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

March 16, 2018

Eugene Forbes, P.E., Director
New Hampshire Environmental Services
Water Division
6 Hazen Drive, Box 95
Concord, NH 03302-0095

Re: 2014 §303(d) List

Dear Mr. Forbes,

Thank you for submitting New Hampshire's 2014 §303(d) list of water quality limited segments on March 27, 2017. 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 most of the State's list, including supporting documentation, with only a few waters remaining to be analyzed. Based on this review, EPA has determined that the majority of New Hampshire's list of water quality limited segments (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. However, EPA is not taking action at this time to approve or to disapprove the State's decisions relating to certain assessment zones in the Great Bay Estuary and the State's decisions on pH for the Upper Portsmouth Harbor, Great Bay Prohib SZ2, and Great Bay-Cond Appr assessment units. Therefore, EPA hereby approves New Hampshire's 2014 final §303(d) list with the exception of the following: the Little Bay, Bellamy River, Upper Piscataqua River, Portsmouth Harbor, Little Harbor/Back Channel, Cocheco River and Great Bay assessment zones; and the Upper Portsmouth Harbor, Great Bay Prohib SZ2, and Great Bay-Cond Appr assessment units. EPA is deferring action on the State's list with respect to this group of assessment zones and assessment units until a later date when EPA's review is completed. EPA needs more time to complete its review of these assessment zones and units because of the complexity of the assessment issues involved.

Thank you for your hard work in developing the 2014 §303(d) list. My staff and I look forward to continuing our work with NHDES to implement the requirements under §303(d) of the CWA. If you have any questions or need additional

information please contact Ralph Abele at 617-918-1629 or Toby Stover at 617-918-1604.

Sincerely,

Ken Moraff, Director
Office of Ecosystem Protection

Enclosure

cc: NHDES: Ted Diers, Gregg Comstock, Ken Edwardson
EPA: Ralph Abele, Ann Williams, Greg Dain

EPA REVIEW OF NEW HAMPSHIRE'S 2014 SECTION 303(d) LIST

INTRODUCTION

EPA has conducted a review of most of New Hampshire's 2014 section 303(d) list, supporting documentation and other information, with only a few waters remaining to be analyzed. Based on this review, EPA has determined that the majority of New Hampshire'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 implementing regulations; however, as noted immediately below, EPA is not taking action at this time to approve or to disapprove the State's decisions relating to certain assessment zones in the Great Bay Estuary and the State's decisions on pH for the Upper Portsmouth Harbor, Great Bay Prohib SZ2, and Great Bay-Cond Appr assessment units. Therefore, by this action, EPA hereby approves New Hampshire's 2014 final section 303(d) list with the exception of the following: the Little Bay, Bellamy River, Upper Piscataqua River, Portsmouth Harbor, Little Harbor/Back Channel, Cocheco River and Great Bay assessment zones; and the Upper Portsmouth Harbor, Great Bay Prohib SZ2, and Great Bay-Cond Appr assessment units. EPA is deferring action on the State's list with respect to this group of assessment zones and assessment units until a later date when EPA's review is completed. EPA needs more time to complete its review of these assessment zones and units because of the complexity of the assessment issues involved. The statutory and regulatory requirements for New Hampshire's 2014 section 303(d) list, and EPA's review of New Hampshire's 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). In addition to these minimum categories, States are required to consider any other data and information that is existing and readily available. EPA's 2006 Integrated Report Guidance describes categories of water quality-related data and information that may be existing and readily available. See EPA's March 21st, 2011 memorandum on *Information Concerning 2012 Clean Water Act Sections 303(d), 305 (b), and 314 Integrated Reporting and Listing Decisions* which recommended that the 2012 integrated water quality reports follow the *Guidance for 2006 Assessment, Listing and Reporting Requirements Pursuant to Sections 303(d), 305 (b) and 314 of the Clean Water Act* (2006 Integrated Report Guidance (IRG)) issued July 29, 2005 (available at http://www.epa.gov/owow/tmdl/2006 IRG/) as supplemented by the October 12, 2006 memo and attachments, the May 5, 2009 memo and attachments, the November 15, 2010 memo, the March 21, 2011 memo and attachments, and the September 3, 2013 memo and attachments. All guidance, memoranda and attachments may be found at: http://water.epa.gov/lawsregs/lawsguidance/cwa/tmdl/guidance.cfm.

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 2006 Integrated Report Guidance and the 2006, 2009, 2011 and 2013 memoranda and attachments.

III. ANALYSIS OF NEW HAMPSHIRE'S SUBMISSION

On October 14, 2015 the New Hampshire Department of Environmental Services (NH DES) released for public comment and review a draft version of its 2014 section 303(d) list as part of the State's 2014 Integrated Report (IR). The draft version of the 2014 303(d) list contained three assessment zones within the Great Bay Estuary that were not assigned an assessment category of 1,2,3,4 or 5. These three assessment zones were given an "Assessment methodology under development" designation instead of a standard listing category required by EPA. As a result of comments received during the public comment period, NH DES decided to assign a listing category status to these three assessment zones and re-open the public comment period for comment on only these three assessment zones. The final version of the 2014 303(d) list was issued on March 27, 2017. The State's March 27, 2017 section 303(d) list submittal included the following specific components:

1. The State of New Hampshire's 2014 section 303(d) list content introduction;

2. The State of New Hampshire's 2014 section 303(d) list;

3. A list of waters / impairments being removed or delisted from New Hampshire's section 303(d) list;

4. New Hampshire's 2014 sections 305(b) and 303(d) Consolidated Assessment and Listing Methodology (CALM) and NH DES's Response to Public Comments on the CALM;

5. New Hampshire's Response to Public Comments on the October 14, 2015 and February 3, 2017 draft 303(d) lists; and

6. Technical Support Document for the Great Bay Estuary Aquatic Life Use Support Assessments 2014 305(b) Report/303(d) List

New Hampshire's 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 Total Maximum Daily Load (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.

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 a "functionally equivalent" control action has been developed and is being implemented, i.e., 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. NH DES included waters in Category 4 with its 2014 submission to EPA.

Public Participation

New Hampshire conducted a public participation process, in which it provided the public an opportunity to review and comment on the State's draft 2014 section 303(d) list. A public comment period opened on October 14, 2015 and closed on December 11, 2015. NHDES posted its draft list on the Department's website in multiple locations and notified nearly 1,500 stakeholders by direct email notification. NHDES used the same procedure when the State re-opened the public comment process for comment on the three Great Bay Estuary assessment zones (Lamprey River South, Great Bay and Cocheco River) that were not assigned a listing category on the October 14, 2015 draft list. This second comment period began on February 6, 2017 and concluded on February 24, 2017. NHDES received a total of 9 comment submissions on the October 14, 2015 version of the draft list and an additional 5 comment submissions on the February 6, 2017 version. NHDES assigned a reference or section number to individual comments to aid in identifying instances when a NH DES response applied to multiple individual comments and to ensure that all comments had been appropriately addressed. On March 27, 2017 NHDES released the final version of the 2014 303(d) list which included the responses to all comments received on all versions of the draft 303(d) list.

As noted earlier, EPA is not taking action at this time on certain assessment zones and assessment units in the Great Bay Estuary. The vast majority of the comments received during both comment periods on the 2014 303(d) list pertain to the Great Bay Estuary. The evaluation of the State's responses to comments in this document will only relate to those comments and responses that do not pertain to the Great Bay Estuary. EPA will evaluate the State's responses to Great Bay Estuary-related

comments at a later date. The State's numbering of its responses to comments will be retained in order to reduce potential confusion.

Summary of Comments Received on the October 14, 2015 version (Comment 6) and the February 6, 2017 version (Comment 13):

6. Robert J. Robinson, City of Manchester
Summary of Comment: The majority of the content of the City of Manchester's comments pertains to concerns about the State's CALM document and how NHDES sets water quality standards, conducts monitoring and assesses waters on a statewide basis. The City also submitted a comment that pertains to aluminum levels in the Merrimack River.

Summary of Response: NHDES stated that most of the City's comments are pertinent to the CALM document, but not to the section 303(d) list. The City of Manchester's comments are more relevant to the comment process that NHDES conducts for the CALM document and should be submitted during the comment period for the CALM document and not during the section 303(d) list comment period. Additionally, NHDES previously addressed these comments during the CALM comment period, as these comments were a re-submission of comments submitted during the CALM comment period. NHDES also noted that one of the City's comments on the Merrimack River may be interpreted as questioning the validity of the Aquatic Life Use Support impairment to the Merrimack River segment known as NHRIV700060803-14-02. NHDES explained that the draft 2014 303(d) list fully utilized the data collected as part of the City's 2009-2010 Aluminum study, and that since aquatic life exists in the Merrimack River at all flow levels, the criteria still applies.

EPA concludes that NH DES adequately responded to the comments.

13. Ricardo Cantu, OspreyOwl Environmental, LLC- on behalf of the City Nashua and OspreyOwl Environmental, LLC
Summary of Comment: The commenter raised concerns for two streams in the Nashua, NH area that are impaired for DO, pH and Creosote (Muddy Brook and Unnamed Brook to Pennichuck Brook) and for a segment of the Merrimack River that is impaired for Al, pH and chlorophyll-a. The commenter is concerned with the sampling procedures, laboratory procedures and QA/QC procedures that are used in the assessment and listing of waters in New Hampshire for metals. Additionally, various rivers in New Hampshire were noted as likely affected by these procedures. Several recommendations and changes to the CALM document were suggested to improve the quality of data used in assessment and listing.

Summary of Response: NHDES did not respond specifically to the details of these comments due to the fact that these comments were submitted during the second comment period that was only open for comments on the changes that NHDES made for listings for nitrogen impairment in the following Great Bay Estuary assessment zones: Lamprey River South, Great Bay and Cocheco River. In addition, EPA notes that the

comments are more appropriate for the comment period for the State's CALM document, not the section 303(d) list.

EPA concludes that NH DES adequately responded to the comments.

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 not taking action to approve or to disapprove the State's decisions relating to certain assessment zones in the Great Bay Estuary and three other assessment units. 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.

New Hampshire used the NHDES assessment database to develop its 2014 section 303(d) list. The same database was used to assist in the preparation of the biennial section 305(b) report. NHDES 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 2014 section 303(d) list, New Hampshire began with its existing EPA-approved 2012 section 303(d) list and relied on new water quality assessments to update the list accordingly. New Hampshire believes that information pertaining to impairment status must be well substantiated, preferably with actual monitoring data, for it to be used in section 303(d) listing.

Priority Ranking

As described in its methodology, New Hampshire 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 water body prioritization and targeting method used by New Hampshire is reasonable and sufficient for purposes of section 303(d). The State properly took into account the severity of pollution and the uses to be made of listed waters, as well as relevant factors described above.

Waters which are not listed on New Hampshire's 2014 section 303(d) List

The following section provides a summary of NHDES' rationale supporting decisions not to include certain newly identified waters and certain previously listed waters on the State's 2014 303(d) list. As discussed below, the State has demonstrated, to EPA's satisfaction, good cause for not listing the following waters, as provided in 40 CFR §130.7(b)(6)(iv). Note that the section below does not include the following waters, described earlier, for which EPA is deferring action: the Little Bay, Bellamy River, Upper Piscataqua River, Portsmouth Harbor, Little Harbor/Back Channel, Cocheco River and Great Bay assessment zones, and the Upper Portsmouth Harbor, Great Bay Prohib SZ2, and Great Bay-Cond Appr assessment units.

EPA approves the State's section 303(d) list without the following water body-pollutant combinations because the removal of these listings is consistent with EPA's regulations and EPA's Guidance for Assessment, Listing and Reporting Requirements.

1. Biological Assessments

Two Assessment Units (AUs) have been removed from the 303(d) list for impairment of the Aquatic Life Designated Use due to degraded Benthic-Macroinvertebrate Assessment.

Assessment Unit Name	Assessment Unit ID	2012	2014
Academy Brook-Loon Pond Brook	NHRIV700060201-04	5-P	2-G[1]
Exeter River	NHIMP600030803-03	5-P	3-ND[2]

[1]Applicable WQS attained; original basis for listing was incorrect
[2]Data and/or information lacking to determine water quality status; original basis for listing was incorrect

Academy Brook-Loon Pond Brook was incorrectly listed due to sampling stations being incorrectly assigned to assessment units. Sampling conducted in 2011 shows that this assessment unit meets the macroinvertebrate indicator score for aquatic life use support. This assessment unit has been changed from 5-P to 2-G for the 2014 cycle.

Exeter River was originally listed based on macroinvertebrate samples taken in a backwater impounded section of the river. The macroinvertebrate IBI is intended to be used to assess samples that are taken in flowing waters. Therefore, the low IBI score is not applicable to this type of habitat. Due to the lack of applicable data, this assessment unit has been changed from 5-P to 3-ND for the 2014 cycle.

2. Manufactured Gas Plant Remediation

One Assessment Unit has been removed from the 303(d) list for impairment of the Aquatic Life Designated Use due to Beno(a)pyrene (PAHs) and placed in Category 2 (Full Support).

Assessment Unit Name	Assessment Unit ID	2012	2014
Mill Creek	NHRIV802010301-12	5-M	2-G[3]

[3]Applicable WQS attained; due to restoration activities

Mill Creek was originally listed in 2004 due to the presence of tar blebs, staining, sheen and Manufactured Gas Plant odor in the water. Remediation of Mill Creek was completed in 2012 and subsequent sampling shows that the conditions that caused the assessment unit to be listed are no longer present. The assessment unit has been changed from 5-P to 2-G for the 2014 cycle.

3. Chlorophyll-a – Swimming Use Support (Primary Contact Recreation).

Two Assessment Units have been removed from the 303(d) list for impairment of the Primary Contact Designated Use due to elevated chlorophyll-a.

Assessment Unit Name	Assessment Unit ID	2012	2014
Gould Pond	NHLAK700030501-01	5-M	2-G[4]
Nashua River-Mine Falls Dam Pond	NHIMP700040402-02	5-M	2-M[1]

[4]Applicable WQS attained; reason for recovery unspecified

[1]Applicable WQS attained; original basis for listing was incorrect

Gould Pond was originally listed for a high chlorophyll-a reading taken in 2002. All subsequent sampling conducted under similar conditions did not have any exceedances of the 15µg/L threshold. After further review, it is suspected that the 2002 exceedance was erroneous as the total phosphorus and turbidity measurements taken at the same time as the exceedance were low. The assessment unit has been changed from 5-M to 2-G for the 2014 cycle.

The Nashua River-Mine Falls Dam Pond was originally listed during the 2004 cycle due to high chlorophyll-a. It was later discovered that the sampling station for the original listing should have been assigned to the Nashua Canal Dike assessment unit. A new sampling station has been assigned to Nashua River-Mine Falls Dam Pond that was sampled in 2013, which shows that the assessment unit is meeting the chlorophyll-a threshold. The assessment unit has been changed from

5-P to 2-M for the 2014 cycle and the original chlorophyll-a impairment has been transferred to the Nashua Canal Dike assessment unit.

4. Cyanobacteria

Twelve Assessment Units have been removed from the 303(d) list for impairment of the Primary Contact Designated Use due to cyanobacteria hepatotoxic microcystins.

Assessment Unit Name	Assessment Unit ID	2012	2014
Lake Winnisquam	NHLAK700020201-05-01	5-M	2-M[4]
Lake Winnisquam-Sanborton Town Beach	NHLAK700020201-05-02	5-M	2-M[4]
Lake Winnisquam-Bartletts Beach	NHLAK700020201-05-03	5-M	2-M[4]
Lake Winnisquam-Belmont Town Beach	NHLAK700020201-05-04	5-M	2-M[4]
Opechee Bay	NHLAK700020201-06-01	5-M	2-M[4]
Opechee Bay-Bond Beach	NHLAK700020201-06-02	5-M	2-M[4]
Opechee Bay-Opechee Park Cove Beach	NHLAK700020201-06-04	5-M	2-M[4]
Forest Lake	NHLAK801030101-02-01	5-M	2-M[1]
Forest Lake - Forest Lake State Park	NHLAK801030101-02-02	5-M	2-M[1]
Lake Sunapee Lake	NHLAK801060402-04-01	5-M	2-M[4]
Lake Sunapee Lake-Bucklin Town Beach	NHLAK801060402-04-02	5-M	2-M[4]
Granite Lake	NHLAK802010201-05	5-M	2-M[4]

[4]Applicable WQS attained; reason for recovery unspecified
[1]Applicable WQS attained; original basis for listing was incorrect

The Lake Winnisquam and beach assessment units were listed due to a cyanobacteria bloom in 2008. The response parameters of total phosphorus, chlorophyll-a and dissolved oxygen indicate that the likelihood of blooms is low and that internal loading of phosphorus is unlikely to be a contributor to cyanobacteria blooms. Five years of subsequent sampling under similar rainfall conditions has not resulted in any cyanobacteria blooms. These assessment units have been changed from 5-M to 2-M for the 2014 cycle.

The Opechee Bay and beach assessment units were listed due to a cyanobacteria bloom in 2008. The response parameters of total phosphorus and chlorophyll-a indicate that the likelihood of blooms is low, which combined with a relatively shallow mean water depth, heavy boat traffic and a high lake turnover rate indicate that hypoxic conditions are not likely. Based on these factors, it is unlikely that internal loading of phosphorus would be a significant contributing factor for cyanobacteria blooms. Subsequent sampling (five years) conducted under similar rainfall conditions has not detected a cyanobacteria bloom since 2008. These assessment units have been changed from 5-M to 2-M for the 2014 cycle.

Forest Lake and Forest Lake State Park assessment units located in Dalton, New Hampshire, were listed due to a cyanobacteria bloom in 2008. The response parameters of total phosphorus, chlorophyll-a and dissolved oxygen indicate that the likelihood of blooms is low and that internal loading of phosphorus is unlikely to be a contributor to cyanobacteria blooms. Five years of subsequent sampling under similar rainfall conditions has not resulted in any cyanobacteria blooms. It is very likely that these assessment units were listed erroneously, because Forest Lake, located in Winchester, New Hampshire, has a history of persistent cyanobacteria blooms. These assessment units have been changed from 5-M to 2-M for the 2014 cycle.

Little Sunapee Lake and Little Sunapee Lake-Bucklin Town Beach assessment units were listed due to a cyanobacteria bloom in 2008. The response parameters of total phosphorus and chlorophyll-a indicate that the likelihood of blooms is low and that internal loading of phosphorus is unlikely to be a contributor to cyanobacteria blooms as the hypolimnetic waters do not show evidence of hypoxic conditions. Five years of subsequent sampling under similar rainfall conditions has not detected any cyanobacteria blooms since 2008. These assessment units have been changed from 5-M to 2-M for the 2014 cycle.

The Granite Lake assessment unit was listed due to a cyanobacteria bloom in 2007. Since the bloom was documented, the lake has been sampled 16 times and no other blooms have been detected. Subsequent sampling was conducted under similar rainfall conditions. This assessment unit has been changed from 5-M to 2-M for the 2014 cycle.

5. Dissolved Oxygen

Eight Assessment Units covering ten impairments have been removed from the section 303(d) list for impairment of the Aquatic Life Designated Use due to low dissolved oxygen saturation and low dissolved oxygen concentration.

Assessment Unit Name	Assessment Unit ID	2012	2014
Broad Bay- Dissolved Oxygen % Saturation	NHLAK600020804-01-03	5-M	2-G[1]
Mirror Lake- Dissolved Oxygen % Saturation	NHLAK700020106-02-01	5-M	2-G[1]
Mirror Lake- Dissolved Oxygen Concentration	NHLAK700020106-02-01	5-P	2-G[1]
Harrisville Pond- Dissolved Oxygen % Saturation	NHLAK700030103-05-01	5-M	2-M[4]
Lake Skatutakee- Dissolved Oxygen % Saturation	NHLAK700030103-08	5-M	2-M[4]
Massasecum Lake- Dissolved Oxygen % Saturation	NHLAK700030302-04-01	5-M	2-M[4]
Upper Moose Falls Pond- Dissolved Oxygen % Saturation	NHLAK801010101-04	5-M	3-ND[1]

Upper Moose Falls Pond- Dissolved Oxygen Concentration	NHLAK801010101-04	5-P	3-ND[1]
Clark Brook-Unnamed Brook- Dissolved Oxygen Concentration	NHRIV801030703-02	5-M	2-G[1]
Merrimack River- Dissolved Oxygen Concentration	NHRIV700060804-11	5-P	2-G[1]

[1]Applicable WQS attained; original basis for listing was incorrect
[4]Applicable WQS attained; reason for recovery unspecified

Broad Bay was incorrectly listed for dissolved oxygen saturation on the 2010 listing cycle. Sampling station OL-10 was incorrectly assigned to Broad Bay between 2008 and 2010 when that sampling station actually pertains to a brook that flows into Danforth Pond. When the data were re-evaluated using only Broad Bay sampling station data, the assessment indicates that Broad Bay is meeting dissolved oxygen water quality standards. This assessment unit has been changed from 5-M to 2-G for the 2014 cycle.

Mirror Lake was listed for both dissolved oxygen concentration and dissolved oxygen percent saturation on the 2012 list in error. The lake was sampled in 2010 as part of a high resolution dissolved oxygen profile study. The data from these sampling events was not entered into the database correctly and had to be corrected manually. After the manual correction, the data indicate full support for both dissolved oxygen parameters. This assessment unit has been changed from 5-M (dissolved oxygen saturation) and 5-P (dissolved oxygen concentration) to 2-G (dissolved oxygen saturation and dissolved oxygen concentration) for the 2014 cycle.

Harrisville Pond was originally listed in 2006 as impaired for low dissolved oxygen saturation for readings collected from 1997-2003. Since 2003, there have not been any samples below the water quality standard for dissolved oxygen percent saturation. Chlorophyll-a and total phosphorus samples are also low in this lake which provides assurance that violations of the dissolved oxygen standards in the future are unlikely. This assessment unit has been changed from 5-M to 2-M for the 2014 cycle.

Lake Skatutakee was originally listed in 2006 as impaired for low dissolved oxygen saturation for readings collected in 1997 and 2001. Since 2001, there have not been any samples below the water quality standard for dissolved oxygen percent saturation. Chlorophyll-a and total phosphorus samples are also low in this lake which provides assurance that violations of the dissolved oxygen standards in the future are unlikely. This assessment unit has been changed from 5-M to 2-M for the 2014 cycle.

Massasecum Lake was originally listed in 2006 as impaired for low dissolved

oxygen saturation for readings collected in 2001 and 2002. Since 2002, there have not been any samples below the water quality standard for dissolved oxygen percent saturation. Chlorophyll-a and total phosphorus samples are also low in this lake which provides assurance that violations of the dissolved oxygen standards in the future are unlikely. This assessment unit has been changed from 5-M to 2-M for the 2014 cycle.

Upper Moose Falls Pond was originally listed in 2006 as impaired for low dissolved oxygen saturation and low dissolved oxygen concentration for readings collected in 2004. The data logger experienced a failure while collecting the data in 2004, which was confirmed by post-deployment calibration checks. However, this data was not properly flagged in the database which led to the erroneous listing. No sampling has been conducted in this pond since 2004. As a result of a lack of recent sampling data, this assessment unit has been changed from 5-M (dissolved oxygen saturation) and 5-P (dissolved oxygen concentration) to 3-ND for the 2014 cycle.

Clark Brook-Unnamed Brook was originally listed in 2012 as impaired for low dissolved oxygen concentration for readings collected in 2011. The datalogger collected erratic readings which were not properly flagged in the database and which led to the listing. When the erratic data was removed from the database, the valid samples show full support of the dissolved oxygen standard. This assessment unit has been changed from 5-M to 2-G for the 2014 cycle.

The Merrimack River in Merrimack was originally listed in 2006 as impaired for low dissolved oxygen concentration for readings collected between 2002 and 2005. Since 2006, there have not been any samples below the water quality standard for dissolved oxygen concentration. In 2013, a datasonde was deployed to record continuous dissolved oxygen data every 15 minutes to capture readings under a range of weather and flow conditions for 2 weeks. This deployment showed that water quality has improved and that the dissolved oxygen standard is now being attained. This assessment unit has been changed from 5-P to 2-G for the 2014 cycle.

6. Bacteria

Seven assessment units have been removed from the 303(d) list for impairment of the Primary Contact Recreation Designated Use due to elevated bacteria.

Assessment Unit Name	Assessment Unit ID	2012	2014
Upper Portsmouth Harbor-NH	NHEST600031001-11	5-M	2-M[4]
Atlantic Ocean-Foss Beach	NHOCN000000000-02-14	5-P	2-G[4]
Howard Brook	NHRIV700061203-25	5-P	2-M[4]

Kimball Pond-Kimball Pond Town Beach	NHIMP700030507-01-02	5-P	2-M[4]
Clement Pond-Camp Merrimac Beach	NHLAK700030505-01-02	5-P	2-M[4]
Pleasant Lake-Veasey Park Beach	NHLAK700060502-09-02	5-P	2-M[4]
Pleasant Lake-Public Access Beach	NHLAK700060601-03-02	5-P	2-M[4]

[4]Applicable WQS attained; reason for recovery unspecified

Upper Portsmouth Harbor was originally listed in 2010 due to exceedances of the Enterococcus standard. Since 2010, there have not been any exceedances of both the single sample maximum and geometric mean criteria sampled under similar flow and precipitation conditions. Thirty-three grab samples have been collected which were used to calculate 17 geometric means which have not resulted in any exceedances of water quality standards. This assessment unit has been changed from 5-P to 2-M for the 2014 cycle.

The Atlantic Ocean- Foss Beach assessment unit was originally listed in 2012 due to exceedances of the Enterococcus single sample maximum standard in 2004, 2008, 2010 and 2011. During this time period there were no exceedances of the geometric mean standard. Since 2011, there have not been any exceedances of the geometric mean and only 5 exceedances (1.5% of total samples taken) of the single sample maximum criteria sampled under similar flow and precipitation conditions. This is well below the 10% exceedance threshold for listing as outlined in the CALM document. The five exceedances do not show any patterns related to stormwater discharge or low flow events. In the last two years there have been no exceedances of both the single sample maximum and geometric mean criteria when sampled under flow and precipitation conditions similar to those when previous samples had been taken. This assessment unit has been changed from 5-P to 2-G for the 2014 cycle.

Howard Brook was originally listed in 2012 due to two single sample maximum exceedances of the Escherichia coli standard in 2009 and 2010. Nine samples taken from 2011, 2012, 2013 and 2014 have not exceeded the single sample maximum and geometric mean criteria sampled under similar flow and precipitation conditions. This assessment unit has been changed from 5-P to 2-M for the 2014 cycle.

Kimball Pond-Kimball Town Beach was listed in 2012 for exceedances of the Escherichia coli standard for single sample maximum for samples collected in 2010 and 2011. There have not been any exceedances of the geometric mean criteria dating back to 2000. Since the 2011 single sample maximum exceedance, there have not been any exceedances for the 16 samples that have been collected under similar flow and weather conditions. This assessment unit have been changed from 5-P to 2-M for the 2014 cycle.

Clement Pond-Camp Merrimac Beach was listed in 2012 for exceedances of the

Escherichia coli standard for single sample maximum for two samples collected on the same day in 2011. There have not been any exceedances of the geometric mean criteria. Since the 2011 single sample maximum exceedances, there have not been any exceedances for the five samples that have been collected under similar flow and weather conditions. This assessment unit has been changed to Category 2-M from Category 5-P for the 2014 cycle.

Pleasant Lake-Veasey Park Beach was listed in 2012 for exceedances of the Escherichia coli standard for single sample maximum for two samples collected on the same day in 2010 and historic samples taken in 1997 and 2000. There have not been any exceedances of the geometric mean criteria. Since the 2010 single sample maximum exceedances, there have not been any exceedances for the 27 samples that have been collected under similar flow and weather conditions. This assessment unit has been changed from Category 5-P to 2-M for the 2014 cycle.

Pleasant Lake-Public Access Beach was listed in 2012 for exceedances of the Escherichia coli standard for single sample maximum for two samples collected three days apart in 2010. There have not been any exceedances of the geometric mean criteria. Since the 2010 single sample maximum exceedances, there have not been any exceedances for the 21 samples that have been collected under similar flow and weather conditions. This assessment unit has been changed from Category 5-P to 2-M for the 2014 cycle.

Assessment Unit Name	Assessment Unit ID	2012	2014
Cocheco River-Hatfield Dam	NHIMP600030603-02	5-M	4A-M[5]
Kimball Pond-Kimball Pond Town Beach	NHIMP700030507-02-02	5-P	2-M[5]
Lake Winnipesaukee-Ellacoya Rv Park Beach	NHLAK700020110-02-39	5-P	4A-P[5]
Lake Winnisquam-Sanborton Town Beach	NHLAK700020201-05-02	5-P	4A-P[5]
Gould Pond-Eastman Park Beach	NHLAK700030501-01-02	5-M	4A-M[5]
Gould Pond-Emerald Beach	NHLAK700030501-01-04	5-P	4A-P[5]
Arlington Mill Reservoir-Arlington Pond-Improvement Association	NHLAK700061101-04-03	5-P	4A-P[5]
Hedgehog Pond-Town Beach	NHLAK700061102-13	5-P	4A-P[5]
Cobbetts Pond-Town Beach	NHLAK700061204-01-03	5-P	4A-P[5]
Sandy Pond-Camp Wiyaka Beach	NHLAK802010402-01-02	5-P	4A-P[5]
South River to Province Lake	NHRIV600020902-07	5-M	4A-M[5]
Jones Brook-Hart Brook	NHRIV600030402-04	5-M	4A-M[5]
Eel Pond-Outlet to Atlintic Ocean	NHRIV600031002-10	5-P	4A-M[5]
Trib to Chapel Brook	NHRIV600031002-23	5-P	4A-P[5]
Chapel Brook	NHRIV600031002-24	5-P	4A-P[5]

Unnamed Brook-to Loon Lake	NHRIV700010307-13	5-P	4A-P[5]
Unnamed Brook Along Meadowview Drive	NHRIV700010404-01	5-M	4A-M[5]
Lake Ave Trib	NHRIV700010804-18	5-M	4A-M[5]
Badger Brook	NHRIV700020202-11	5-P	4A-M5
Northern Inlet to Sawyer Lake*	NHRIV700020202-18	5-P/5-M	4A-M/4A-M[5]
Sunset Lane Brook	NHRIV700030101-37	5-P	4A-P[5]
Blackwater River	NHRIV700030403-17	5-P	4A-M[5]
Squannacook River-Walker Brook	NHRIV700040301-05	5-P	4A-M[5]
Flints Brook*	NHRIV700040402-03	5-P/5-M	4A-M/4A-M[5]
Lynn Grove Brook	NHRIV700060502-30	5-M	4A-M[5]
Taylor Brook	NHRIV700061101-05	5-P	4A-M[5]
Robinson Detention Pond - East Inlet*	NHRIV801040204-06	5-P/5-M	4A-M/4A-M[5]
Hewes Brook	NHRIV801040402-04	5-P	4A-M[5]
Unnamed Brook-to North Inlet of Canaan Street Lake	NHRIV801060101-09	5-P	4A-M[5]
Canaan Street Lake-inlet at Fernwood Farms	NHRIV801060101-16	5-M	4A-M[5]
Mascoma River-Unnamed Brook	NHRIV801060105-11	5-M	4A-M[5]
Cold River	NHRIV801070201-01	5-M	4A-M[5]
Unnamed Brook-to Crescent Lake from Northeast Inlet	NHRIV801070201-03	5-P	4A-M[5]
Chickering Farm Brook*	NHRIV801070502-04	5-P/5-M	4A-M/4A-M[5]
Wases Grove Inlet	NHRIV801070503-07	5-P	4A-M[5]
Camp Spofford Inlet-Unnamed Brook Aldridge	NHRIV801070503-08	5-P	4A-M[5]
Aldridge	NHRIV802010202-44	5-M	4A-M[5]
Ashuelot River-Otter Br to Keene Wwtf	NHRIV802010301-11	5-M	4A-M[5]
Unnamed Brook-Pine Inlet B	NHRIV802010302-06	5-M	4A-M[5]
Pine Inlet A	NHRIV802010302-07	5-P	4A-M[5]
Laurel Lake-Keene Ave Trib	NHRIV802020202-07	5-P	4A-M[5]

[5]TMDL approved or established by EPA

* Assessment Unit is impaired for both Primary and Secondary Contact Recreation. Both designations for Category status are listed in the above table.

On September 30th, 2013, EPA approved the Total Maximum Daily Load (TMDL) report for 44 Bacteria Impaired Waters in New Hampshire, which addresses impairment of primary (and in some cases secondary) contact recreation designated uses due to bacteria from improperly treated human waste and stormwater runoff. The TMDL covers 48 distinct bacterial impairments on 44 assessment units due to

E. coli (freshwater primary and secondary contact recreation). These assessment units have been changed to Category 4A from Category 5.

Assessment Unit Name	Assessment Unit ID	2012	2014
Jewett Brook	NHRIV700020201-16	3-ND	4A-M[5]
Locke Lake-Colony Beach	NHIMP700060402-02-05	2-G	4A-M[5]
Great Pond-Great Pond Park Association Beach	NHLAK700061403-06-05	2-M	4A-M[5]

[5]TMDL approved or established by EPA

On September 30th, 2015, EPA approved the Total Maximum Daily Load (TMDL) report for three Bacteria Impaired Waters in New Hampshire, which addresses impairment of primary contact recreation designated uses due to bacteria from improperly treated human waste and stormwater runoff. The TMDL covers three distinct bacterial impairments on three assessment units due to *E. coli* (freshwater primary contact recreation). These assessment units have been placed in Category 4A from Category 5.

7. Mercury

Eighteen new assessment units have been included in Category 4A (TMDL complete) due to the fact that all freshwater assessment units in New Hampshire are covered by the 2007 Mercury TMDL. All freshwater assessment units in New Hampshire are considered impaired for fish consumption due to atmospheric deposition of mercury.

Unnamed Pond	NHLAK600030608-02	n.a.	4A-M[5]
Whites Park Pond	NHLAK700060302-20	n.a.	4A-M[5]
Wood Road Brook	NHRIV600030707-18	n.a.	4A-M[5]
Powerline Brook	NHRIV600030707-19	n.a.	4A-M[5]
Unnamed Brook	NHRIV600030904-27	n.a.	4A-M[5]
Unnamed Brook	NHRIV600031001-23	n.a.	4A-M[5]
Unnamed Brook	NHRIV600031001-24	n.a.	4A-M[5]
Unnamed Brook to the Outlet of Little Squam Lake	NHRIV700010502-13	n.a.	4A-M[5]
Unnamed Brook	NHRIV700010802-13	n.a.	4A-M[5]
Unnamed Brook	NHRIV700020110-08	n.a.	4A-M[5]
Unnamed Brook	NHRIV700020110-09	n.a.	4A-M[5]
Unnamed Brook	NHRIV700060501-47	n.a.	4A-M[5]

Unnamed Brook	NHRIV700060502-49	n.a.	4A-M[5]
Unnamed Trib. To The Souhegan River	NHRIV700060902-21	n.a.	4A-M[5]
Unnamed Trib. To The Souhegan River	NHRIV700060906-44	n.a.	4A-M[5]
Unnamed Trib. To The Souhegan River	NHRIV700060906-45	n.a.	4A-M[5]
Unnamed Brook	NHRIV700061001-21	n.a.	4A-M[5]
Unnamed Brook	NHRIV802010202-55	n.a.	4A-M[5]

[5]TMDL approved or established by EPA

Section 5.1 of the Northeast Regional Mercury TMDL[1] contains a provision to add impaired waters to subsequent 303(d) lists for waters that are impaired due to atmospheric deposition and do not have any other sources of mercury impairment. These waterbodies have been placed into Category 4A-M for the 2014 cycle.

8. pH

Fourteen assessment units have been removed from the 303(d) list for impairment of the Aquatic Life Designated Use due to pH.

Assessment Unit Name	Assessment Unit ID	2012	2014
Wilder Lake	NHLAK801040402-03	5-M	2-G[4]
Connecticut River	NHRIV802010501-05	5-M	2-G[4]
Kilton Pond	NHLAK700010701-02-1	5-M	2-M[4]
Perry Brook	NHRIV700020101-12	5-M	2-M[4]
Northern Inlet to Rust Pond	NHRIV700020101-22	5-M	2-M[4]
Colby Brook	NHRIV700030302-20	5-M	2-M[4]
Hardy Spring Brook	NHRIV700030505-02	5-M	2-M[4]
Unnamed Brook-North Inlet to Forest Lake	NHRIV801030101-01	5-M	2-M[4]
Smith Pond Brook	NHRIV801060105-04	5-M	2-M[4]
Lebanon Brook	NHRIV801060105-14	5-M	2-M[4]
Darby Brook	NHRIV801070203-05	5-M	2-M[4]
Beaver Brook	NHRIV700061203-20	5-M	3-ND[2]
Marsh Pond	NHLAK700060503-04	5-M	3-PNS[2]
Contoocook River-300' ds of WWTF to Town Farm Bk-Inc Town Farm Brook	NHRIV700030101-17	5-P	3-ND[2]

[2]Data and/or information lacking to determine water quality status; original basis for listing was incorrect
[4]Applicable WQS attained; reason for recovery unspecified

[1] Connecticut DEP, Maine DEP, Massachusetts DEP, New Hampshire DES, New York DEC, Rhode Island DEM, Vermont DEC, New England Interstate Water Pollution Control Commission. 2007. Northeast Regional Mercury Total Maximum Daily Load. Pages 11-12.

Wilder Lake which is part of the Connecticut River was listed in 2008 due to low pH readings in 2000. Sampling conducted in 2004 under similar flow conditions indicated that pH standards were being met. In 2012 an intensive 64-day study was conducted to sample pH under a wide range of flow conditions to capture variability in pH concentrations. Additional sampling was conducted in the spring of 2013 to capture seasonal minimum pH conditions due to snowmelt. All the samples collected in 2012 and 2013 met pH standards. This assessment unit has been changed to Category 2-G for the 2014 cycle.

The Connecticut River (Vernon Dam to MA border) was listed in 2006 due to low pH readings in 2000, 2004 and 2005. Since 2006, this assessment unit has been sampled 3-4 times per year, as well as a 76-day intensive study conducted in 2012 under the range of conditions under which the exceedances were recorded. No samples have exceeded the pH standard since 2006. This assessment unit has been changed to Category 2-G for the 2014 cycle.

Kilton Pond was listed in 2008 due to low pH readings collected in 2000. Since 2007, all 20 samples collected under similar precipitation and flow conditions have met pH standards. This assessment unit has been changed to Category 2-M for the 2014 cycle.

Perry Brook was listed in 2010 due to low pH readings collected in 2004 and 2009. Based on the long-term dataset for this assessment unit it is likely that these two exceedances were in error. Since 2010, all 12 samples collected under similar precipitation and flow conditions have met pH standards. This assessment unit has been changed to Category 2-M for the 2014 cycle.

North Inlet to Rust Pond was listed in 2008 due to low pH readings collected in 2002, 2004 and 2008. Since 2008, all 15 samples collected under similar precipitation and flow conditions have met pH standards. This assessment unit has been changed to Category 2-M for the 2014 cycle.

Colby Brook was listed in 2012 due to low pH readings collected in 2006 and 2008. Since 2008, all 16 samples collected under similar precipitation and flow conditions have met pH standards. This assessment unit has been changed to Category 2-M for the 2014 cycle.

Hardy Spring Brook was listed in 2012 due to low pH readings collected in 2007 and 2011. Since 2011, all 8 samples collected under similar precipitation and flow conditions have met pH standards. The two exceedances appear to be anomalies based on analysis of the long-term dataset. This assessment unit has been changed to Category 2-M for the 2014 cycle.

The Unnamed Brook-North Inlet to Forest Lake was listed in 2006 due to low pH

readings collected in 2003 and 2004. Since 2004, all 8 samples collected under similar precipitation and flow conditions have met pH standards. This assessment unit has been changed to Category 2-M for the 2014 cycle.

Smith Pond Brook was listed in 2008 due to low pH readings collected in 2006 and 2007 which were minor exceedances. Since 2007, all 11 samples collected under similar precipitation and flow conditions have met pH standards. This assessment unit has been changed to Category 2-M for the 2014 cycle.

Lebanon Brook was listed in 2012 due to low pH readings collected in 2006 and 2008. Since 2008, all 9 samples collected under similar precipitation and flow conditions have met pH standards. This assessment unit has been changed to Category 2-M for the 2014 cycle.

Darby Brook was listed in 2008 due to low pH readings collected in 2005 and 2007. Since 2007, all 14 samples collected under similar precipitation and flow conditions have met pH standards. This assessment unit has been changed to Category 2-M for the 2014 cycle.

Beaver Brook (NHRIV700061203-20) was listed in 2002 due to low pH readings collected at sampling station 00M-23. That sampling station corresponds to a sampling station currently identified as 10-BVR, which is assigned to another assessment unit (NHRIV700061203-16) that is impaired for pH. The Beaver Brook (NHRIV700061203-20) assessment unit lacks data for pH as a result of the clarification of sampling stations. This assessment unit has been changed to Category 3-ND for the 2014 cycle.

Marsh Pond was listed erroneously in 2008 due to low pH readings that were close to exceeding the pH standard, but did not exceed. Since 2008, there has only been one sample taken which did exceed the pH standard, but this is not enough data to justify listing in Category 5. Therefore, this assessment unit has been changed to Category 3-ND for the 2014 cycle.

The Contoocook River (Contoocook River-300' ds of WWTF to Town Farm Bk-Inc Town Farm Brook) was listed in 2012 due to low pH readings taken in 2011. These data should have been associated with a different assessment unit, but were incorrectly associated with this assessment unit which caused an erroneous listing. There are currently no available data for this assessment unit. Therefore, this assessment unit has been changed to Category 3-ND for the 2014 cycle.

9. Chlorophyll-a and Total Phosphorus-Aquatic Life Use Support

Two assessment units covering four impairments have been removed from the 303(d) list for impairment of the Aquatic Life Designated Use due to Chlorophyll-a

and Total Phosphorus.

Assessment Unit Name	Assessment Unit ID	2012	2014
Contention Pond-Chlorophyll-a	NHLAK700030204-02	5-M	2-M[4]
Contention Pond-Phosphorus (Total)	NHLAK700030204-02	5-M	2-M[4]
Ashuelot Pond-Chlorophyll-a	NHLAK802010101-01	5-M	2-M[4]
Ashuelot Pond-Phosphorus (Total)	NHLAK802010101-01	5-M	2-M[4]

[4]Applicable WQS attained; reason for recovery unspecified

Contention Pond was listed in 2010 due to high chlorophyll-a readings and high total phosphorus samples collected from 2004-2009. Since 2010, three years of summer sampling have shown that chlorophyll-a levels have decreased below the 5 µg/L threshold and median phosphorus values have been below the 12 µg/L threshold for a mesotrophic lake. This assessment unit has been changed to Category 2-M for the 2014 cycle for both parameters.

Ashuelot Pond was listed in 2010 due to high chlorophyll-a readings and high total phosphorus samples collected from 1999-2009. Since 2010, three years of summer sampling have shown that chlorophyll-a levels have decreased below the 5 µg/L threshold and median phosphorus values have been below the 12 µg/L threshold for a mesotrophic lake. This assessment unit has been changed to Category 2-M for the 2014 cycle for both parameters.

Assessment Unit Name	Assessment Unit ID	2012	2014
Pearly Lake-Chlorophyll-a (Aquatic Life Use)	NHLAK802020103-08	5-M	4A-M[5]
Pearly Lake-Phosphorus (Total) (Aquatic Life Use)	NHLAK802020103-08	5-M	4A-M[5]
Pearly Lake-Dissolved Oxygen (Aquatic Life Use)	NHLAK802020103-08	5-M	4A-M[5]
Pearly Lake-Chlorophyll-a (Primary Contact Rec)	NHLAK802020103-08	5-M	4A-M[5]
Pearly Lake-Cyanobacteria (Primary Contact Rec)	NHLAK802020103-08	5-M	4A-M[5]
Pearly Lake Beach-Cyanobacteria (Primary Contact Rec)	NHLAK802020103-08-02	5-M	4A-M[5]

[5]TMDL approved or established by EPA

On September 24th, 2014, EPA approved the "Lake Phosphorus TMDL for Pearly Lake" to address-related impairments of hepatotoxic cyanobacteria, chlorophyll-a, dissolved oxygen and total phosphorus. The assessment units covered by the TMDL have been placed into impairment Category 4A.

Waters impaired by nonpoint sources of pollution

The State 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. Nastri, 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.