



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

JAN 13 2015

Mr. Mark Klotz
Director
Division of Water
New York State Department of Environmental Conservation
625 Broadway
Albany, New York 12233-3500

Dear Mr. Klotz:

Thank you for your submittal of New York's 2014 Clean Water Act (CWA) Section 303(d) list, dated November 3, 2014. In accordance with Section 303(d) of the Clean Water Act and Title 40 of the Code of Federal Regulations (CFR) Section 130.7, the U.S. Environmental Protection Agency (EPA) conducted a complete review of New York's Section 303(d) list and supporting documentation and information.¹ The statutory and regulatory requirements and EPA's review of New York State's compliance with each requirement are described in the enclosed Supporting Documentation.

Section 303(d) of the CWA and EPA's implementing regulations at 40 CFR 130.7 require the New York State Department of Environmental Conservation (NYSDEC) to identify waters within its boundaries for which technology-based and other controls are not stringent enough to implement any water quality standards applicable to those waters. Under EPA's regulations at 40 CFR 130.7(b)(4), the NYSDEC is required to identify the pollutants causing the impairment of the listed waters. Section 303(d) further requires the NYSDEC to establish a priority ranking for the listed waters, taking into account the severity of the pollution and the designated uses of the listed waters. Finally, NYSDEC is required to identify the waters targeted for TMDL development over the next two years.

New York State's 2014 Section 303(d) list identifies 834 waterbody segment/pollutant combinations requiring TMDLs. Of these, the NYSDEC has identified 121 as high priority waters targeted for development of TMDLs over the next two years.

New York State announced the availability of the 2014 Section 303(d) list in the State's Environmental Notice Bulletin on January 29, 2014, and provided a 45-day comment period, which ended on March 14, 2014. New York State prepared a response to comments summary document.

Based upon our review of the submittal, EPA partially approves and partially disapproves New York's 2014 Section 303(d) list. Specifically, EPA approves New York's decision to list waterbody segments and associated pollutants set forth in the November 3rd listing document along with the State's priority ranking for these waters and pollutants. However, EPA disapproves the State's decision not to list Jones Inlet/Jones Bay for nitrogen because anecdotal and photographic evidence indicates exceedances of New York State's narrative water quality standard for nutrients. Further detail is provided in the attached Supporting Documentation.

¹ 303(d) List dated 11/3/14, Category 4 Waters dated 1/5/15, Response to Comments dated 1/7/15 and delisting Document dated 11/3/14.

Pursuant to this partial disapproval, EPA will open a public comment period to receive comments concerning our decision to add Jones Inlet/Jones Bay to the State's 303(d) list. After examining comments received from the public, EPA will make any appropriate revisions to its decision and provide New York with a final action on the listing of Jones Inlet/ Jones Bay on New York's 2014 Section 303(d) list.

We look forward to continued cooperation with New York State in implementing the requirements under Section 303(d) of the CWA. Please feel free to contact me at 212-637-3873, or your staff may contact Dana Flint at 212-637-3635 if you have any further questions on this issue.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jeff Gratz', with a long horizontal flourish extending to the right.

Jeff Gratz, Deputy Director
Clean Water Division

Enclosure