

EPA REVIEW OF MASSACHUSETTS' 2022 SECTION 303(d) LIST

I. INTRODUCTION

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 Massachusetts' 2022 303(d) list and supporting documentation and information. The enclosed supporting documentation describes the statutory and regulatory requirements and EPA's review of Massachusetts' compliance with them. Based upon EPA's review of the submittal, EPA is partially approving and partially deferring on the Massachusetts 2022 303(d) list. Specifically, EPA is deferring action on waters subject to the Secondary Contact Recreation Use that meet the following two conditions: 1) the waters are not included as impaired or threatened on the list submitted by the state and 2) there are data and information for the water pertaining to bacteria impairment status. EPA is deferring action on these waters while EPA works in the near term with the State on approaches for assessing data and information regarding bacteria and the Secondary Contact Recreation Use.

The statutory and regulatory requirements for Massachusetts' 2022 section 303(d) list, and EPA's review of Massachusetts compliance with each requirement, are described in detail below.

II. STATUTORY AND REGULATORY BACKGROUND

Identification of Water Quality Limited Segments for Inclusion on the 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 §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 non-attainment 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). Massachusetts considered all existing and readily available data that it was able to validate for this listing cycle pertinent to the specific uses and watersheds identified for assessment during this cycle per its rotating basin plan.

In addition to these minimum categories, States are required to consider any other data and information that is existing and readily available. Given that the external data submission deadline for the 2022 list passed on January 15, 2021, it is EPA's understanding that none of the data submitted solely through the public comment process (i.e., not through the WQX by the communicated deadline) will be considered in this cycle. EPA's 2006 Integrated Report (IR) 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 EPA.

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 Integrated Report Guidance memoranda and attachments.

III. ANALYSIS OF MASSACHUSETTS' SUBMISSION

On November 16, 2022, the Massachusetts Department of Environmental Protection (MassDEP) released for public comment and review a draft version of its 2022 section 303(d) list as part of the State's 2022 Integrated Report (IR). Public comments on the draft version of the 2022 Integrated Report were accepted until January 6, 2023 (extended at public request following an initial December 23, 2022, deadline). The final version of the 2022 Integrated Report including the Section 303(d) list was issued on May 23, 2023. The State's May 23, 2023 Integrated Report submittal included the following specific components:

1. The Commonwealth of Massachusetts' 2022 Integrated Report narrative document containing summary tables for each integrated list category, including Category 5, the section 303(d) list;
2. IR Appendices 1-5 which presents a list of EPA-approved "actions" addressed since the 2016 IR cycle, tables of Assessment Unit (AU) and integrated list categories by major watershed, impairments changed from the prior reporting cycle, and impairments added to or removed from the 2022 Integrated List, including the section 303(d) list;
3. IR Appendices 6-26 containing supporting data and rationale for delisting decisions for each of the 21 watersheds assessed during this cycle;
4. IR Appendix 27 containing all changes made between the release of the proposed list (i.e., public review draft) and the final version
5. Massachusetts' Response to Public Comments on the November 16, 2022, draft Integrated Report and 303(d) list.

Massachusetts' section 303(d) list contains water segments for which available data and/or other information indicates that a water segment is not meeting water quality standards because it is impaired or threatened by one or more pollutants for one or more designated uses, and for which a TMDL is therefore required to be established. EPA's regulations at 40 CFR §130.7 require EPA to review and approve, or disapprove, a state's section 303(d) list.

The 2022 reporting cycle included the review of new data pertaining to all Uses in 21 watersheds. Due to time constraints, limited resources, and data limitations, a statewide assessment of new data sources for all watersheds was not feasible. The 2022 IR assigns each of the State's 2,785 total assessment units (AUs) to one of the following five

categories depending upon their status with respect to the support of their designated uses: 1) Unimpaired and not threatened for all designated uses; 2) Unimpaired for some uses and not assessed for others; 3) Insufficient information to make assessments for any uses; 4) Impaired or threatened for one or more uses, but not requiring the calculation of a TMDL; or 5) Impaired or threatened for one or more uses and requiring a TMDL.

Pursuant to EPA's Integrated Report Guidance related to assessment and listing of waters pursuant to sections 305(b) and 303(d) of the CWA, States list their waters in one or more of five categories, depending on the status of each water body's attainment of water quality standards. Category 5 corresponds to the section 303(d) list. Category 4 is comprised of waters that are not meeting water quality standards, but for which a TMDL need not be established due to one of three reasons. Category 4A contains waters for which a TMDL has already been established and approved by EPA. Category 4B includes waters, for which an impairment caused by a pollutant is being addressed through other pollution control requirements. Category 4C contains waters that are not attaining water quality standards due to pollution that is not associated with a pollutant. Although waters in Category 4 are not on the section 303(d) list, EPA reviews a State's Category 4 list to ensure that the waters are categorized appropriately and do not, in fact, belong on the section 303(d) list. MassDEP included waters in Category 4 with its 2022 submission to EPA.

On November 16, 2022, along with the draft Integrated Report and 303(d) list, MassDEP released the Massachusetts Consolidated Assessment and Listing Methodology (CALM) Guidance Manual for the 2022 Reporting Cycle which provides the methods and rationale for making the assessment decisions embodied in the 2022 IR.

For MassDEP's 2022 Integrated Report, quality-controlled data submitted to MassDEP prior to the pre-established deadline of January 15, 2021 were considered, relative to the 21 watersheds newly assessed based on new data.

Public Participation

MassDEP conducted a public participation process, in which it provided the public an opportunity to review and comment on the State's draft 2022 Integrated Report and section 303(d) list. A public comment period opened on November 16, 2022 and closed on January 6, 2023 (extended at public request following an initial December 23, 2022 deadline). The Draft 2022 IR was placed on the MassDEP web site and notice of its availability for public review and comment was provided by electronic mail to approximately 150 watershed associations and other interested parties. The notice also appeared in Vol. 95, Issues 22 and 24 of the Massachusetts Environmental Monitor (11/23 and 12/23 publication dates). A total of 14 public comment transmittals were received by the end of the extended public review period. On May 23, 2023 MassDEP released the final version of the 2022 Integrated Report and section 303(d) list which included the responses to all comments received on the draft Integrated Report and section 303(d) list. MassDEP responded to comments in two parts: Part 1 consists of responses to comments that were common themes from multiple commenting parties; and

Part 2 consists of responses to individual comments. Comment letters were submitted by: Environmental Protection Agency Region 1, Massachusetts Rivers Alliance, City of New Bedford, Hoosic River Watershed Association, Ipswich River Watershed Association, Jones River Watershed Association, Charles River Watershed Association, Berkshire Environmental Action Team, Organization for the Assabet, Sudbury, and Concord Rivers (OARS), Buzzards Bay Coalition, Neponset River Watershed Association, Lake Archer Association, Sustainable Hyde Park, Sustainable Roslindale, and Connecticut River Conservancy.

Common themes from commenters, included, notably: MassDEP should provide more explicit feedback and rationale to external groups on why submitted data were not utilized for assessment and listing decisions, as part of improving communication with external partners; concern for the age of data used in making listing determinations; and recommendations that MassDEP's IR and Surface Water Quality Standards (SWQS) should be consistent with the Division of Fisheries and Wildlife's (DFW) Coldwater Fishery Resource (CFR) list where applicable. MassDEP provided responses and plans for future reporting cycles in the Response to Comments document.

EPA has reviewed the language within MassDEP's Integrated Report and associated documents addressing areas of public concern as well as MassDEP's responses to public comments.

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 the majority of its section 303(d) list in compliance with section 303(d) of the Act and 40 CFR § 130.7, although as noted earlier EPA is deferring action to approve or to disapprove the State's decisions relating to waters subject to the Secondary Contact Recreation Use that meet the following two conditions 1) the waters are not included as impaired or threatened on the list submitted by the state and 2) there are data and information for the water pertaining to bacteria impairment status. 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.

Massachusetts used the MassDEP assessment database to develop its 2022 section 303(d) list. The same database was used to assist in the preparation of the biennial section 305(b) report. MassDEP provides ongoing notice on its website to request data from outside sources. Information received from outside sources was assessed in accordance with the State's assessment methodology. In the development of the 2022 section 303(d) list, Massachusetts began with its existing EPA-approved 2018-2020 section 303(d) list and relied on new or previously unused water quality assessments to update the list accordingly. Massachusetts believes that information pertaining to impairment status must be well substantiated for it to be used in section 303(d) listing.

The assessment and listing decisions for the 2022 IR were based on MassDEP's water and biological monitoring data, effluent and ambient water quality data submitted in fulfillment of NPDES permit requirements, and data from external sources. Although specific data sources are cited in the individual watershed decision summaries, most of the external sources of data used for the 2022 assessments are listed below:

- MA DFG fish community sampling and Target Fish Community (TFC) Models
- MA DFG Division of Ecological Restoration (DER) dam removal and habitat restoration projects
- MA DMF diadromous fish passage information (limited to the near shore coastal waters) and shellfish growing area classifications
- MA DPH harmful algae bloom reports, fish consumption advisories, and public beach (bacteria) postings
- MWRA
- UMass-Dartmouth School of Marine Science and Technology (SMAST) (MEP project)
- U.S. Geological Survey (USGS)
- EPA
- Buzzards Bay Coalition (BBC)
- Cohasset Center for Student Coastal Research (CSCR)
- Connecticut River Conservancy (CRC)
- Deerfield River Watershed Association (DRWA)
- French River Connection
- Housatonic Valley Association (HVA)
- Ipswich River Watershed Association (IRWA)
- Millers River Watershed Council (MRWC)
- Mystic River Watershed Association (MyRWA)
- North and South Rivers Watershed Association (NSRWA)
- OARs for the Assabet, Sudbury and Concord Rivers (OARS)
- UMass-Dartmouth School of Marine Science and Technology (SMAST)/Plymouth Ponds

EPA tracks the states' progress with completing TMDLs and Alternative Restoration Plans in the Assessment and TMDL Tracking and Implementation System (ATTAINS), which can be accessed at <https://www.epa.gov/waterdata/attains>. Note that ATTAINS calculates the category for both the individual impairments and the overall AU. The overall AU category is dictated by use-attainment and the combination of impairment categories. For example, if a waters' Recreational Use is impaired by bacteria and the Aquatic Life Use is impaired by nitrogen, but only the bacteria TMDL has been developed, the overall categorization for the AU is 5, due to need to develop an additional TMDL. MassDEP reports the overall AU classification. It should be noted that the Massachusetts Department of Public Health statewide advisory pertaining to the prohibitive consumption of finfish by sensitive populations precludes any waters from

being in full support of the fish consumption use and, therefore, no waters are listed in Category 1.

Waterbody Segment/Impairments newly listed on Massachusetts’ 2022 section 303(d) list

A total of 274 new pollutant impairments were added to new or existing AUs (see Appendix 3 of the Integrated Report). There were 64 impairment changes as a result of association with new or previously developed TMDLs. The waterbody segment/impairments noted in Appendix 3 were identified by new assessments during this listing cycle and were thus placed in Category 5, the Section 303(d) list.

Waterbody Segment/Impairments removed from Massachusetts’ section 303(d) list in the 2022 cycle

As noted above, MassDEP reports the overall AU category for each water, which can result in the delisting of impairments from impaired waters (i.e., additional impairments for the AU remain). The following tables list impairments removed within Category 5 waters. 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 2022 Section 303(d) list. This may be because the segment is now meeting water quality standards for the identified impairment or has an EPA-approved TMDL that addresses that impairment. Some impairments have been “refined,” or removed and substituted with a more appropriate impairment. This includes the “remapping” of some impairments from a “pollutant” to “pollution only”, or vice versa.

Category 5 waters with impairments removed

Watershed	Waterbody	AU_ID	Impairment	Explanation
Hudson: Hoosic	Cheshire Reservoir, North Basin	MA11002	Non-Native Aquatic Plants	Impairment removed, new impairment substituted (refinement)
Hudson: Hoosic	Cheshire Reservoir, South Basin	MA11019	Non-Native Aquatic Plants	Impairment removed, new impairment substituted (refinement)
Millers	Lake Rohunta	MA35107	Aquatic Plants (Macrophytes)	Not caused by a pollutant, impairment still exists
Quinebaug	Sibley Pond	MA41047	Aquatic Plants (Macrophytes)	Applicable WQS attained; based on new data
Quinebaug	Sibley Pond	MA41048	Aquatic Plants (Macrophytes)	Applicable WQS attained; based on new data
Quinebaug	Pistol Pond	MA41057	Aquatic Plants (Macrophytes)	Not caused by a pollutant, impairment still exists

French	Webster Lake	MA42064	Non-Native Fish/Shellfish/Zooplankton	Impairment removed, new impairment substituted (refinement)
Ten Mile	Central Pond	MA52006	Aquatic Plants (Macrophytes)	Not caused by a pollutant, impairment still exists
Ten Mile	Lake Como	MA52010	Non-Native Aquatic Plants	Impairment removed, new impairment substituted (refinement)
Ten Mile	James V. Turner Reservoir	MA52022	Aquatic Plants (Macrophytes)	Not caused by a pollutant, impairment still exists
Ten Mile	Plain Street Pond	MA52032	Non-Native Aquatic Plants	Impairment removed, new impairment substituted (refinement)
Mount Hope Bay (Shore)	Mount Hope Bay	MA61-07	Enterococcus	Applicable WQS attained; based on new data
Taunton	Ames Long Pond	MA62001	Aquatic Plants (Macrophytes)	Not caused by a pollutant, impairment still exists
Taunton	Monponsett Pond, West Basin	MA62119	Chlorophyll-a	TMDL approved or established by EPA (4a)
Taunton	Monponsett Pond, West Basin	MA62119	Harmful Algal Blooms	TMDL approved or established by EPA (4a)
Taunton	Monponsett Pond, West Basin	MA62119	Phosphorus, Total	TMDL approved or established by EPA (4a)
Taunton	Monponsett Pond, West Basin	MA62119	Transparency / Clarity	TMDL approved or established by EPA (4a)
Taunton	Rumford River	MA62-63	Fish Bioassessments	Applicable WQS attained; reason for recovery unspecified
Boston Harbor: Mystic	Mystic River	MA71-02	Non-Native Aquatic Plants	Impairment removed, new impairment substituted (refinement)
Concord (SuAsCo)	Carding Mill Pond	MA82015	Aquatic Plants (Macrophytes)	Not caused by a pollutant, impairment still exists
Concord (SuAsCo)	Saxonville Pond	MA82097	Aquatic Plants (Macrophytes)	Not caused by a pollutant, impairment still exists
Concord (SuAsCo)	Saxonville Pond	MA82097	Non-Native Aquatic Plants	Impairment removed, new impairment substituted (refinement)
Concord (SuAsCo)	Lake Cochituate	MA82125	Non-Native Fish/Shellfish/Zooplankton	Impairment removed, new impairment substituted (refinement)

Concord (SuAsCo)	Lake Cochituate	MA82125	Enterococcus	Applicable WQS attained; based on new data
Concord (SuAsCo)	Lake Cochituate	MA82126	Non-Native Fish/Shellfish/Zooplankton	Impairment removed, new impairment substituted (refinement)
Concord (SuAsCo)	Sudbury River	MA82A-03	Non-Native Fish/Shellfish/Zooplankton	Impairment removed, new impairment substituted (refinement)
Concord (SuAsCo)	Concord River	MA82A-07	Non-Native Aquatic Plants	Impairment removed, new impairment substituted (refinement)
Concord (SuAsCo)	Concord River	MA82A-07	Non-Native Fish/Shellfish/Zooplankton	Impairment removed, new impairment substituted (refinement)
Concord (SuAsCo)	Concord River	MA82A-08	Non-Native Aquatic Plants	Impairment removed, new impairment substituted (refinement)
Shawsheen	Fosters Pond	MA83005	Non-Native Aquatic Plants	Impairment removed, new impairment substituted (refinement)
Shawsheen	Ballardvale Impoundment	MA83011	Aquatic Plants (Macrophytes)	Not caused by a pollutant, impairment still exists
Shawsheen	Ballardvale Impoundment	MA83011	Non-Native Aquatic Plants	Impairment removed, new impairment substituted (refinement)
Parker	Mill River	MA91-08	Aquatic Plants (Macrophytes)	Impairment removed, new impairment substituted (refinement)
Ipswich	Lowe Pond	MA92034	Non-Native Aquatic Plants	Impairment removed, new impairment substituted (refinement)
Ipswich	Martins Pond	MA92038	Non-Native Aquatic Plants	Impairment removed, new impairment substituted (refinement)

Ipswich	Unnamed Tributary	MA92-12	Oil and Grease	Clarification of listing cause ¹
Ipswich	Unnamed Tributary	MA92-12	Scum/Foam	Clarification of listing cause ²
South Coastal	Crossman Pond	MA94032	Aquatic Plants (Macrophytes)	Not caused by a pollutant, impairment still exists
South Coastal	Oldham Pond	MA94114	Non-Native Fish/Shellfish/Zooplankton	Impairment removed, new impairment substituted (refinement)
South Coastal	Jones River	MA94-12	Aquatic Plants (Macrophytes)	Not caused by a pollutant, impairment still exists
South Coastal	Jones River	MA94-13	Aquatic Plants (Macrophytes)	Not caused by a pollutant, impairment still exists
Buzzards Bay	Noquochoke Lake	MA95113	Aquatic Plants (Macrophytes)	Not caused by a pollutant, impairment still exists
Buzzards Bay	Sampson Pond	MA95125	Non-Native Fish/Shellfish/Zooplankton	Impairment removed, new impairment substituted (refinement)
Buzzards Bay	Noquochoke Lake	MA95170	Aquatic Plants (Macrophytes)	Not caused by a pollutant, impairment still exists
Buzzards Bay	Noquochoke Lake	MA95171	Aquatic Plants (Macrophytes)	Not caused by a pollutant, impairment still exists
Buzzards Bay	Megansett Harbor	MA95-19	Estuarine Bioassessments	TMDL approved or established by EPA (4a)

¹Delisting explanation corrected here per 6/29/23 email exchange with MassDEP. The submitted IR delisting explanation reads “Data and/or information lacking to determine WQ status; original basis for listing was incorrect”. The Assessment Database (ADB) impairment “Foam/Flocs/Scum/Oil Slicks” was previously applied based on field observations by MassDEP staff during summer 2005. Observations noted a flocculent “on everything” on one occasion. The Foam/Flocs/Scum/Oil Slicks” impairment code was subsequently divided into more specific codes and applied automatically to this AU in the 2016 reporting cycle submittal to the new ATTAINS database. Since there was no mention of “Oil and Grease” in the field observations, this impairment is being removed (the impairment for “Flocculant Masses” is being carried forward).

²Delisting explanation corrected here per 6/29/23 email exchange with MassDEP. The submitted IR delisting explanation reads “Data and/or information lacking to determine WQ status; original basis for listing was incorrect”. The Assessment Database (ADB) impairment “Foam/Flocs/Scum/Oil Slicks” was previously applied based on field observations by MassDEP staff during summer 2005. Observations noted a flocculent “on everything” on one occasion. The Foam/Flocs/Scum/Oil Slicks” impairment code was subsequently divided into more specific codes and applied automatically to this AU in the 2016 reporting cycle submittal to the new ATTAINS database. Since there was no mention of “Scum/Foam” in the field observations, this impairment is being removed (the impairment for “Flocculant Masses” is being carried forward).

Buzzards Bay	Megansett Harbor	MA95-19	Nutrient/Eutrophication Biological Indicators	TMDL approved or established by EPA (4a)
Buzzards Bay	Acushnet River	MA95-31	Nutrients	Applicable WQS attained; reason for recovery unspecified
Buzzards Bay	Acushnet River	MA95-32	Nutrients	Applicable WQS attained; reason for recovery unspecified
Buzzards Bay	Squeteague Harbor	MA95-55	Nutrient/Eutrophication Biological Indicators	TMDL approved or established by EPA (4a)
Buzzards Bay	Outer New Bedford Harbor	MA95-63	Metals	Applicable WQS attained, due to restoration activities
Buzzards Bay	Outer New Bedford Harbor	MA95-63	Other Organics	Applicable WQS attained, due to restoration activities
Buzzards Bay	Rands Harbor	MA95-78	Estuarine Bioassessments	TMDL approved or established by EPA (4a)
Buzzards Bay	Rands Harbor	MA95-78	Nitrogen, Total	TMDL approved or established by EPA (4a)
Buzzards Bay	Rands Harbor	MA95-78	Nutrient/Eutrophication Biological Indicators	TMDL approved or established by EPA (4a)
Buzzards Bay	Fiddlers Cove	MA95-79	Dissolved Oxygen	TMDL approved or established by EPA (4a)
Buzzards Bay	Fiddlers Cove	MA95-79	Estuarine Bioassessments	TMDL approved or established by EPA (4a)
Buzzards Bay	Fiddlers Cove	MA95-79	Nitrogen, Total	TMDL approved or established by EPA (4a)
Buzzards Bay	Fiddlers Cove	MA95-79	Nutrient/Eutrophication Biological Indicators	TMDL approved or established by EPA (4a)
Islands	Vineyard Haven Harbor	MA97-09	Fecal Coliform	TMDL approved or established by EPA (4a)
Islands	Lake Tashmoo	MA97-12	Dissolved Oxygen	TMDL approved or established by EPA (4a)
Islands	Lake Tashmoo	MA97-12	Estuarine Bioassessments	TMDL approved or established by EPA (4a)
Islands	Lake Tashmoo	MA97-12	Nitrogen, Total	TMDL approved or established by EPA (4a)
Islands	Lake Tashmoo	MA97-12	Nutrient/Eutrophication Biological Indicators	TMDL approved or established by EPA (4a)
Islands	Edgartown Harbor	MA97-15	Fecal Coliform	TMDL approved or established by EPA (4a)

Additional Waterbody Segment/Impairments proposed for removal from Massachusetts' section 303(d) list in the 2022 cycle – deferring action

The table below denotes those proposed impairment removals from Category 5 waters for which EPA is deferring action.

Watershed	Waterbody	AU_ID	Impairment	delisting proposal
Boston Harbor: Mystic	Chelsea River	MA71-06	Fecal Coliform	Impairment removed from Primary and Secondary Contact Recreational Uses; impairment remains for Shellfish Harvesting Use
Boston Harbor: Mystic	Mystic River	MA71-02	Escherichia Coli (E. Coli)	Impairment removed from Secondary Contact Recreational Use; impairment remains for Primary Contact Recreational Use
Boston Harbor: Mystic	Unnamed Tributary	MA71-13	Escherichia Coli (E. Coli)	Impairment removed from Secondary Contact Recreational Use; impairment remains for Primary Contact Recreational Use
Buzzards Bay	Acushnet River	MA95-32	Enterococcus	Impairment removed from Secondary Contact Recreational Use; impairment remains for Primary Contact Recreational Use
Concord (SuAsCo)	Assabet River	MA82B-05	Escherichia Coli (E. Coli)	Impairment removed from Secondary Contact Recreational Use; impairment remains for Primary Contact Recreational Use
Concord (SuAsCo)	River Meadow Brook	MA82A-10	Escherichia Coli (E. Coli)	Impairment removed from Secondary Contact Recreational Use; impairment remains for Primary Contact Recreational Use
Concord (SuAsCo)	River Meadow Brook	MA82A-10	Fecal Coliform	Impairment removed from Secondary Contact Recreational Use; impairment remains for Primary Contact Recreational Use
Ipswich	Lubbers Brook	MA92-05	Escherichia Coli (E. Coli)	Impairment removed from Secondary Contact Recreational Use; impairment remains for Primary Contact Recreational Use
Mount Hope Bay (Shore)	Kickamuit River	MA61-08	Escherichia Coli (E. Coli)	Impairment removed from Secondary Contact Recreational Use; impairment remains for Primary Contact Recreational Use
Mount Hope Bay (Shore)	Kickamuit River	MA61-08	Fecal Coliform	Impairment removed from Secondary Contact Recreational Use; impairment remains for Primary Contact Recreational Use

Ten Mile	Speedway Brook	MA52-05	Escherichia Coli (E. Coli)	Impairment removed from Secondary Contact Recreational Use; impairment remains for Primary Contact Recreational Use
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Waters that are not listed on Massachusetts 2022 section 303(d) List

The following section provides a summary of MassDEP’s rationale supporting decisions not to include certain newly identified waters and certain previously listed waters on the Commonwealth’s 2022 303(d) list. In watershed-specific Appendices 6-26 of the IR the Commonwealth has demonstrated, to EPA’s satisfaction, good cause for not listing the following waters, as provided in 40 CFR §130.7(b)(6)(iv).

Category 5 (2018-2020) to Category 2 (2022)

Watershed	Waterbody	AU_ID	Impairment	Impairment Change Summary	Explanation
Deerfield	Deerfield River	MA33-03	Escherichia Coli (E. Coli)	Removed	Applicable WQS attained; based on new data
Westfield	Dead Branch (Brook)	MA32-63	Lack of a Coldwater Assemblage	Removed	Applicable WQS attained; based on new data
Westfield	West Falls Branch	MA32-13	Temperature	Removed	Applicable WQS attained; based on new data

Category 5 (2018-2020) to Category 4A (2022)

Watershed	Waterbody	AU_ID	Impairment	Impairment Change Summary	Explanation
Buzzards Bay	East Branch Westport River	MA95-41	Estuarine Bioassessments	Changed	TMDL approved or established by EPA (4a)
Buzzards Bay	East Branch Westport River	MA95-41	Nitrogen, Total	Changed	TMDL approved or established by EPA (4a)
Buzzards Bay	East Branch Westport River	MA95-41	Nutrient/Eutrophication Biological Indicators	Changed	TMDL approved or established by EPA (4a)
Buzzards Bay	Quissett Harbor	MA95-25	Estuarine Bioassessments	Changed	TMDL approved or established by EPA (4a)
Buzzards Bay	Quissett Harbor	MA95-25	Nitrogen, Total	Changed	TMDL approved or established by EPA (4a)

Buzzards Bay	Quissett Harbor	MA95-25	Nutrient/Eutrophication Biological Indicators	Changed	TMDL approved or established by EPA (4a)
Buzzards Bay	Slocums River	MA95-34	Dissolved Oxygen	Added	Pollutant impairment added due to new data/assessment; impairment covered under TMDL
Buzzards Bay	Slocums River	MA95-34	Estuarine Bioassessments	Changed	TMDL approved or established by EPA (4a)
Buzzards Bay	Slocums River	MA95-34	Nitrogen, Total	Changed	TMDL approved or established by EPA (4a)
Buzzards Bay	Slocums River	MA95-34	Nutrient/Eutrophication Biological Indicators	Changed	TMDL approved or established by EPA (4a)
Buzzards Bay	West Branch Westport River	MA95-37	Estuarine Bioassessments	Changed	TMDL approved or established by EPA (4a)
Buzzards Bay	West Branch Westport River	MA95-37	Nitrogen, Total	Changed	TMDL approved or established by EPA (4a)
Buzzards Bay	West Branch Westport River	MA95-37	Nutrient/Eutrophication Biological Indicators	Changed	TMDL approved or established by EPA (4a)
Buzzards Bay	Wild Harbor	MA95-20	Estuarine Bioassessments	Changed	TMDL approved or established by EPA (4a)
Buzzards Bay	Wild Harbor	MA95-20	Nitrogen, Total	Changed	TMDL approved or established by EPA (4a)
Buzzards Bay	Wild Harbor	MA95-20	Nutrient/Eutrophication Biological Indicators	Changed	TMDL approved or established by EPA (4a)
Buzzards Bay	Wild Harbor River	MA95-68	Nutrient/Eutrophication Biological Indicators	Changed	TMDL approved or established by EPA (4a)
Islands	Chilmark Pond	MA97-05	Enterococcus	Changed	TMDL approved or established by EPA (4a)
Islands	Chilmark Pond	MA97-05	Estuarine Bioassessments	Changed	TMDL approved or established by EPA (4a)
Islands	Chilmark Pond	MA97-05	Fecal Coliform	Changed	TMDL approved or established by EPA (4a)
Islands	Chilmark Pond	MA97-05	Nitrogen, Total	Changed	TMDL approved or established by EPA (4a)
Islands	Chilmark Pond	MA97-05	Nutrient/Eutrophication Biological Indicators	Changed	TMDL approved or established by EPA (4a)
Islands	Cuttyhunk Pond	MA97-21	Fecal Coliform	Changed	TMDL approved or established by EPA (4a)
Islands	Nantucket Harbor	MA97-01	Fecal Coliform	Changed	TMDL approved or established by EPA (4a)
Islands	Oak Bluffs Harbor	MA97-07	Fecal Coliform	Changed	TMDL approved or established by EPA (4a)

Islands	Polpis Harbor	MA97-26	Fecal Coliform	Changed	TMDL approved or established by EPA (4a)
Islands	Sengekontacket Pond	MA97-10	Fecal Coliform	Changed	TMDL approved or established by EPA (4a)
Islands	Sesachacha Pond	MA97-02	Fecal Coliform	Changed	TMDL approved or established by EPA (4a)
Islands	Tisbury Great Pond	MA97-18	Dissolved Oxygen	Changed	TMDL approved or established by EPA (4a)
Islands	Tisbury Great Pond	MA97-18	Estuarine Bioassessments	Changed	TMDL approved or established by EPA (4a)
Islands	Tisbury Great Pond	MA97-18	Fecal Coliform	Changed	TMDL approved or established by EPA (4a)
Islands	Tisbury Great Pond	MA97-18	Nitrogen, Total	Changed	TMDL approved or established by EPA (4a)
Islands	Tisbury Great Pond	MA97-18	Nutrient/Eutrophication Biological Indicators	Changed	TMDL approved or established by EPA (4a)
Millers	Lake Rohunta	MA35070	Aquatic Plants (Macrophytes)	Changed	Not caused by a pollutant, impairment still exists
Millers	Lake Rohunta	MA35070	Fanwort	Added	Pollution impairment added due to new data/assessment
Parker	Eagle Hill River	MA91-06	Fecal Coliform	Changed	TMDL approved or established by EPA (4a)
Parker	Egypt River	MA91-14	Fecal Coliform	Changed	TMDL approved or established by EPA (4a)
Parker	Little River	MA91-11	Fecal Coliform	Changed	TMDL approved or established by EPA (4a)
Parker	Mill River	MA91-09	Fecal Coliform	Changed	TMDL approved or established by EPA (4a)
Parker	Paine Creek	MA91-03	Fecal Coliform	Changed	TMDL approved or established by EPA (4a)
Parker	Parker River	MA91-02	Fecal Coliform	Changed	TMDL approved or established by EPA (4a)
Parker	Plum Island River	MA91-15	Fecal Coliform	Changed	TMDL approved or established by EPA (4a)
Parker	Plum Island Sound	MA91-12	Fecal Coliform	Changed	TMDL approved or established by EPA (4a)
Parker	Rowley River	MA91-05	Fecal Coliform	Changed	TMDL approved or established by EPA (4a)
Taunton	Monponsett Pond, East Basin	MA62218	Chlorophyll-a	Changed	TMDL approved or established by EPA (4a)

Taunton	Monponsett Pond, East Basin	MA62218	Harmful Algal Blooms	Changed	TMDL approved or established by EPA (4a)
Taunton	Monponsett Pond, East Basin	MA62218	Phosphorus, Total	Changed	TMDL approved or established by EPA (4a)

Priority Ranking

As described in its methodology, Massachusetts established a priority ranking for listed waters by considering: 1) the presence of public health issues, 2) natural/outstanding resource waters, 3) threat to federally threatened or endangered species, 4) public interest, 5) available resources, 6) administrative or legal factors (i.e., NPDES program support or court order), and 7) the likelihood of implementation after the TMDL has been completed.

Individual priority rankings for listed waters are presented as the date shown on the section 303(d) list which indicates when the TMDL is expected to be completed. EPA finds that the waterbody prioritization and targeting method used by Massachusetts is reasonable and sufficient for purposes of section 303(d). The Commonwealth properly took into account the severity of pollution and the uses to be made of listed waters, as well as relevant factors described above.

Water bodies in Indian country

EPA’s partial approval of Massachusetts’ 2022 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 Massachusetts, the Mashpee Wampanoag Tribe and the Wampanoag Tribe of Gay Head (Aquinnah) of Massachusetts.

Waters impaired by nonpoint sources of pollution

The Commonwealth 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's

Guidance for 2006 Assessment, Listing and Reporting Requirements Pursuant to Sections 303(d), 305(b) and 314 of the Clean Water Act, EPA Office of Water, July 29, 2005.