

**Clean Water Act section 303(d): Availability of List Decisions**

**AGENCY:** Environmental Protection Agency (EPA)

**ACTION:** Notice of Availability

**SUMMARY:** This action announces the availability of EPA decisions identifying water quality limited segments and associated pollutants in New Hampshire to be listed pursuant to Clean Water Act Section 303(d)(2), and requests public comment. Section 303(d)(2) requires that states submit and EPA approve or disapprove lists of waters for which existing technology-based pollution controls are not stringent enough to attain or maintain state water quality standards and for which total maximum daily loads (TMDLs) must be prepared.

EPA has partially approved and partially disapproved New Hampshire's 2004 submittal. Specifically, EPA approved New Hampshire's listing of 637 waterbody segments (5189 including mercury impairments), associated pollutants and priority rankings. EPA disapproved New Hampshire's decision not to list five water quality limited segments and associated pollutants. EPA identified these additional waterbody segments, pollutants, and priority rankings for inclusion on the 2004 303(d) list.

EPA is providing the public the opportunity to review its

decision to add waters and pollutants to New Hampshire's 2004 Section 303(d) list, as required by EPA's Public Participation regulations. EPA will consider public comments in reaching its final decision on the additional water bodies and pollutants identified for inclusion on New Hampshire's final list.

**DATES:** Comments must be submitted to EPA on or before [**insert date 30 days after publication date**].

**ADDRESSES:** Comments on the proposed decisions should be sent to Al Basile, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100 (CWQ), Boston, MA 02114-2023, telephone (617) 918-1599, email

[basile.alfred@epa.gov](mailto:basile.alfred@epa.gov). Oral comments will not be considered.

Copies of the proposed decisions concerning New Hampshire which explain the rationale for EPA's decision can be obtained from the EPA website at [www.epa.gov/region1/eco/tmdl/index.html](http://www.epa.gov/region1/eco/tmdl/index.html) or by writing or calling Mr. Basile at the above address. Underlying documentation comprising the record for these decisions are available for public inspection at the above address.

**FOR FURTHER INFORMATION CONTACT:** Al Basile at (617) 918-1599 or [basile.alfred@epa.gov](mailto:basile.alfred@epa.gov).

**SUPPLEMENTARY INFORMATION:** Section 303(d) of the Clean Water Act (CWA) requires that each state identify those waters for which existing technology-based pollution controls are not stringent enough to attain or maintain state water quality standards. For those waters, states are required to establish TMDLs according to a priority ranking.

EPA's Water Quality Planning and Management regulations include requirements related to the implementation of Section 303(d) of the CWA [40 CFR 130.7]. The regulations require states to identify water quality limited waters still requiring TMDLs every two years. The lists of waters still needing TMDLs must also include priority rankings and must identify the waters targeted for TMDL development during the next two years [40 CFR 130.7]. On March 31, 2000, EPA promulgated a revision to this regulation that waived the requirement for states to submit section 303(d) lists in 2000 except in cases where a court order, consent decree, or settlement agreement required EPA to take action on a list in 2000 [65 FR 17170].

Consistent with EPA's regulations, New Hampshire submitted to EPA its listing decisions under section 303(d)(2) on April 1, 2004. EPA approved New Hampshire's listing of 637 waterbody

segments (5189 including mercury impairments) and associated priority rankings. EPA disapproved New Hampshire's decision not to list five water quality limited segments and associated pollutants. EPA identified these additional waters and pollutants along with priority rankings for inclusion on the 2004 section 303(d) list. EPA solicits public comment on its identification of five additional waters and associated pollutants for inclusion on New Hampshire's 2004 Section 303(d) list.

Dated: **June 14, 2005**

**Linda M. Murphy, Director**

**Office of Ecosystem Protection**

**U.S. EPA, New England Regional Office**