UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1
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BOSTON, MA 02109-3912

June 1, 2012

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DEPARTMENT OF
ENVIRONMENTAL SERVICES

Mr. Ted Diers
Administrator, Watershed Management Bureau
New Hampshire Department of Environmental Services
29 Hazen Drive
P.O. Box 95
Concord, NH 03302-0095

SUBJECT: **Approval of Hoods Pond TMDL**

Dear Mr. Diers:

Thank you for your submission of New Hampshire's Total Maximum Daily Load (TMDL) for *Hoods Pond*. The pond was included on the State's 2010 303(d) list and was prioritized for TMDL development. The purpose of this TMDL is to address the phosphorus-related impairment of hepatotoxic cyanobacteria.

The U.S. Environmental Protection Agency (EPA) hereby approves New Hampshire's *Hoods* Pond TMDL for phosphorus, received by EPA on May 14, 2012. EPA has determined that the TMDL meets the requirements of §303(d) of the Clean Water Act (CWA), and of EPA's implementing regulations (40 CFR Part 130). Attached is a copy of our approval documentation.

My staff and I look forward to continued cooperation with the NH DES in exercising our shared responsibility of implementing the requirements under Section 303(d) of the CWA.

If you have any questions, please contact Stephen Silva (617-918-1561) or Steven Winnett (617-918-1687) of my staff.

Sincerely,

Stephen S. Perkins, Director
Office of Ecosystem Protection

Cc: Harry Stewart (NHDES)
Gregg Comstock (NHDES)
Peg Foss (NHDES)
Stephen Silva, EPA
Steven Winnett, EPA

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TO DEPARTMENT OF
ENVIRONMENTAL SERVICES

EPA NEW ENGLAND'S TMDL REVIEW

TMDL: **Hoods Pond** **NHLAK700061203-03-01**

Location: Derry, New Hampshire

STATUS: Final

IMPAIRMENT/POLLUTANT: Hoods Pond is not supporting the designated use of Primary Contact Recreation Use. It is impaired with hepatotoxic cyanobacteria. A year-round TMDL submission is presented for total phosphorus.

BACKGROUND: The NH Department of Environmental Services (DES) submitted to EPA New England the final Total Maximum Daily Load for *Hoods Pond* (the "TMDL," "submission," or "Report") with a transmittal letter dated May 14, 2012. DES sent EPA a prototype draft report of its lake phosphorus TMDLs in February 2008, and after substantial review, EPA responded with comments in April 2009. DES addressed EPA's comments in the final draft TMDL documents, which it sent to EPA in July 2009. DES released and EPA approved 26 lake phosphorus TMDL reports in fiscal years 2011 and 2012, of which this is the latest member of the set.

The submissions included:

- Final TMDL report for phosphorus in Hoods Pond;
- Implementation plan for achieving TMDL reductions, Chapter 7;
- References, Chapter 11;
- Methodology for Determining Target Criteria, Appendix A;
- LLRM – Lake Loading Response Model Users Guide, Appendix B; and
- Land Use Categories, Export Coefficients, and Additional Calculations, Appendix C.

The following review explains how the TMDL submission meets the statutory and regulatory requirements of TMDLs in accordance with § 303(d) of the Clean Water Act and EPA's implementing regulations in 40 CFR Part 130.

REVIEWERS: Steven Winnett (617-918-1687) E-mail: winnett.steven@epa.gov

REVIEW ELEMENTS OF TMDLs

Section 303(d) of the Clean Water Act (CWA) and EPA's implementing regulations at 40 C.F.R. § 130 describe the statutory and regulatory requirements for approvable TMDLs. The following information is generally necessary for EPA to determine if a submitted TMDL fulfills the legal requirements for approval under Section 303(d) and EPA regulations, and should be included in the submittal package. Use of the verb "must" below denotes information that is required to be submitted because it relates to elements of the TMDL required by the CWA and by regulation.

1. Description of Water Body, Pollutant of Concern, Pollutant Sources and Priority Ranking

The TMDL analytical document must identify the water body as it appears on the State/Tribe's 303(d) list, the pollutant of concern and the priority ranking of the water body. The TMDL submittal must include a description of the point and nonpoint sources of the pollutant of concern, including the magnitude and location of the sources. Where it is possible to separate natural background from nonpoint sources, a description of the natural background must be provided, including the magnitude and location of the source(s). Such information is necessary for EPA's review of the load and wasteload allocations which are required by regulation. The TMDL submittal should also contain a description of any important assumptions made in developing the TMDL, such as: (1) the assumed distribution of land use in the watershed; (2) population characteristics, wildlife resources, and other relevant information affecting the characterization of the pollutant of concern and its allocation to sources; (3) present and future growth trends, if taken into consideration in preparing the TMDL; and, (4) explanation and analytical basis for expressing the TMDL through surrogate measures, if applicable. Surrogate measures are parameters such as percent fines and turbidity for sediment impairments, or chlorophyll a and phosphorus loadings for excess algae.

Hoods Pond is located in Derry, New Hampshire, as described in Chapter 2.1. The Report describes the pollutant of concern, total phosphorus (TP), and the phosphorus related impairment, hepatotoxic cyanobacteria, from which the water body suffers. Primary contact recreation is identified as the impaired designated use in the TMDL (Section 2.5). The Report lists the water body as it appears on the State's 2010 303(d) list and explains that it had been ranked as a low priority for TMDL development because it was unknown if funding was available to do the TMDL. When funding became available, DES increased the priority for TMDL development (TMDL Section 2.5). The document also describes the TMDL study area (TMDL Section 2.1) and its land uses (TMDL Figure 3-1 and Table 3-2).

The submission includes a discussion of the point and nonpoint sources that contribute to the water quality impairment (TMDL Section 3.0), as well as a discussion of the water monitoring and data that indicate the condition of the pond (TMDL Section 2.1 and Table 2-2). The major sources of phosphorus pollution to the watershed include atmospheric deposition and direct runoff from the shorelines, the contributing watershed and its tributaries, and from surface water baseflow (TMDL Section 3.0).

Assessment: DES has adequately identified the water body, the pollutant of concern, and the magnitude and locations of the sources of pollution.

2. Description of the Applicable Water Quality Standards and Numeric Water Quality Target

The TMDL submittal must include a description of the applicable State/Tribe water quality standard, including the designated use(s) of the water body, the applicable numeric or narrative water quality criterion, and the antidegradation policy. Such information is necessary for EPA's review of the load and wasteload allocations which are required by regulation. A numeric water quality target for the TMDL (a quantitative value used to measure whether or not the applicable water quality standard is attained) must be identified. If the TMDL is based on a target other than a numeric water quality criterion, then a numeric expression, usually site specific, must be developed from a narrative criterion and a description of the process used to derive the target must be included in the submittal.

Hoods Pond is impaired by phosphorus (TMDL, Section 1.0), and is classified in Class B (TMDL Section 2.2). DES's water quality standards and policies specify the following goals for Class B waters, including goals for dissolved oxygen (DO) and chlorophyll *a* (TMDL Section 2.3):

- Env-Wq 1703.14: Class B waters shall contain no phosphorus in such concentrations that would impair any existing or designated uses, unless naturally occurring.
- Env-Wq 1703.14: Existing discharges containing either phosphorus or nitrogen that encourage cultural eutrophication shall be treated to remove phosphorus or nitrogen to ensure attainment and maintenance of water quality standards.
- Env-Wq 1703.14: There shall there be no new or increased discharges of phosphorus into lakes and ponds, and there shall be no new or increased discharges containing phosphorus or nitrogen to tributaries of lakes or ponds that would contribute to cultural eutrophication or growth of weeds or algae in such lakes or ponds.
- Env-Wq 1703.07 (b): Except as naturally occurs, or in waters identified in RSA 485-A:8, III, or subject to (c) below, Class B waters shall have a DO content of at least 75% of saturation, based on a daily mean, and an instantaneous minimum DO concentration of at least 5 mg/L.
- Env-Wq 1703.07 (d): Unless naturally occurring or subject to (a) above, surface waters within the top 25 percent of depth of thermally unstratified lakes, ponds, impoundments and reservoirs or within the epilimnion shall contain a DO content of at least 75 percent saturation, based on a daily mean and an instantaneous minimum DO content of at least 5 mg/L. Unless naturally occurring, the DO content below those depths shall be consistent with that necessary to maintain and protect existing and designated uses.
- The DES policy for interim nutrient threshold for primary contact recreation (i.e. swimming) in NH lakes is 15 ug/L chlorophyll *a* (DES 2008a). Lakes were also listed even if scums were present only along a downwind shore.

New Hampshire has no numeric criteria for phosphorus in lakes and ponds. Consequently, DES derived a numeric TP target of 12 ug/L, using procedures described in Section 2.6 and detailed in Appendix A that will allow the pond to attain its designated use. The target is based on an analysis of phosphorus conditions in both impaired and unimpaired lakes in the state, and is supported by additional analyses of nutrient levels for commonly recognized trophic levels, and by the use of probabilistic equations to establish targets that minimize the risk of impaired conditions. All three methods produced similar results, and a detailed discussion of them can be

found in Appendix A. A margin of safety was estimated given the conservative assumptions used in setting the target (TMDL Section 5.2; Appendix A, Sections 1.3.1 and 1.3.3).

This is a reasonable approach in the absence of adopted numeric nutrient criteria since it is based on substantial state-specific data and falls within the range of EPA 304(a) criteria guidance, including EPA's 1986 Quality Criteria for Water (Gold Book) which recommends 0.025 mg/l (25 ug/L) phosphorus for lakes and ponds, and EPA's 2000 Ambient Water Quality Criteria Recommendations for Lakes and Reservoirs in Nutrient Ecoregions VIII and XIV (into which NH falls) which suggests 0.008 mg/l (8 ug/L) phosphorus.

Assessment: EPA New England concludes that DES properly presented its water quality standards when it set the numeric water quality target.

3. Loading Capacity - Linking Water Quality and Pollutant Sources

As described in EPA guidance, a TMDL identifies the loading capacity of a water body for a particular pollutant. EPA regulations define loading capacity as the greatest amount of loading that a water can receive without violating water quality standards (40 C.F.R. § 130.2(f)). The loadings are required to be expressed as either mass-per-time, toxicity or other appropriate measure (40 C.F.R. § 130.2(i)). The TMDL submittal must identify the water body's loading capacity for the applicable pollutant and describe the rationale for the method used to establish the cause-and-effect relationship between the numeric target and the identified pollutant sources. In most instances, this method will be a water quality model. Supporting documentation for the TMDL analysis must also be contained in the submittal, including the basis for assumptions, strengths and weaknesses in the analytical process, results from water quality modeling, etc. Such information is necessary for EPA's review of the load and wasteload allocations which are required by regulation.

In many circumstances, a critical condition must be described and related to physical conditions in the water body as part of the analysis of loading capacity (40 C.F.R. § 130.7(c)(1)). The critical condition can be thought of as the "worst case" scenario of environmental conditions in the water body in which the loading expressed in the TMDL for the pollutant of concern will continue to meet water quality standards. Critical conditions are the combination of environmental factors (e.g., flow, temperature, etc.) that results in attaining and maintaining the water quality criterion and has an acceptably low frequency of occurrence. Critical conditions are important because they describe the factors that combine to cause a violation of water quality standards and will help in identifying the actions that may have to be undertaken to meet water quality standards.

DES describes the rationale for the methods used to establish the cause-and-effect relationship between the numeric target and the identified pollutant sources. Current yearly phosphorus load (in kg/yr) to the pond was established using the ENSR-LRM model (TMDL, Section 3.0), and included specification of the loads from the pond's contributing subwatershed and tributaries, from direct drainage to the pond, from watershed baseflow, and from atmospheric deposition (TMDL, Section 3.1-3.4). Pond response to the loading (the resulting phosphorus concentration) was calculated using the average of five models, including Kirchner-Dillon, Vollenweider, Reckhow, Larsen-Mercier, and Jones-Bachman (TMDL, Section 3.5). The allowable annual loading was then calculated using the ENSR-LRM loading and lake response models' outputs (TMDL, Section 4.1) and the daily load was determined using a statistical estimation technique which accounts for the variability of the loads throughout the year (TMDL, Section 4.2).

Assessment: EPA New England concludes that the loading capacity, having been calculated using a set of recognized water quality models, and using observed concentration data and water quality targets consistent with narrative water quality criteria and observed conditions from

impaired and unimpaired water bodies, has been appropriately set at a level necessary to attain and maintain applicable water quality standards. The TMDL is based on a reasonable approach for establishing the relationship between pollutant loading and water quality.

4. Load Allocation (LA)

EPA regulations require that a TMDL include LAs, which identify the portion of the loading capacity allocated to existing and future nonpoint sources and to natural background (40 C.F.R. § 130.2(g)). Load allocations may range from reasonably accurate estimates to gross allotments (40 C.F.R. § 130.2(g)). Where it is possible to separate natural background from nonpoint sources, load allocations should be described separately for background and for nonpoint sources.

If the TMDL concludes that there are no nonpoint sources and/or natural background, or the TMDL recommends a zero load allocation, the LA must be expressed as zero. If the TMDL recommends a zero LA after considering all pollutant sources, there must be a discussion of the reasoning behind this decision, since a zero LA implies an allocation only to point sources will result in attainment of the applicable water quality standard, and all nonpoint and background sources will be removed.

The submission identifies the portion of the loading capacity that would be attributable to nonpoint sources and natural background, normally assigned to the load allocations (LAs). In this watershed, nonpoint sources of pollution may include diffuse stormwater runoff and overland flow, surface water base flow and groundwater seepage, septic systems, internal cycling of nutrients, waterfowl, and atmospheric deposition. Because there are little available data in this watershed to determine how much of the nonpoint sources are attributable to regulated vs. unregulated sources, DES has chosen to allocate unregulated stormwater and other nonpoint source runoff to the waste load allocation (WLA), which EPA has said is an acceptable approach when insufficient data are available.

Assessment: In the absence of sufficient data to separate the two, EPA New England concludes that it is acceptable for DES to include that portion of the loading capacity that would normally be attributable to the load allocation (LA) into the waste load allocation (WLA), below.

5. Wasteload Allocation (WLA)

EPA regulations require that a TMDL include WLAs, which identify the portion of the loading capacity allocated to existing and future point sources (40 C.F.R. § 130.2(h)). If no point sources are present or if the TMDL recommends a zero WLA for point sources, the WLA must be expressed as zero. If the TMDL recommends a zero WLA after considering all pollutant sources, there must be a discussion of the reasoning behind this decision, since a zero WLA implies an allocation only to nonpoint sources and background will result in attainment of the applicable water quality standard, and all point sources will be removed.

In preparing the wasteload allocations, it is not necessary that each individual point source be assigned a portion of the allocation of pollutant loading capacity. When the source is a minor discharger of the pollutant of concern or if the source is contained within an aggregated general permit, an aggregated WLA can be assigned to the group of facilities. But it is necessary to allocate the loading capacity among individual point sources as necessary to meet the water quality standard.

The TMDL submittal should also discuss whether a point source is given a less stringent wasteload allocation based on an assumption that nonpoint source load reductions will occur. In such cases, the State/Tribe will need to demonstrate reasonable assurance that the nonpoint source reductions will occur within a reasonable time.

As stated above, because there are little available data in this watershed to determine how much of the nonpoint sources are attributable to regulated vs. unregulated sources, DES has chosen to allocate unregulated stormwater and other nonpoint source runoff to the waste load allocation (WLA), which EPA has said is an acceptable approach when insufficient data are available. In this submission, DES has developed a WLA which allocates the allowable load for the water body amongst the nutrient sources. To achieve the target concentration of 12 ug/l, they use the loading models to iteratively reduce the loads from the major sources until the target load is reached. Those major sources are direct drainage and the tributary watersheds. Atmospheric deposition is an additional source of nutrients but DES has not allocated any of the load reductions to it.

The allocation calls for significant reductions from the major contributing tributary watershed and from direct drainage of between 49 - 76% (TMDL, Section 4.6). DES acknowledges that it is likely that the final allocations, which reduce overall loading by 75% in total, will be challenging to achieve.

As a further check on the WLA, DES assessed and compared alternate loading scenarios, including the current loading, a natural environmental background scenario, and the reduction of contributing watershed loads needed to meet the 12 ug/l target (TMDL Table 6.1 and 6.2). The document discusses the scenarios and their results in Chapter 6.

Assessment: EPA concludes that the WLA has been reasonably set with analyses of how much the various major sources of nutrients can be potentially reduced to achieve the allowable load in the pond. In the absence of specific information to determine the relative contributions of regulated and unregulated sources of stormwater runoff to the pond, EPA New England concludes that it is acceptable and reasonable for all sources of nutrients to be included in the WLA.

6. Margin of Safety (MOS)

The statute and regulations require that a TMDL include a margin of safety to account for any lack of knowledge concerning the relationship between load and wasteload allocations and water quality (CWA § 303(d)(1)(C), 40 C.F.R. § 130.7(c)(1)). EPA guidance explains that the MOS may be implicit, i.e., incorporated into the TMDL through conservative assumptions in the analysis, or explicit, i.e., expressed in the TMDL as loadings set aside for the MOS. If the MOS is implicit, the conservative assumptions in the analysis that account for the MOS must be described. If the MOS is explicit, the loading set aside for the MOS must be identified.

The water quality target for this TMDL was developed using the three methods discussed above. The first, a statistical analysis of the conditions of other impaired and nonimpaired N.H. lakes, used summer epilimnetic concentrations to set the water quality target, while the TMDL itself was based on empirical models, based on annual lake concentrations, which assume fully mixed conditions. Since studies on other lakes show that annual concentrations can be substantially higher than summer epilimnetic concentrations, this produces an implicit MOS of approximately 20% (TMDL Appendix A, Section 1.3.1). The third target setting approach using probability analysis of the risk of summer blooms also used conservative assumptions involving summer versus annual conditions and produced an implicit MOS of approximately 20% (TMDL Appendix A, Section 1.3.3). In addition, the high color conditions of the pond, potentially

indicating the presence of dissolved organic matter, could provide an additional margin of safety as lower light levels resulting from the color may suppress algal growth (TMDL Section 5.2).

Assessment: EPA New England concurs that an adequate margin of safety is provided by the implicit MOS of approximately 20% produced by the conservative assumptions and data used in the target setting procedures used in the TMDL.

7. Seasonal Variation

The statute and regulations require that a TMDL be established with consideration of seasonal variations. The method chosen for including seasonal variations in the TMDL must be described CWA § 303(d)(1)(C), 40 C.F.R. § 130.7(c)(1).

The TMDL addresses seasonal variation because the required reduction in phosphorus was calculated for the conditions during the critical, summer season, when occurrence of nuisance algal blooms, low dissolved oxygen and likelihood of nutrient scums are greatest. Therefore, the TMDL allocation protects designated uses during the entire year (TMDL Section 4.4 and 4.5).

Assessment: EPA New England concludes that seasonal variations have been adequately accounted for as the TMDL was developed to be protective during the critical period for phosphorus, and will therefore be more than adequately protective during the other seasons.

8. Monitoring Plan for TMDLs Developed Under the Phased Approach

EPA's 1991 document, Guidance for Water Quality-Based Decisions: The TMDL Process (EPA 440/4-91-001), recommends a monitoring plan when a TMDL is developed under the phased approach. The guidance recommends that a TMDL developed under the phased approach also should provide assurances that nonpoint source controls will achieve expected load reductions. The phased approach is appropriate when a TMDL involves both point and nonpoint sources and the point source is given a less stringent wasteload allocation based on an assumption that nonpoint source load reductions will occur. EPA's guidance provides that a TMDL developed under the phased approach should include a monitoring plan that describes the additional data to be collected to determine if the load reductions required by the TMDL lead to attainment of water quality standards.

The State proposes continuing DES monitoring and suggests that local stakeholders become active in the Volunteer Lake Assessment Program (VLAP) or with the Lakes Lay Monitoring Program (LLMP) at the University of New Hampshire to ensure that water quality improvement activities are adjusted as monitoring indicates changes in the water quality of the pond. The State briefly discusses their monitoring recommendations and plans in the TMDL report (TMDL Chapter 8).

Assessment: Addressed, though not required.

9. Implementation Plans

On August 8, 1997, Bob Perciasepe (EPA Assistant Administrator for the Office of Water) issued a memorandum, "New Policies for Establishing and Implementing Total Maximum Daily Loads (TMDLs)," that directs Regions to work in partnership with States/Tribes to achieve nonpoint source load allocations established for 303(d)-listed waters impaired solely or primarily by nonpoint sources. To this end, the memorandum asks that Regions assist States/Tribes in developing implementation plans that include reasonable assurances that the nonpoint source load

allocations established in TMDLs for waters impaired solely or primarily by nonpoint sources will in fact be achieved. The memorandum also includes a discussion of renewed focus on the public participation process and recognition of other relevant watershed management processes used in the TMDL process. Although implementation plans are not approved by EPA, they help establish the basis for EPA's approval of TMDLs.

A short implementation plan is provided in the submission (TMDL Chapter 7) which summarizes the major identified sources of pollution, identifies the necessary reductions from each, and gives general and specific recommendations for abating them. The plan discusses several types of best management practices and low impact development (LID) techniques to reduce runoff from stormwater, residential areas, and lawns (TMDL Section 7.0 and Table 7.1). It also discusses the opportunities that may be provided by the Clean Water Act Section 319 program for nonpoint source pollution abatement.

Assessment: Addressed, though not required.

10. Reasonable Assurances

EPA guidance calls for reasonable assurances when TMDLs are developed for waters impaired by both point and nonpoint sources. In a water impaired by both point and nonpoint sources, where a point source is given a less stringent wasteload allocation based on an assumption that nonpoint source load reductions will occur, reasonable assurance that the nonpoint source reductions will happen must be explained in order for the TMDL to be approvable. This information is necessary for EPA to determine that the load and wasteload allocations will achieve water quality standards.

In a water body impaired solely by nonpoint sources, reasonable assurances that load reductions will be achieved are not required in order for a TMDL to be approvable. However, for such nonpoint source-only waters, States/Tribes are strongly encouraged to provide reasonable assurances regarding achievement of load allocations in the implementation plans described in section 9, above. As described in the August 8, 1997 Perciasepe memorandum, such reasonable assurances should be included in State/Tribe implementation plans and "may be non-regulatory, regulatory, or incentive-based, consistent with applicable laws and programs."

Reasonable assurance is not required because point sources are not given a less stringent wasteload allocation based on the assumption of future nonpoint source load reductions. Although not required, the TMDL cites several additional elements of reasonable assurance:

- The enforcement of RSA 485-A:12, which requires those responsible for sources of pollution that lower water quality below the minimum requirements of the classification to abate such pollution;
- DES will work with watershed stakeholders to identify specific phosphorus sources within the watershed;
- Requests for Clean Water Act Section 319 funds (nonpoint source pollution program) to implement specific best management practices (BMPs) will receive high priority;
- Support for Lakes Management and Protection Plans through RSA 483-A:7; and
- For lakes included in the NHDES Volunteer Lake Assessment Program, support from DES staff on phosphorus reduction opportunities and help securing CWA Section 319 (nonpoint source) program grants where eligible.

Assessment: Not required.

11. Public Participation

EPA policy is that there must be full and meaningful public participation in the TMDL development process. Each State/Tribe must, therefore, provide for public participation consistent with its own continuing planning process and public participation requirements (40 C.F.R. § 130.7(c)(1)(ii)). In guidance, EPA has explained that final TMDLs submitted to EPA for review and approval must describe the State/Tribe's public participation process, including a summary of significant comments and the State/Tribe's responses to those comments. When EPA establishes a TMDL, EPA regulations require EPA to publish a notice seeking public comment (40 C.F.R. § 130.7(d)(2)).

Inadequate public participation could be a basis for disapproving a TMDL; however, where EPA determines that a State/Tribe has not provided adequate public participation, EPA may defer its approval action until adequate public participation has been provided for, either by the State/Tribe or by EPA.

DES summarized its public participation in the TMDL report (TMDL Chapter 10). DES released the draft TMDL to the public on May 17, 2010. The release of the draft was announced on the Department's website and in notices at the local Offices of the Mayor and City Council. Copies of the TMDL were made available to the public at the town hall and city library, and were sent to the relevant town boards, commissions, and departments. The agency received a set of comments from the Town of Derry's Town Engineer. The TMDL submission includes a copy of the submitted comment and the Department's response to it in the final TMDL submission. In response to the comments, DES collected additional data, conducted additional analyses, made substantial changes to the TMDL document, and sent copies of the TMDL to the Town of Londonderry.

Assessment: EPA New England has reviewed the public participation process for this TMDL. EPA concludes that DES involved the public during the development of the *Hoods Pond TMDL*, has provided adequate opportunities for the public to comment on the TMDL.

12. Submittal Letter

A submittal letter should be included with the TMDL analytical document, and should specify whether the TMDL is being submitted for a technical review or is a final submittal. Each final TMDL submitted to EPA must be accompanied by a submittal letter that explicitly states that the submittal is a final TMDL submitted under Section 303(d) of the Clean Water Act for EPA review and approval. This clearly establishes the State/Tribe's intent to submit, and EPA's duty to review, the TMDL under the statute. The submittal letter, whether for technical review or final submittal, should contain such information as the name and location of the water body, the pollutant(s) of concern, and the priority ranking of the water body.

Comment: A submittal letter with appropriate information was included with the final submission.