



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

February 7, 2022

Martin Suuberg, Commissioner  
Department of Environmental Protection  
One Winter Street  
Boston, MA 02108

Re: 2018-2020 §303(d) List

Dear Commissioner Suuberg,

Thank you for submitting Massachusetts' 2018-2020 §303(d) list of water quality limited segments (WQLSs) on January 5, 2022<sup>1</sup>. In accordance with §303(d) of the Clean Water Act (CWA) and 40 CFR §130.7, the U.S. Environmental Protection Agency (EPA) has conducted a review of the Commonwealth's list, including supporting documentation. Based on this review, EPA has determined that Massachusetts' list of WQLSs still requiring total maximum daily loads (TMDLs) meets the requirements of §303(d) of the Clean Water Act ("CWA" or "the Act") and EPA implementing regulations. Therefore, EPA hereby approves Massachusetts' 2018-2020 final §303(d) list.

The Section 303(d) list was submitted as part of the "Final Massachusetts Integrated List of Waters for the Clean Water Act 2018-2020 reporting cycle" beginning on page 118. This 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 Massachusetts' TMDL strategy, which describes the priority setting approach and identifies those waters for which TMDLs, alternatives, and/or protection plans will be completed and submitted during the next year. The statutory and regulatory requirements, and EPA's review of Massachusetts' compliance with each requirement, are described in detail in the enclosed approval document. The Massachusetts Department of Environmental Protection (MassDEP) has also successfully completed a public participation process during which the public was given the opportunity to review and comment on the 2018-2020 Section 303(d) list. As a result of this effort, Massachusetts has considered public comments in the development of the final list. The public comments and MassDEP's responses to those comments were included in the Commonwealth's final submittal.

In reviewing the 2016 §303(d) submission from Massachusetts we noted that MassDEP had not been able to assess the aquatic life use for waterbodies in the Taunton River watershed (and some others) given its rotating basin assessment approach. We encouraged MassDEP to consider

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<sup>1</sup> Original letter incorrectly cited a submission date of January 5, 2021

all data and information regarding eutrophication and nutrient loadings in the Taunton River estuary in the Commonwealth's subsequent §303(d) list submission. That data review occurred for this cycle and resulted in several new nutrient-related and dissolved oxygen listings for the Taunton River estuary.

As noted in prior correspondence, EPA would like to work with MassDEP to develop a better eelgrass assessment methodology for future lists. Eelgrass beds are protected resources under the Clean Water Act and must be assessed against the existing habitat use as established at the time of the Act. Using 1995 as a baseline to assess against is not in accordance with the Act, as this ignores decades of potential loss between the establishment of the Act and the time of the 1995 statewide eelgrass survey. That being said, we understand there is a lack of valid data to support a quantitative analysis of eelgrass bed extent prior to 1995 in Massachusetts. MassDEP has noted it is willing to explore with EPA staff the potential and availability of other data that may suggest earlier indicators of declining water quality and bed impacts, such as depth distribution, shoot density and/or aboveground biomass of eelgrass beds for future iterations of CALM guidance related to eelgrass bed habitat. We look forward to this future collaboration.

Thank you for your hard work in developing the 2018-2020 §303(d) list. My staff and I look forward to continuing our work with MassDEP to implement the requirements under §303(d) of the CWA. If you have any questions or need additional information, please contact Ivy Mlsna at 617-918-1311.

Sincerely,

Ken Moraff, Director  
Water Division

Enclosure

cc: MassDEP: Richard Carey, Art Johnson, Richard Chase, Laurie Kennedy  
EPA: Ivy Mlsna, Greg Dain, Jackie LeClair