



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1
5 POST OFFICE SQUARE, SUITE 100
BOSTON, MA 02109-3912

July 3, 2019

Mr. Ted Diers
New Hampshire Department of Environmental Services
Water Division
29 Hazen Drive, Box 95
Concord, NH 03302-0095

Dear Mr. Diers:

By letter dated January 30, 2018, New Hampshire Department of Environmental Science (DES) requested EPA's approval of amendments to State water quality standards in RSA 485-A:2 and RSA 485-A:8, II. Among the amendments are revisions to the dissolved oxygen criterion for Class B waters and to the river flow to be used when establishing nutrient effluent limits in wastewater discharge permits. The purpose of this letter is to request that DES provide sound scientific rationales for these amendments consistent with 40 C.F.R. 131.6 and 40 C.F.R. 131.11.

Regulations at 40 C.F.R. 131.6 specify the minimum requirements for water quality standards submissions to EPA. In particular, 40 C.F.R. 131.6 (b) specifies that the methods used, and analyses conducted to support water quality revisions must be provided to EPA. This information aids EPA in determining, consistent with 40 C.F.R. 131.5(a)(2), whether a State has adopted criteria that protect the designated use, and whether they are based on a sound scientific rationale as required by 40 C.F.R. 131.11(a).

Although the January 2018 submission from DES stated that the technical/scientific basis for revisions to the water quality standards were attached, none were included. At that time and on several subsequent occasions, EPA asked DES for documentation to support the technical/scientific basis for the removal of the minimum 75% saturation dissolved oxygen standard for Class B waters. Again, in EPA's March 13, 2019 comment letter on the 2018 Draft 303(d) list, the Agency requested the scientific analysis that DES used to support this revision. EPA is concerned that the removal of the dissolved oxygen saturation standard without the addition of more stringent dissolved oxygen concentration criteria to protect early life stages would not adequately protect the State's aquatic life designated use.

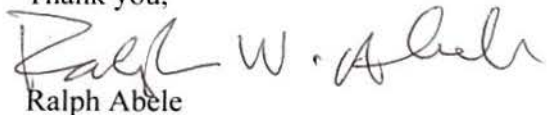
DES stated in its January 2018 submission that the decision to eliminate the use of the 7Q10 flow for nutrient permit calculations at RSA-A:8, II was made because nutrients, as opposed to toxics, do not create the type of short-term impacts that require the use of the "worst case" scenario. Although this explanation is helpful, DES has not provided the scientific basis demonstrating that the elimination of the requirement to use the 7Q10 flow to calculate nutrient discharge limits would be protective of the

designated uses; nor has it demonstrated that the absence of any alternative minimum dilution flow to be used when calculating nutrient permit limits would protect uses. Such information is needed to meet the requirements of both 40 C.F.R. 131.6(b) and 40 C.F.R. 131.11.

EPA is committed to taking timely action on DES's water quality standards submittals, consistent with its statutory deadlines. However, DES must provide the minimum requirements for water quality standard submittals for EPA to act in a timely way. Therefore, EPA requests that DES submit the scientific rationales for these revisions so that EPA can complete its review and determine whether the revisions are protective of the designated uses.

If you have any questions, please contact me at (617) 918-1629.

Thank you,

A handwritten signature in cursive script, appearing to read "Ralph W. Abele".

Ralph Abele
Chief, Water Quality Standards Section
EPA Region I

cc: Ken Moraff, EPA
Ann Williams, EPA