

**Identification of 71 Waterbody/Pollutant Combinations on the New York State 2016 303(d)
List of Impaired Waters**

Fact Sheet

Section 303(d) of the Clean Water Act (CWA) requires States to identify and submit to the U.S. Environmental Protection Agency (EPA) a list of all waters for which effluent limits and other pollution control requirements are inadequate to attain water quality standards. States must submit their lists (commonly referred to as a state's 303(d) list or list of impaired waters) biennially. As described below, EPA is now acting to finalize the addition of 71 waterbody/pollutant combinations to New York's 2016 303(d) list.

On December 21, 2016, New York State submitted the New York 2016 list of impaired waters to the EPA for approval or disapproval. The EPA evaluated the State's 2016 list of impaired waters for compliance with Section 303(d) of the CWA and applicable regulations, including whether the State assembled and evaluated all existing and readily available water quality-related data and information and properly identified waters required to be listed.

On July 21, 2017, the EPA partially approved and partially disapproved the New York 2016 303(d) list. Specifically, the EPA approved the New York 2016 303(d) list with respect to 792 waterbody/pollutant combinations. The EPA partially disapproved the New York 2016 303(d) list because the EPA determined that New York did not include seventy-one (71) waterbody/pollutant combinations that do not meet the applicable water quality standard and still require a TMDL. These 71 waterbody/pollutant combinations comprise: (1) thirty-eight waterbody/pollutant combinations in Integrated Report Category 4b (i.e., impaired waters where a TMDL is not necessary because other required controls will result in attainment of water quality standards within a reasonable period of time) without adequate justification; (2) one waterbody/pollutant combination delisted from the 2014 303(d) list and moved to Integrated Report Category 4b without adequate justification; (3) four waterbody/pollutant combinations delisted from the 2014 303(d) list without data or information that indicate that New York's water quality standard for dissolved oxygen is met; (4) twenty-six waterbody/pollutant combinations delisted from the 2014 303(d) list without data or information that indicate that New York's narrative nutrients standard is met; and (5) two waterbody/pollutant combinations omitted from the 2016 303(d) list where data or information indicate that New York's water quality standard for dissolved oxygen is not met.

The EPA published two notices in the *Federal Register* and opened two 30-day public comment periods (on August 9, 2017 and September 12, 2017) regarding EPA's decision to identify the 71 waterbody/pollutant combinations on the New York 2016 303(d) list. The EPA received one comment during the public comment period supporting the EPA's identification of the 71 waterbody/pollutant combinations, as well as a number of comments that were determined to be outside the scope of EPA's request for comments. The EPA carefully reviewed all the public comments and the EPA's response to these comments is provided in its Response to Comments document. The EPA finds that identification of the 71 waterbody/pollutant combinations on the New York 303(d) list is necessary to meet statutory requirements. Therefore, the EPA is finalizing the addition of 71 waterbody/pollutant combinations to the New York 2016 303(d) list.

In addition, pursuant to Section 303(d)(2) of the CWA and 40 C.F.R. § 130.7(d)(2), New York is required to incorporate these 71 waterbody/pollutant combinations into its water quality management plan. New York must also include the 71 waterbody/pollutant combinations on all future lists unless, after assembling and evaluating all existing and readily available water quality-related data and information, New York reasonably concludes that the waters are not impaired or otherwise do not require a TMDL, and EPA approves a subsequent list submission.

For further information on the comments submitted as well as the EPA's response to those comments, please see the "Response Summary" found on the EPA's website (<https://www.epa.gov/tmdl/new-york-impaired-waters-list>).