



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region 1

**1 Congress Street, Suite 1100
BOSTON, MA 02114-2023**

August 21, 2008

David Littell, Commissioner
Maine Department of Environmental Protection
17 State House Station
Augusta, ME 04333-0017

RE: Maine's 2008 §303(d) List

Dear Commissioner Littell:

Thank you for Maine's final submittal of Maine's 2008 §303(d) list received by EPA on July 22, 2008. In accordance with §303(d) of the Clean Water Act and 40 CFR §130.7, the U.S. Environmental Protection Agency (EPA) conducted a complete review of Maine's 2008 §303(d) list. Based on this review, EPA has determined that Maine's 2008 §303(d) list of water quality limited segments still requiring total maximum daily loads (TMDLs) meets the requirements of §303(d) of the Clean Water Act (CWA) and EPA's implementing regulations. Therefore, EPA hereby approves Maine's decision to include the waters in the Categories 5-A, 5-B, and 5-D in Maine's 2008 integrated list of surface waters, as well as Maine's decision to remove specific waters from the 2008 list.

The submittal includes a 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 presents Maine's TMDL strategy which describes a priority-setting approach and identifies those waters for which TMDLs will be completed and submitted over time. The statutory and regulatory requirements, and EPA's review of Maine's compliance with each requirement, are described in detail in the enclosed approval document.

The Maine Department of Environmental Protection (ME DEP) also successfully completed a public participation process in 2008 during which the public was given the opportunity to review and comment on the §303(d) list. As a result of this effort, Maine has considered public comments in the development of the final list. A summary of the public comments and ME DEP's response to comments were included in the final submittal.

Although EPA is taking no action on Maine's Data Interpretation section of the 2008 Integrated Report (pages 52-53), we would like to relay one comment on Maine's reference to legislation found in the final sentence of the paragraph on dissolved oxygen. We realize that Maine's intent of this paragraph is to explain how the Department interprets data, and to mention that Maine's law limits the measurement of dissolved oxygen in riverine impoundments for the purpose of determining compliance with the numeric dissolved oxygen criteria in certain circumstances. [Chapter 257 An Act Regarding Riverine Impoundments, enacted May 23, 2003; Sec. 1. 38 MRSA §464, sub-§13]. We think it is important to note, as we did in our February 9, 2004 approval of Chapter 257, that it is our understanding that ME DEP intends to monitor dissolved oxygen (to within 0.5 m of the bottom) for the entire water column of any impoundment, and that compliance with the narrative criterion set forth in the final paragraph of §464, sub-§13 (i.e., dissolved oxygen sufficient to support existing and designated uses) would still be determined where compliance with the numeric criteria is not measured.

We greatly appreciate the concerted effort by your staff towards a timely preparation and submittal of the 2008 list. My staff and I look forward to continued cooperation with ME DEP in implementing the requirements under Section 303(d) of the CWA. Please feel free to contact me or Jennie Bridge at 617-918-1685 if you have any questions or comments on our review.

Sincerely,

Stephen S. Perkins, Director
Office of Ecosystem Protection

Enclosures

cc: Andrew Fisk, ME DEP
Susan Davies, ME DEP