycle on the biological health of the river. Multimetric indices (MMI) were calculated and a biological condition gradient (BCG) assessment for the river conducted to determine the health of macroinvertebrates and fish in the river. Macroinvertebrate and fish population subsamples were used to calculate MMI health scores for each sampling location. Highly sensitive taxa are typically found in least stressed sites and tolerant and exotic/invasive taxa are typically found in severely stressed sites. MMI scores are the arithmetic average of various metrics using different sensitive taxa with higher values representing least stressed sites. The BCG is a conceptual model that describes changes in aquatic communities using ten biological attributes. It allows a water to be assessed on a scale from natural/undisturbed to entirely biologically and ecologically impaired. The 2016 assessment showed that macroinvertebrate and fish MMI scores as well as BCG scores were of passing grades. Macroinvertebrate data from 2009 and 2012 also support the 2016 assessment. EPA agrees with the state's decision to delist this segment to Category 2.

A historic PCB release from storage tanks in Southington lead to Eightmile River (Southington)-01 segment being listed in Category 4B on the state's 2014 list. Three downstream segments of the Quinnipiac River, below the confluence with the Eightmile, were listed in Category 5 on the state's 2014 list, as the result of the same PCB release. The impacted area subsequently was extensively remediated and confirmatory sampling conducted. The Connecticut Department of Public Health (CT DPH) released a 2016 public health evaluation of fish tissue contaminant data in the Quinnipiac and Eightmile Rivers that found that PCBs in fish have decreased to acceptable levels. The fish consumption advisory has thus been lifted as consumption over a long period of time would not be harmful to human health. CT DEEP finds that the three segments of the Quinnipiac River are now meeting their designated use for fish consumption. The same is true for the Eightmile River (Southington)-01 segment which is discussed on page 16 below. EPA agrees with the state's decision to delist these three segments and return them to Category 2. They are Quinnipiac River-04 (CT5200-00-04), Quinnipiac River-05 (CT5200-00-05), and Quinnipiac River-06 (CT5200-00-06).

LIS CB Inner Clinton Harbor Clinton, CT-C1\_002-SB, was impaired for its commercial shellfish harvesting in 2014. Fecal coliform was the cause identified for the impairment and the waterbody segment/impairment was listed in Category 5. The Connecticut Department of Agriculture, Bureau of Aquaculture (DA/BA) conducted a detailed assessment of shellfish growing areas in the Town of Clinton, including the Inner Clinton Harbor segment. Sampling data from stations within this segment show that the segment is meeting fecal coliform bacteria

criteria for indirect consumption of shellfish. DA/BA has reopened these waters for commercial shellfish harvesting. EPA agrees with CT DEEP’s decision to delist the segment because it is now attaining bacteria criteria and meeting its designated use. This segment will be placed in Category 2 for its commercial shellfishing use.

Two segments were originally listed in Category 5 because CT DPH administratively closed the recreational shellfish harvesting in these waters without any data. CT DEEP listed these waterbody segment/impairments in Category 5 on its 2014 list without any fecal coliform data on which to base an impairment assessment. These delistings from Category 5 to Category 2 are the same as others that EPA has approved during the last two listing cycles. They will be characterized more appropriately as “not assessed.” These segments are LIS EB Shore - Plum Bank Old Saybrook (CT-E2\_021) and LIS WB Inner - Fivemile River (mouth) Norwalk (CT-W1\_014-SB).

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).

*Category 5 in 2014 to Category 4-A in 2016*

As discussed earlier, Category 4 contains segments that remain impaired for one or more designated uses, but do not need a TMDL for one of three reasons specified on page 3 above. Waterbody segment/impairments in Category 4-A have a state-developed TMDL which has been approved by EPA. A waterbody segment/impairment listed in Category 4-A in prior listing cycles remains in Category 4-A until appropriate water quality standards are attained and the designated use is restored, usually through implementation of the TMDL.

Thirty-seven segment/impairments are being delisted from the impaired waters list for bacterial impairments and placed in Category 4-A due to EPA’s approval of TMDLs under the Connecticut Statewide Bacteria TMDL. Implementation of the TMDLs is expected to result in full attainment of the water quality standards. Standards attainment will be verified through follow-up monitoring. EPA approves the state’s 2016 Section 303(d) list without these waterbody segment-pollutant combinations because the delistings are consistent with EPA regulations and EPA guidance.

**Table 3:** Waterbody segment/impairments delisted to Category 4-A because of an approved TMDL during this listing cycle

Segment ID#	Waterbody name addressed by the TMDL	Impaired use	Pollutant
CT1000-00_01	Pawcatuck River (Stonington/North Stonington)-01	Recreation	E. coli
CT1000-00_trib_01	Unnamed tributary Pawcatuck River 1000-00 (Stonington)-01	Recreation	E. coli
CT1000-01_01	Unnamed tributary Pawcatuck River 1000-01 (N. Stonington)-01	Recreation	E. coli
CT1000-03_01	Unnamed tributary Pawcatuck River 1000-03 (Stonington)-01	Recreation	E. coli

CT1000-04_01	Unnamed tributary Pawcatuck River 1000-04 (Stonington)-01	Recreation	E. coli
CT1000-05_01	Unnamed tributary Pawcatuck River 1000-05 (Stonington)-01	Recreation	E. coli
CT4319-00_01b	Salmon Brook, West Branch (Granby/Hartland)-01b	Recreation	E. coli
CT-E1_001-SB	LIS EB Inner - Pawcatuck River (01), Stonington	Recreation	Enterococcus
CT-E1_001-SB	LIS EB Inner - Pawcatuck River (01), Stonington	Shellfish Harvesting	Fecal Coliform
CT-E1_002-SB	LIS EB Inner - Pawcatuck River (02), Stonington	Shellfish Harvesting	Fecal Coliform
CT-E1_019	LIS EB Inner - Jordan Cove	Shellfish Harvesting	Fecal Coliform
CT-E1_020	LIS EB Inner - Niantic River (mouth)	Recreation	Enterococcus
CT-E1_020	LIS EB Inner - Niantic River (mouth)	Shellfish Harvesting	Fecal Coliform
CT-E1_021	LIS EB Inner - Pattagansett River (mouth)	Shellfish Harvesting	Fecal Coliform
CT-E1_022	LIS EB Inner – Bride Brook- East Lyme	Shellfish Harvesting	Fecal Coliform
CT-E1_023	LIS EB Inner - Fourmile River	Shellfish Harvesting	Fecal Coliform
CT-E1_024-SB	LIS EB Inner - Connecticut River (mouth)	Shellfish Harvesting	Fecal Coliform
CT-E1_026-SB	LIS EB Inner - Black Hall River (upper)	Shellfish Harvesting	Fecal Coliform
CT-E1_027-SB	LIS EB Inner - Duck River	Shellfish Harvesting	Fecal Coliform
CT-E1_032	LIS EB Inner - Oyster River Area	Shellfish Harvesting	Fecal Coliform
CT-E2_001	LIS EB Shore - Wequetequock Cove, Stonington	Shellfish Harvesting	Fecal Coliform
CT-E2_012	LIS EB Shore - Outer Jordan Cove	Shellfish Harvesting	Fecal Coliform
CT-E2_013	LIS EB Shore - Niantic Bay (East)	Shellfish Harvesting	Fecal Coliform
CT-E2_014	LIS EB Shore - Niantic Bay (West)	Shellfish Harvesting	Fecal Coliform
CT-E2_015	LIS EB Shore - Niantic Bay (Black Pt)	Shellfish Harvesting	Fecal Coliform
CT-E2_016	LIS EB Shore - Pattagansett River Mouth	Shellfish Harvesting	Fecal Coliform
CT-E2_017	LIS EB Shore - Rocky Neck (Fourmile River)	Shellfish Harvesting	Fecal Coliform
CT-E2_018	LIS EB Shore - Soundview Beach	Shellfish Harvesting	Fecal Coliform
CT-E2_020	LIS EB Shore - Willard Bay	Shellfish Harvesting	Fecal Coliform
CT-E2_022	LIS EB Shore - Indiantown Harbor	Shellfish Harvesting	Fecal Coliform
CT-E3_001	LIS EB Midshore - Stonington	Shellfish Harvesting	Fecal Coliform

CT-E3_006	LIS EB Midshore - Niantic Bay	Shellfish Harvesting	Fecal Coliform
CT-E3_007	LIS EB Midshore - East Lyme, Rocky Neck	Shellfish Harvesting	Fecal Coliform
CT-E3_008	LIS EB Midshore - Old Lyme, CT River	Shellfish Harvesting	Fecal Coliform
CT-E3_010	LIS EB Midshore - Old Saybrook	Shellfish Harvesting	Fecal Coliform
CT-E3_011	LIS EB Midshore - Old Saybrook, Indian Harbor	Shellfish Harvesting	Fecal Coliform
CT-W3_013	LIS WB Midshore - Outer Cos Cob Harbor, Greenwich	Shellfish Harvesting for Direct Consumption Where Authorized	Fecal Coliform

In summary, EPA recognizes that Connecticut’s delisting in 2016 of these previously listed thirty-seven waterbody segment/impairments has been done in accordance with 40 CFR Section 130.7(b) and EPA guidance referenced above. For each of the waterbody segment/impairments delisted from Category 5 to Category 4-A, EPA agrees that the state has reasonably concluded that the identified impairments no longer need to be on the 2016 Section 303(d) list because the impairment is now the subject of an EPA-approved TMDL.

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

Table 3-8 of the IWQR provides a full detailed reconciliation of all the changes made between the 2014 and 2016 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 2016 Section 303(d) list because the segment is now meeting water quality standards for the identified impairment, the reason for the original listing has been addressed, the impairment did not originally require listing, or a TMDL for the impairment has been approved by EPA.

**Other Changes Noted in Connecticut’s 2016 IWQR.**

Waterbody Segments in Category 4-A

Twelve waterbody segment/impairment causes that were in Category 4A (under the Statewide Bacteria TMDL) are being removed from Category 4A and placed in Category 2. Ten of these changes are based upon data showing that the waters now attain CT’s bacteria criterion for E. coli. The ten non-bathing beach waters demonstrated attaining the geometric mean criterion of 126/100ml for E. coli, each with a sufficiently robust set of samples. The other two segments, Wadsworth Falls State Park Pond (Middletown) and Bicentennial Pond (Mansfield) have designated bathing beaches on them. Monitoring data for Wadsworth Falls State Park Pond show that in nine years the beach has been closed 2.3% of the time due to single sample maximum exceedances, the threshold used for designated beach posting. This is far less than the standard set by CT DEEP of a maximum of 10% closure during swimming season. In fact, in no one year during the nine year monitoring period did the beach reach 10% closure. Data submitted by the Town of Mansfield during the public comment period supports CT DEEP’s decision to move Bicentennial Pond (CT3207-16-1-L1\_01) from Category 4A to Category 2.

The data show that since 2012 there have been no levels of E. coli above the single sample maximum and consequently no beach closures. These twelve waterbody segments are placed in Category 2 as no longer impaired for recreation.

**Table 4:** Waterbody segment/impairments being removed from Category 4A and placed in Category 2

Segment ID#	Waterbody name	Use restored	Pollutant meeting WQS
CT3207-16-1-L1_01	Bicentennial Pond (Mansfield)	Recreation	Escherichia coli
CT3300-02_01	Long Branch Brook (Thompson)-01	Recreation	Escherichia coli
CT4300-32_01	Minister Brook (Simsbury)-01	Recreation	Escherichia coli
CT4300-33_01	Russell Brook (Simsbury)-01	Recreation	Escherichia coli
CT4309-00_01	Cherry Brook (Canton)-01	Recreation	Escherichia coli
CT4317-00_01	Nod Brook (Avon/Simsbury)-01	Recreation	Escherichia coli
CT4607-00-UL_pond_01	Wadsworth Falls State Park Pond (Middletown)	Recreation	Escherichia coli
CT5207-02-1-L1_01	Allen Brook Pond (North Haven/Wallingford)	Recreation	Escherichia coli
CT7105-01_01	West Branch Pequonnock River (Monroe)-01	Recreation	Escherichia coli
CT7302-00_02	Silvermine River (Norwalk/New Canaan)-02	Recreation	Escherichia coli
CT7401-00_03	Fivemile River (New Canaan)-03	Recreation	Escherichia coli
CT7401-05_01	Holy Ghost Fathers Brook (Norwalk)-01	Recreation	Escherichia 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 2016 IWQR does not include any waterbody segment/impairments that are being added to Category 4-B. One waterbody segment/impairment, Eightmile River (Southington)-01 (CT5201-00\_01), is being removed from Category 4-B and placed in Category 2 during the 2016 listing cycle. This segment of the Eightmile River was listed in Category 4-B since 2002 due to fish contamination resulting from a release of PCBs from storage tanks. The impacted area was extensively remediated and confirmatory sampling conducted. CT DPH released a 2016 public health evaluation of fish tissue contaminant data in the Quinnipiac and Eightmile Rivers that found that PCBs in fish have decreased to acceptable levels. The fish consumption advisory has

been lifted as consumption over a long period of time would not be harmful to human health. The segment is now attaining its designated use for fish consumption.

This waterbody is included in the IWQR and is included here for completeness sake. EPA is taking no action on this water removed from Category 4-B.

#### 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. A number of additions are being made to Category 4C during this listing cycle. The 2011 Connecticut Stream Flow Standards and Regulations and collection of data to identify waters impaired for flow has resulted in 37 waterbody segments being placed in Category 4C in 2016. These waters do not meet their designated use for habitat for fish, other aquatic life, and wildlife and are listed as impaired for flow alterations, a non-pollutant.

**Table 5:** Waterbody segments being added to Category 4-C due to flow alterations

<b>Segment ID#</b>	<b>Waterbody name</b>
CT2102-00_02	Copps Brook (Stonington/North Stonington)-02
CT2103-00_03	Seth Williams Brook-03
CT2202-00_01	Latimer Brook (East Lyme)-01
CT2202-00_02	Latimer Brook-02
CT2205-00_01	Pattagansett River-01
CT2205-00_02	Pattagansett River-02
CT2206-00_01	Bride Brook (East Lyme)-01
CT3000-02_01	Billings Avery Brook (Ledyard)-01
CT3004-00_01	Oxoboxo Brook-01
CT3103-00_02	Furnace Brook (Stafford)-02
CT3708-00_01	Little River (Putnam/Woodstock)-01
CT4302-00_03	Mad River (Winchester)-03
CT4314-00_01	Coppermine Brook (Bristol)-01
CT4314-08_01	Polkville Avenue Brook (Bristol)-01
CT4316-01_01	Chidsey Brook (Avon)-01
CT4500-12_03	Lydall Brook (Manchester)-03
CT4504-00_02	Hop Brook (Manchester)
CT4504-01_01	Porter Brook (Manchester)-01
CT4504-03_01	Birch Mountain Brook (Manchester)-01
CT5112-00_03b	Farm River (North Branford)-03b
CT5112-05_01	Gulf Brook (North Branford)-01
CT5200-00_02	Quinnipiac River (North Haven/Meriden)-02
CT5200-00_04	Quinnipiac River-04
CT5200-00_05	Quinnipiac River-05
CT5200-00_06	Quinnipiac River-06

CT5200-00_07	Quinnipiac River-07
CT5205-00_01	Sodom Brook-01
CT5206-00_01	Harbor Brook (Meriden)-01
CT5206-00_03	Harbor Brook (Meriden)-03
CT5208-00_02a	Muddy River (North Haven)-02a
CT5302-00_02	Mill River
CT5302-00_03	Mill River
CT6005-01_01	Burton Brook (Salisbury)-01
CT6806-00_01	Transylvania Brook (Southbury)-01
CT6900-40_02	Beaver Brook (Ansonia)-02
CT7301-00_01	Comstock Brook (Wilton)-01
CT7403-00_02	Noroton River-02

These waterbodies are included in the IWQR and are included here for completeness sake. EPA is taking no action on the waters added to Category 4-C.

#### Other Waterbody Segment Changes

Farm River (North Branford)-03 was split into two segments during the 2016 listing cycle. CT5112-00\_03 was split into Farm River (North Branford)-03a (CT5112-00\_03a) and Farm River (North Branford)-03b (CT5112-00\_03b). No change in assessment was made.

One waterbody segment listing was corrected in the IWQR. LIS EB Midshore - Waterford, Thames River (CT-E3\_005-SB) was included in error on the Category 4-A table in the 2014 IWQR. The segment was not part of the Long Island Sound TMDL and was incorrectly placed on Table 3-5 of the 2014 IWQR. It was, however, correctly listed in Category 5 as well. In the 2016 IWQR, CT DEEP adjusted figures and tables to correct this error. The segment was removed from Table 3-5 in the 2016 IWQR and remains impaired in Category 5 for habitat for marine fish, other aquatic life and wildlife.

#### **Priority Ranking**

EPA reviewed Connecticut's priority ranking of listed waters for TMDL development and concludes that the state properly took into account 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. Table 3-9 of the 2016 IWQR details the priority ranking of waters for TMDL development by the state in the next two years.

After a lengthy public process, CT DEEP released its document entitled *Integrated Water Resource Management, January 2017* ([http://www.ct.gov/deep/lib/deep/water/integrated\\_water\\_quality\\_management/official\\_response\\_to\\_comments\\_documents/signaturefinal.pdf](http://www.ct.gov/deep/lib/deep/water/integrated_water_quality_management/official_response_to_comments_documents/signaturefinal.pdf)) detailing the state's larger vision for addressing impaired and protecting unimpaired waters in CT. Drawing from that document, the state also included within the IWQR a list of waters selected for action plan development by 2022 (Table 3-10). Such action 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 2016 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 2016 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 2016 Section 303(d) list.