



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

APR 18 9 2019

Mr. Lee Currey, Director
Water and Science Administration
Maryland Department of the Environment
1800 Washington Blvd., Suite 540
Baltimore, Maryland 21230-1718

Dear Mr. Currey:

The U.S. Environmental Protection Agency (EPA), Region III, has conducted a complete review of Maryland's 2018 Section 303(d) List, and supporting documentation and information. Based on this review, EPA has determined that Maryland's list of water quality limited segments still requiring Total Maximum Daily Loads, meets the requirements of Section 303(d) of the Clean Water Act and EPA's implementing regulations. Therefore, with this letter, EPA hereby approves Maryland's 2018 Section 303(d) List. The statutory and regulatory requirements, and EPA's review of Maryland's compliance with each requirement, are described in the enclosure.

We commend you and your staff for the thorough work and exemplary effort in establishing the list and in responding to the comments received.

If you have any questions regarding this decision, please feel free to contact Ms. Evelyn S. MacKnight, Associate Director, at 215-814-5717, or Macknight.Evelyn@Epa.gov.

Sincerely,

A handwritten signature in blue ink that reads "Catherine A. Libertz".

Catherine A. Libertz, Director
Water Protection Division

Enclosure

cc : Matthew Stover, MDE-WSA



EPA Region III Approval Rationale for Maryland's 2018 Section 303 (d) List

EPA has conducted a complete review of Maryland's 2018 Section 303(d) list and supporting documentation and information, which was submitted to EPA on March 11, 2019. Based on this review, EPA has determined that Maryland's list of water quality limited segments (WQLSs) still requiring Total Maximum Daily Loads (TMDLs) meets the requirements of Section 303(d) of the Clean Water Act ("CWA" or "the Act") and EPA's implementing regulations. Therefore, EPA hereby approves Maryland's Section 303(d) list. The statutory and regulatory requirements, and EPA's review of Maryland's compliance with each requirement, are described in detail below.

Statutory and Regulatory Background

Identification of WQLSs for Inclusion on 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 non-point 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, local, or federal authority. See 40 CFR 130.7(b)(1). EPA's review and action on Maryland's 2018 list is generally consistent with EPA guidance, including *Guidance for 2006 Assessment, Listing, and Reporting Requirements Pursuant to Sections 303(d), 305(b), and 314 of the Clean Water Act* (July 29, 2005), and the memorandum titled "*Information Concerning 2018 Clean Water Act Sections 303(d), 305(b), and 314 Integrated Reporting and Listing Decisions*".

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). In addition to these minimum categories, States are required to consider any other data and information that is existing and readily available.

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, 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 the Region.

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 activities 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).

Analysis of Maryland's Submission

Identification of Waters and Consideration of Existing and Readily Available Water Quality-Related Data and Information

EPA has approved Section 303(d) lists submitted by Maryland including, but not limited to, Section 303(d) lists, for the years 1996, 1998, 2002, 2004, 2006, 2008, 2010, 2012, 2014 and 2016. To the extent that these prior lists have been incorporated into the 2018 Section 303(d) list, EPA's rationale for approving those lists remains operative. EPA's review of the 2018 Section 303(d) list focused on changes from the prior lists.

Maryland Department of the Environment (MDE) public noticed the draft 2018 Section 303(d) list for a comment period of 32 days, from February 16, 2018 through March 19, 2018. The draft list was posted on several outlets including among others, MDE's internet world-wide-web, Maryland Register, and several of MDE's social media outlets (e.g. Facebook). MDE held an informational public meeting on February 27, 2018, at MDE Headquarters in Baltimore, Maryland. Comments were received in writing and all were responded to appropriately.

EPA received MDE's final 2018 Section 303(d) list package on March 11, 2019 through

the Assessment, Total Maximum Daily Load (TMDL) Tracking and Implementation System (ATTAINS), which is EPA's new electronic system to accept and track 303(d) submissions and actions. Specifically, Maryland's 2018 Category 5 data in ATTAINS represents Maryland's 2018 303(d) list of impaired waters. Maryland also submitted a narrative report in ATTAINS. The 2018 Section 303(d) package included: (1) an overview of the process for development of the 2018 Section 303(d) list; (2) surface water monitoring strategy, assessment units, links to the listing methodologies used by MDE (all listing methodologies have undergone public review, but further public comment was welcomed during the 303(d) list public comment period); (3) assessment results associated with biological impairments, toxics, bacteria, temperature, and solids from rivers/streams, lakes/ponds, estuarine and ocean waters; (4) the public process related to the 303(d) list; and (5) the integrated Section 305(b) report and Section 303(d) list, consisting of parts 2, 3, 4, and 5. MDE also provided a list of TMDLs approved (Table 29) and anticipated for completion for Fiscal Year 2018 and 2019 (Table 69 and 70, respectively). The package also included a responsiveness summary to comments received during the public review. In taking this action, EPA considered the information in its record, including but not limited to, Maryland's 2018 Category 5 data in ATTAINS and Maryland's narrative submissions.

EPA concludes that the State properly assembled and evaluated all existing and readily available data and information, including data and information relating to the categories of waters specified in 40 CFR 130.7(b)(5). In addition, the State provided its rationale for not relying on particular existing and readily available water quality-related data and information as a basis for listing waters.

In total, MDE received 36 written comments from five parties during the public comment period and responded to all appropriately. EPA appreciates MDE's identification on Category 5 certain waters that do not meet Maryland's numeric criterion for temperature based on EPA's draft Integrated Report comments. EPA encourages MDE to continue working with stakeholders to consider whether any temperature standard should be revised. EPA supports MDE's efforts to work with stakeholders to determine whether temperature standards should be revised based upon sound scientific rationale and scientifically defensible methods. EPA agrees with the subsequent changes made to the final 2018 303(d) list.

In regards to the comments submitted by Waterkeepers Chesapeake, EPA notes that Waterkeepers Chesapeake incorporated by reference its members' comments on MDE's 2012, 2014, and 2016 Integrated Reports regarding moving the entries for total nitrogen, total phosphorus, and total suspended solids on 53 Chesapeake Bay tidal segments from Part 5 (waters that may require a TMDL) to Part 4a (waters that are still impaired but have an approved TMDL) of Maryland's Integrated Report, where applicable. Each of these 53 segments is a tidal portion of one of the Chesapeake Bay tributaries, and each segment was classified as a Chesapeake Bay segment in 2008. As part of the 2010 Chesapeake Bay TMDLs,¹ TMDLs were established for each of these 53 Chesapeake Bay tidal segments at a level necessary to meet the applicable water quality standards for that segment for total nitrogen, total phosphorus, and total suspended solids

¹ EPA agrees with MDE's observation that the December, 2010 action is more properly characterized as the "Chesapeake Bay TMDLs." While for ease of reference, the action is often referenced in the singular (i.e., "Chesapeake Bay TMDL"), the action consists of 276 separate TMDLs for 92 separate tidal waterbody segments adjoining the Chesapeake Bay.

(totaling to 139 segment-pollutant combinations). Because the TMDLs were established, those Chesapeake Bay segment-pollutant combinations that were previously in Part 5 were moved to Part 4a. MDE incorporated its previous responses to Waterkeepers Chesapeake's comments by reference. EPA agrees with MDE's previous responses and with MDE's response to comments on the 2018 Integrated Report. EPA incorporates by reference its Decision Rationale approving MDE's 2014 and 2016 Section 303(d) list, which also addressed Waterkeepers' previous comments on this topic. MDE's categorization of waters that have TMDLs on Part 4a of the Integrated Report rather than Part 5 is consistent with EPA guidance [Memorandum titled "*Information Concerning 2018 Clean Water Act Sections 303(d), 305(b), and 314 Integrated Reporting and Listing Decisions*"].

A. Description of the methodology used to develop this list, Section 130.7(b)(6)(i)

For the 2018 reporting cycle, no changes were made to any of MDE's assessment methodologies, but further public comment on the methodologies was welcomed during the 303(d) list public comment period and no related comments were received. All assessment methodologies are available on MDE's Web site at http://mde.maryland.gov/programs/Water/TMDL/Integrated303dReports/Pages/ir_listing_methodologies.aspx.

B. Description of the data and information used to identify waters, including a description of the data and information used by Maryland as required by Section 130.7(b)(5).

1. Section 130.7(b)(5)(i), Waters identified by Maryland in its most recent Section 305(b) report as "partially meeting" or not meeting designated uses or as "threatened."

Maryland's Section 303(d) list is mostly defined by the data collection and assessment contained in the 305(b) report of the State's water quality. In Maryland, responsibility for collection and compilation of this information is shared between the Maryland Department of Natural Resources (MDNR) and MDE. MDE compiles Maryland's Inventory of the Water Quality, the Section 305(b) Report, every two years pursuant to Section 305(b) of the CWA. MDNR collects many of the data that goes into the assessments. Also, MDE sets water quality standards (WQS), regulates discharges to Maryland waters through environmental permitting, enforcement and compliance activities, identifies waters for inclusion on the Section 303(d) list, and develops TMDLs. Since 2002 and consistent with EPA guidance, Maryland has submitted an integrated report combining the Section 303(d) list and the Section 305(b) report (Integrated Report). Beginning this cycle in 2018, MDE submitted these data through EPA's electronic ATTAINS system. The following categories are used to describe water quality in Maryland's Integrated Report. Category 1 of the Integrated Report identifies waters that meet all water quality standards and no use is threatened. Category 2 identifies waters meeting water quality standards for at least one designated use, but with insufficient information to determine if WQS are being met for other designated uses. Category 3 identifies waters where there is insufficient information to determine if any water quality standard is being attained, and includes subcategories for insufficient data quantity and insufficient data quality. Category 4 identifies waters where one or more WQS are impaired or threatened, but for which a TMDL is not required because a TMDL has already been approved or established by EPA (Subcategory 4a),

other pollution control requirements are expected to attain WQS (Subcategory 4b), or the impairment is not caused by a pollutant (Subcategory 4c). Categories 1-4 comprise the Section 305(b) portion of the integrated report. Category 5 is the Section 303(d) list and identifies waters that are not attaining WQS and for which a TMDL may be necessary.

Maryland considers a waterbody as “impaired” (and therefore subject to listing pursuant to Section 303(d)) when it does not attain a designated use pursuant to Maryland’s WQS. Maryland has developed numerous methodologies for assessing whether waters are achieving their designated uses. MDE has provided the public with notice and an opportunity to comment on its assessment methodologies as they are developed and/or amended and during public comment on the Integrated Report.

In September 2004, Maryland updated its Comprehensive Water Quality Monitoring Strategy for all State waters consistent with current EPA guidance (see “Elements of a Water Monitoring and Assessment Program,” EPA document 841-B-03-003). This Strategy describes Maryland’s water quality monitoring framework and covers all State waters, including rivers and streams, lakes, tidal waters, ground water and wetlands. These water quality monitoring programs support the assessment of Maryland’s designated uses as well as integrated reporting activities under Sections 303(d) and 305(b) of the CWA.

In the fall of 2007, MDE initiated monitoring strategy discussion with MDNR in anticipation of a revised strategy for 2009-2010. This 2009 Strategy has been completed and submitted to EPA and represents Maryland’s last update of its comprehensive water monitoring strategy. Maryland’s water quality monitoring programs are designed to support State Water Quality Standards (Code of Maryland Regulations Title 26, Subtitle 08) for the protection of both human health and aquatic life. This strategy identifies the programs, processes and procedures that have been institutionalized to ensure state monitoring activities continue to meet defined programmatic goals and objectives. The strategy also discusses data management and quality assurance/quality control procedures implemented across the State to preserve data integrity and assure that data are of sufficient quality and quantity to meet the intended use. Finally, this document serves as a road map for assigning monitoring priorities and addressing gaps in current monitoring programs.

http://www.mde.state.md.us/programs/ResearchCenter/EnvironmentalData/Documents/www.mde.state.md.us/assets/document/Maryland_Monitoring_Strategy2009.pdf.

EPA concludes that the Section 303(d) list identifies waters identified by Maryland on its Section 305(b) report as “partially meeting” or not meeting designated uses.

2. Section 130.7(b)(5)(ii), Waters for which dilution calculations or predictive models indicate non-attainment of applicable water quality standards.

Maryland supports the use of computer models and other innovative approaches to water quality monitoring and assessment. Maryland and the Bay partners also relied heavily on the Chesapeake Bay model to develop loading allocations, assess the effectiveness of best management practices, and guide implementation efforts. Several different modeling approaches have also been used in TMDL development. With the growing number of biological

impairments in Category 5 of the list, Maryland will be relying more heavily on land use analyses, Geographic Information System (GIS) modeling, data mining, and other innovative approaches to identify stressors, define ecological processes, and develop appropriate TMDLs.

3. Section 130.7(b)(5)(iii), Waters for which water quality problems have been reported by local, state, or federal agencies; members of the public; or academic institutions

A MDE data request letter was widely advertised for the solicitation of data for the 2018 list. With the integration of Sections 305(b) and 303(d) of the CWA and the adoption of a multi-category reporting structure, Maryland has developed a two-tiered approach to data quality. Tier 1 data are those used to determine impaired waters (e.g., Category 5 waters or the traditional 303(d) list) and are subject to the highest data quality standards. Maryland waters identified as impaired using Tier 1 data may require a TMDL or other regulatory actions. These data should be accompanied by a Quality Assurance Project Plan (QAPP) consistent with EPA data guidance specified in Guidance for Quality Assurance Project Plans. Dec 2002. EPA /240/R-02/009 available at <https://www.epa.gov/quality/guidance-quality-assurance-project-plans-epa-qag-5>. Tier 1 data analysis must also be consistent with Maryland's Assessment Methodologies.

Tier 2 data are used to assess the general condition of surface waters in Maryland and may include land use data, visual observations of water quality condition, or data not consistent with Maryland's Assessment Methodologies. Such data may not have a QAPP or may have one that is not consistent with EPA guidance. Waters with Tier 2 data may be placed in Categories 2 or 3 of the Integrated Report, denoting that water quality is generally good or that there are insufficient data to make an assessment, respectively. However, Tier 2 data alone are not used to make impairment decisions (i.e., Category 5 listings requiring a TMDL) because the data are of insufficient quantity and/or quality for regulatory decision-making. MDE notes that it will be reevaluating the current data quality tier system to determine if changes are necessary to establish consistency with the Chesapeake Bay Monitoring Cooperative and further refine the data evaluation process. As a result of the data solicitation, 24 organizations/programs submitted water quality data for consideration in the 2018 Integrated Report. Of those 24 organizations/programs, 13 submitted Tier 1 data. MDE coordinates with the remaining organizations providing Tier 2 data to improve data quality and further promote the use of Tier 1 data for assessment purposes.

Maryland has made significant efforts to incorporate non-state government data in ways that increase the resolution of the state's water quality assessments. Datasets used included those collected by federal agencies, county governments, water utility agencies, and non-profit watershed organizations. The 2018 Integrated Report includes a GIS submittal that provides coverages for streams, impoundments, and estuarine waters which depict assessment information at appropriate scales. MDE also makes Integrated Reporting data available to the public in several user-friendly formats. Accessible via the web, users can query MDE's searchable Integrated Report database to find individual assessments or groups of assessments that are of interest. The searchable Integrated Report database and companion clickable map application are available online at

<http://www.mde.maryland.gov/programs/water/tmdl/integrated303dreports/pages/303d.aspx>.

New this year is a revamped online map which displays water quality assessment information overlaid on top of TMDL watersheds. This newly reformatted map is meant to highlight the spatial relationship between the specific water body impaired for a given pollutant and the TMDL that accounts for all sources of that pollutant in that water body's watershed. Users can select as few or as many pollutants to display as they like with this fully interactive map. This map therefore replaces the previously provided single-pollutant maps and provides users with a one-stop map for visualizing water quality assessment information. The newly created map can be found at <http://mdewin64.mde.state.md.us/WSA/IR-TMDL/index.html>.

In addition to MDE's new online resources, EPA has transitioned 305(b) and 303(d) reporting to the new ATTAINS, which is an electronic system that holds all water quality assessment decisions for states and territories. ATTAINS transformed and modernized paper reporting into an electronic system, which allows EPA, states, and the public to access, search, and track all water quality assessment decisions.

4. Section 130.7(b)(5)(iv), Waters identified by Maryland as impaired or threatened in a non-point assessment submitted to EPA under section 319 of the CWA or in any updates of the assessment.

MDE considered waters identified in a Section 319 assessment during the development of the 1996 Section 303(d) list, and all such water segments were included on the 1996 list, which was incorporated into all subsequent lists, including the 2018 Section 303(d) list. The Clean Water Action Plan of 1998 required a statewide Unified Watershed Assessment which set priorities for Section 319 activities. Maryland's Unified Watershed Assessment, Category I assignments were based on the 1998 Section 303(d) list.

5. Other data and information used to identify waters (besides items 1-4 discussed above).

In addition to waters identified as impaired on the 2016 Section 303(d) List that have not been delisted, the 2018 Section 303(d) lists 42 additional impaired waters. Six of the new listings resulted from MDE's Biological Stressor Identification Analyses. Of these six new 'biostressor' listings, three are for total suspended solids, two are for sulfates, and one is for chlorides. In addition, there are four new fecal coliform listings in shellfish harvesting waters, one new listing for PCBs in fish tissue, one new listing for phosphorus, and, as discussed above, 30 new listings for temperature, which were moved from category 3 in the draft list to Category 5 in the final list in response to EPA's comments.

C. A rationale for any decision to not use any existing and readily available data and information for any one of the categories of waters as described in Sections 130.7(b)(5) and 130.7(b)(6)(iii).

Starting in 2002, Maryland developed and published for public review the Listing Methodologies to describe the State's interpretation of its WQS and establish scientifically defensible approaches for determining water body impairment. Listing Methodologies are not considered rules, but rather provide a means to provide consistency and transparency in Integrated Reporting so that the public and other interested stakeholders understand why listing

decisions are made and can independently verify listing decisions. The methodologies are living documents that are revised as new statistical approaches, technologies, or other improved methods are adopted by the State. When changes are proposed to the Listing Methodologies, Maryland advertises the revised methodologies for public review via the biennial Integrated Report.

In Maryland's Section 305(b) Report, certain water bodies are conditionally approved shellfish areas. A sub-set of these water bodies are restricted because they are closed for administrative reasons under guidance of the National Shellfish Sanitation Program. Typically, these waters are restricted due to their vicinity to wastewater treatment plants and the restriction is precautionary against the potential treatment system failure, rather than an expression of failure to meet WQS. In accordance with MDE's listing methodology, both administratively restricted and conditionally approved shellfish waters are not listed on the Section 303(d) list.

D. Rationale for delisting of waterbodies from the previous 303(d) list².

Maryland has indicated, in the Integrated Report (Table 2), that 11 delistings have occurred during this cycle. Four biological listings without a specified impairing substance have been replaced by specific pollutant listings enumerated by the Biological Stressor Identification analyses (BSID). Another three (of the 11) listings, originally listed as impaired for exceedances above the pH criteria (i.e. > 8.5 pH units), were removed from Category 5 because new data showed that water quality standards were being met. The last four listings removed from Category 5 included two for fecal coliform in shellfish harvesting areas, one for mercury in fish tissue, and one for PCBs in fish tissue. All of these four listings were moved to Category 2 on the basis of new data that demonstrated water quality that met the applicable criterion.

In addition, there were seven other water quality listings removed from Category 4a (impaired, TMDL approved) and placed in Category 2 (meeting some standards). Four of these assessment records were tidal tributaries to the Chesapeake Bay that now meet the submerged aquatic vegetation (SAV)/water clarity criteria. The other three assessment records all relate to streams in the Casselman River watershed (Garrett County) where MDE recently (2013) implemented acid mine remediation projects. In all three cases, at Alexander, Spiker, and Tarkiln Run, MDE measured stream pH after the remediation project for a minimum of 3 years and found these streams to be consistently meeting Maryland's pH criteria range of 6.5 – 8.5. Management of these streams will still be ongoing to ensure that they continue to meet pH criteria moving forward.

There were also three partial removals of Category 4a (impaired, TMDL approved) listings on the 2018 Integrated Report. A partial Category 4a removal can occur in cases where an assessment unit that was previously entirely listed as impaired (with a TMDL established) had new data collected that demonstrated use support in some smaller geographic portion. In order to reflect this new information and the fact that a portion of the original water segment now meets standards, MDE may split the original assessment unit into two assessment units, one which is still impaired and another that is not. All of the three partial removals occurred in shellfish

² Public comments received during the 2018 Integrated Reporting cycle concerning delistings that occurred on MDE's 2012 Integrated Report have been addressed above.

harvesting areas due to new data demonstrating that a portion of the water body now meets water quality criteria.

Maryland has demonstrated, to EPA's satisfaction, its rationale for these delistings.

E. Rationale for Maryland's decision not to list waters pursuant to 40 CFR 130.7(b)(1) because they are expected to meet water quality standards.

Maryland's decision not to include waters on its 2018 Section 303(d) list due to other required pollution controls is consistent with EPA regulations at 40 CFR 130.7(b)(1). These waters were identified in Category 4b of the Integrated Report. Under 40 CFR 130.7(b)(1), states are not required to list WQLSs still requiring TMDLs where effluent limitations required by the CWA, more stringent effluent limitations required by state or local authority, or other pollution control requirements required by state, local, or federal authority, are stringent enough to implement applicable WQS. The regulation does not specify the timeframe in which these various requirements must implement applicable WQS to support a state's decision not to list particular waters. EPA expects that required controls will result in attainment in a reasonable time, based on the nature of the pollutant and actions that need to be taken to achieve attainment.

Monitoring should be scheduled for these waters to verify that the water quality standard is attained as expected in a reasonable time frame. Where standards will not be attained through implementation of the requirements listed in 40 CFR 130.7(b)(1) in a reasonable time, it is appropriate for the water to be placed on the Section 303(d) list to ensure that implementation of the required controls, and progress towards compliance with applicable standards, is tracked. If it is determined that the water is, in fact, meeting applicable standards when the next Section 303(d) list is developed, it would be appropriate for the state to remove the water from the list at that time.

As indicated above, Maryland has several listings in Category 4b. All of these listing records still require more data collection and analysis to either confirm impairment or to demonstrate water quality standards attainment.

Consistent with a program of continuous assessment, EPA encourages MDE to continue efforts, including monitoring as appropriate, to provide updates on the status of the segments and to confirm that previous delistings remain supportable. As part of the Integrated Report, MDE would review the remainder of waters identified in Category 4b to determine whether the water quality standards are expected to be attained in a reasonable time or whether the waters need to be moved to Category 5. EPA recommends that MDE collect and analyze ambient water quality data as part of its analysis.

F. TMDL Priority Ranking and Targeting

MDE used the same priority ranking methodology used in previous lists. Documentation describing this prioritization was incorporated as part of Maryland's 2016 Integrated Report and can be accessed at

<http://mde.maryland.gov/programs/Water/TMDL/Integrated303dReports/Pages/2016IR.aspx>.

Within the Section 303(d) list, Maryland has provided both a priority ranking of high, medium, or low, and a separate indication for waters targeted for TMDL development in the next two years. In general, criteria that affect human health or have an extreme effect on natural resources are ranked high, criteria that indicate a continuing downward trend in the loss of a significant resource, create a serious nuisance, or constitute a significant loss of a natural resources are ranked as medium, and the remaining cases rank low.

EPA concludes that MDE's TMDL prioritization plans are acceptable as the State properly took into account the severity of pollution and the uses to be made of such waters. Scheduling, however, takes into account additional considerations other than priority designations, such as programmatic consideration (e.g., efficient allocation of resources, basin planning cycles, coordination with other programs or states) and technical considerations (e.g., data availability, problem complexity, availability of technical tools). This is consistent with EPA guidance. In addition, EPA reviewed the State's identification of WQLSs targeted for TMDL development in the next two years (i.e., those targeted as a high priority), and agrees that the targeted waters are appropriate for TMDL development in this timeframe.

G. Consultation with Other Agencies

EPA sought review and comments from the U.S. Fish and Wildlife Service (FWS) and the National Marine Fisheries Service (NMFS) (collectively the Services) through a letter sent on March 5, 2018. This letter included website links to the draft 2018 Integrated Report. In reaching its conclusions on approving Maryland's 2018 303(d) list, EPA collected and appropriately considered information on the endangered and threatened species and their critical habitat in Maryland's waters identified by NMFS and FWS.