

September 21, 2004

Ms. Yvonne Bolton, Acting Chief
Bureau of Water Management
Connecticut Department of Environmental Protection
79 Elm Street
Hartford, CT 06106

Dear Ms. Bolton:

Thank you for your submittal of the final **Total Maximum Daily Load Analysis for Kenosia Lake, Danbury, Connecticut** for nutrients (total nitrogen and total phosphorus). This waterbody is included on Connecticut's 2002 303(d) list as a priority water for TMDL development to address impairment of recreational use caused by excessive nutrient loading and concentration. The 303(d) list also identifies algal growth/chlorophyll *a* and noxious aquatic plants as causes of recreational impairment to Kenosia Lake. Excess nutrients in Kenosia Lake are the cause of these two impairments. This nutrient TMDL will consequently also address the presence of algal growth/chlorophyll *a* and noxious aquatic plants in the lake.

The U.S. Environmental Protection Agency (EPA) hereby approves Connecticut's TMDL dated July 23, 2004 and received by EPA on August 20, 2004. EPA has determined that this TMDL meets the requirements of Section 303(d) of the Clean Water Act (CWA) and EPA's implementing regulations (40 CFR Part 130). Attached is a copy of our approval documentation.

We are very pleased with the quality of the TMDL submittal. Your staff has done an excellent job of preparing a comprehensive and informative TMDL report. My staff and I look forward to continued cooperation with the CT DEP in exercising our shared responsibility of implementing the requirements under Section 303(d) of the CWA.

If you have any questions or comments regarding this approval, please contact Mary Garren of my staff at (617) 918-1322. Thank you very much.

Sincerely,

Linda M. Murphy, Director
Office of Ecosystem Protection

cc: Betsey Wingfield, CT DEP
Lee Dunbar, CT DEP
Kelly Streich, CT DEP

EPA NEW ENGLAND'S TMDL REVIEW

TMDL: A Total Maximum Daily Load Analysis for Kenosia Lake In Danbury, Connecticut

Kenosia Lake, Impoundment of the Still River, Fairfield County, Connecticut
CT Waterbody Segment ID# CT6600-01-1-L3_01 on the State of Connecticut 2002 List of Connecticut Water Bodies Not Meeting Water Quality Standards (303(d) of the Federal Clean Water Act); Tier 2 water

STATUS: Final

IMPAIRMENT/POLLUTANT: Kenosia Lake is impaired for primary contact recreational use. Causes for the impairment are listed as algal growth/chlorophyll *a*, exotic species, noxious aquatic plants, and nutrients. The TMDL is proposed for nutrients [total nitrogen (TP) and total phosphorus (TP)]. Excessive nutrient (nitrogen and phosphorus) loading and concentrations are related causes of algal growth/chlorophyll *a* and the presence of noxious aquatic plants. This TMDL will address nutrients, algal growth/chlorophyll *a* and noxious aquatic plants; all of which contribute to the impairment of recreational use in Kenosia Lake.

BACKGROUND: The Connecticut Department of Environmental Protection (CT DEP) submitted to EPA New England the final TMDL for Kenosia Lake with a transmittal letter dated August 12, 2004. A Draft TMDL prepared by CTDEP and was dated July 2002. EPA New England prepared a draft comment letter dated November 25, 2002. The document was subsequently modified to address comments from the City of Danbury and EPA. No public comments were received during CT DEP's one-month public comment period. The public comment period ended on July 19, 2004.

The following review explains how the TMDL submission meets the statutory and regulatory requirements of TMDLs in accordance with Sec. 303(d) of the Clean Water Act, and 40 CFR Part 130.

REVIEWERS: Mary Garren (617-918-1322) Garren.Mary@EPA.GOV
Matthew Liebman (617-918-1626) Liebman.Matt@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 Waterbody, Pollutant of Concern, Pollutant Sources and Priority Ranking**

The TMDL analytical document must identify the waterbody as it appears on the State/Tribe's 303(d) list, the pollutant of concern and the priority ranking of the waterbody. 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.

Kenosia Lake is a 65-acre fresh water lake with maximum and mean water depths of 18.0 and 11.6 feet, respectively. The total inflow to the lake is 49% base flow from the 3,264-acre watershed and 44% storm flow. The primary cause of eutrophication in Kenosia Lake is identified as excess nutrients (nitrogen and phosphorus) from anthropogenic sources. CT DEP is concerned that the lake experiences non-algal turbidity in response to inclement weather runoff, algal blooms under low-flow conditions, and excessive rooted plant density (page 2, TMDL report). Excess anthropogenic nutrients are the root cause of eutrophication, algal blooms and growth of noxious aquatic plants.

Kenosia Lake is listed as Tier 2 on CT's 2002 List of Connecticut Water Bodies Not Meeting Water Quality Standards. Recreational use of the lake is impaired due to excess nutrient (nitrogen and phosphorus) loading and concentration. The 2002 list ranked Kenosia Lake as a priority "T". Priority "T" waters are currently under study and may lead to the development of a TMDL within the next two years if warranted (page 3). This TMDL will remove Kenosia Lake from Tier 2. Implementation and monitoring according to the approved TMDL will be the next phase for Kenosia Lake.

The document describes the sources of total nitrogen and total phosphorus, as well as the routes of entry for these pollutants into Kenosia Lake. No permitted point source discharges of nutrients exist in the lake basin. Existing storm water discharges, however, are regulated as point sources by federal NPDES regulations (page 3). CT DEP presents four distinct methods used to calculate current and background loads of total nitrogen and total phosphorus to Kenosia Lake (pages 3-8). These four methods used data from the Diagnostic Feasibility Study, data from the 2001 drainage study, numerous empirical models, and a calibrated land use export coefficient model. The assumptions and calculations regarding nitrogen and phosphorus sources are clearly presented on pages 7 and 8. Annual nitrogen and phosphorus loads using these methods are presented in Table 1 (page 5). The mean annual loads are estimated as 7,211 kg/yr of nitrogen and 475 kg/yr of phosphorus. Pre-development background conditions are predicted to have been 3,005 kg/yr of nitrogen and 181 kg/yr of phosphorus. Reductions of 55-63% in

current total nitrogen loads and 50-75% in current total phosphorus loads would be needed to return to pre-development conditions in the watershed (page 7).

*The TMDL includes relevant background information required for EPA approval. The TMDL report breaks down current land use into 57% forested, 30% urban, and 13% agricultural/open space (page 2, under Description of Waterbody). The City of Danbury's master plan anticipates 10% population growth in the future contributing to changes in that land use breakdown (page 14, under Waste Load Allocation). Additional detail is provided on the aquatic plants that are contributing to the excessive root density in Kenosia Lake. Eurasian watermilfoil (*Myriophyllum**

*spicatum) and coontail (*Ceratophyllum demersum*) are identified as the noxious aquatic plant species that are contributing to recreational impairment of the lake (page 2). This TMDL does not rely upon surrogate measures in its calculations, so this information was not necessary for inclusion. The TMDL references a more detailed background presentation in the Diagnostic Feasibility Study and the Drainage Study for Kenosia Lake (page 2).*

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 waterbody, 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 that 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.

The State of Connecticut Water Quality Standards applicable to Kenosia Lake have two components. Surface Water Standards and Lake Trophic Categories are both relevant to determining whether Kenosia Lake meets its Water Quality Standards. Class AA Water Quality Standards apply to Kenosia Lake to preserve its use for potable water supply, recreation, fish and wildlife habitat, industrial and agricultural supply, and navigation. The surface water standards criteria for nitrogen and phosphorus used in determining this nutrient TMDL are narrative criteria. Specific CT DEP standards are referenced on page 9 of the TMDL report. The natural trophic state of Kenosia Lake, in the absence of human-derived inputs, would be mesotrophic. Lake trophic standards are defined in CT's Water Quality Standards. Kenosia Lake, in its present state, fails to meet both portions of the applicable Water Quality Standards (pages 9-10)

CT DEP provides numerous points to justify that a Total Maximum Annual Load (TMAL) is a better expression for the nutrient loading capacity of a lake than a TMDL (pages 1-2). The nonpoint sources that contribute nutrients to Kenosia Lake are highly variable

and seasonally dependent. Uncertainty in nutrient loads is high. The TMAL is a more realistic number and goal to assess compliance with Water Quality Standards. This TMDL estimates that compliance with Water Quality Standards and use attainment would be achievable with TMALs for nitrogen and phosphorus set at 4790 and 248 kg/yr, respectively (pages 16-17, Table 6). Narrative and numeric calculation of the TMALs are presented on pages 10-17. The TMALs were determined based on a detailed current loading analysis and comparison with target levels based on various applicable criteria. Appendix A presents an excellent assessment of how the implementation of best management practices (BMPs) in the Kenosia Lake watershed will improve the water quality of the lake and help the lake attain mesotrophic conditions again.

3. Loading Capacity - Linking Water Quality and Pollutant Sources

As described in EPA guidance, a TMDL identifies the loading capacity of a waterbody 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 waterbody'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 that are required by regulation.

In many circumstances, a *critical condition* must be described and related to physical conditions in the waterbody 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 waterbody 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.

The TMDL report presents a detailed current loading analysis (pages 3-9) based on four methods: existing data from the 2000 Diagnostic/Feasibility Study, existing data from the 2001 drainage study, the average of empirical models, and a calibrated land use export coefficient model. The strengths and weakness of these four methods are presented on page 4. CT DEP's use of multiple methods to estimate current and background nutrient loading is conservative. The estimates made using these four methods are the bases for the TMALs. The TMALs for Kenosia Lake are set at TN 4790 kg/yr and TP 248 kg/yr (pages 16-17, Table 6). These targets are based on modeled background conditions and possible load reductions as presented in the TMDL report (pages 10-17). The TMALs

were established as the average loads from existing data and models after 60% reductions in surface water loading of TN and TP and a 50% reduction in internal TP load (page 16). Post-TMAL implementation conditions in the lake are presented in Tables 2 and 7 and Appendix A. In-lake concentrations of nitrogen and phosphorus, based on the TMALs, are estimated as 478 ug/L Total Nitrogen and 25 ug/L Total Phosphorus (page 17).

Increased precipitation, decreased flushing rates, and higher internal loading of phosphorus via sediment release could potentially present a worst-case scenario for environmental conditions in Kenosia Lake. These conditions are identified as the primary contributing factors to increased nutrient loads in the watershed (pages 17-18). The occurrence of these three conditions at the same time could pose a critical condition for the water quality of the lake. This would most likely happen during the late spring or early summer. CT DEP estimates ideal loading conditions for the spring and summer seasons (page 18). Loading in excess of these estimates will serve as a potential indicator of critical conditions in the lake.

4. Load Allocations (LAs)

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 Load Allocation to Kenosia Lake includes surface water base flow, internal sediment loading, waterfowl input and atmospheric deposition. All storm water run-off is regulated and therefore included in the Waste Load Allocation. The total Load Allocations for Total Nitrogen and Total Phosphorus are 2553 kg/yr and 57 kg/yr, respectively (pages 13-14).

5. Wasteload Allocations (WLAs)

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.

There are no continuous point source discharges of nutrients within the Kenosia Lake watershed. Danbury is, however, regulated under the NPDES "Phase II Rule" making all storm water loading to Kenosia Lake regulated as a point source. The Waste Load Allocation is therefore equal to 2237 kg/yr Total Nitrogen and 191 kg/yr Total Phosphorus present in the storm water. No future growth factor is allocated to the Waste Load Allocation. All future discharge permits, including storm water permits, will be written to ensure that the TMAL is not exceeded. Best Management Practices will be required in all permits to allow for TMAL attainment (pages 12-14).

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.

An implicit Margin of Safety is relied upon in the TMDL report. Conservative assumptions regarding nutrient availability suggest a Margin of Safety of up to 62% for nitrogen and 75% for phosphorus (page 15). The TMAL is based on total nutrient loads. Storm water data collected in 2000-2001 by CT DEP suggests however that actual loads are substantially less than assumed in calculations due to lower nutrient availability. This difference between total estimated nutrient loads and actual measured nutrient loads is the basis for the implicit Margin of Safety.

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 Kenosia Lake TMDL addresses seasonal variation (pages 17-18) to establish an annual target load that would remain protective for all seasons. Kenosia Lake has a moderate flushing rate (approximately eight times a year) with larger loads and lower flushing rates during the late spring and early summer. CT DEP estimates the nutrient loads that would be ideally expected to allow Water Quality Standards to be achieved. CT DEP estimates that no more than 1/4 of the annual load should be attributed to each of the spring and summer seasons. No more than 1/3 of the seasonal load should be attributed to any one month during the spring and summer. If these seasonal and annual goals are exceeded, it is more likely that Kenosia Lake would not be meeting its Water Quality Standards and designated use.

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 monitoring plan for the Kenosia Lake TMDL is taken directly from the 2000 Diagnostic/Feasibility Study (pages 18-19 of the TMDL report). Paired dry weather-wet weather samples will be collected three times between May 15th and October 1st. These samples will be taken at the Mill Brook inlet and any storm water pipe that is targeted for management. Monthly samples of the upper and lower water column of the lake will be analyzed from June
Until September. Phytoplankton and zooplankton counts will be conducted if funding is sufficient.*

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 EPA does not approve implementation plans, they help establish the basis for EPA's approval of TMDLs.

A summary of ways to reduce nitrogen and phosphorus loading to Kenosia Lake is presented in the TMDL report (pages 19-20). These management options are taken from the 2000 Diagnostic/Feasibility Study. Table 8 (page 21) presents options within four major management categories. Table 9 (page 22) proposes a 10-year schedule for completion of 17 management activities appropriate for Kenosia Lake. These activities address watershed source reduction and transport mitigation, algal control and dissolved oxygen enhancement, rooted aquatic plant control, and in-lake and watershed monitoring. Appendix A assesses the potential impacts of implementing best management practices on reductions to nutrient loads to Kenosia Lake.

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 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 assurances are not necessary for the Kenosia Lake TMDL because point sources (NPDES Phase II regulated storm water in this case) are not given a less stringent WLA based on any assumption that NPS load reductions will occur. However, there is reasonable assurance that reductions in regulated storm water will happen, given the fact that CTDEP provides information on current surveys and work in the watershed that point to a long-term local commitment to improving water quality in the Kenosia Lake watershed. The report states that The City of Danbury has worked since the early 1980's to address NPS pollution in the watershed. The City contracted for a Diagnostic Feasibility Study of Kenosia Lake completed in July 2000 and has performed drainage studies. The City has taken enforcement actions and initiated education programs to further improve water quality in the lake and watershed. (page 23).

Continued actions by the City of Danbury and CT DEP are reasonably expected based on the City's past actions and CT DEP's intended implementation of this TMDL report.

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.

The State and City have provided ample opportunity for public participation in the development of the TMDL for Kenosia Lake (page 23). The City hosted three public meetings to discuss the water quality assessment and planned improvements. CT DEP placed a notice for public comment in the Danbury News Times on June 18, 2004. Written notice of the comment period was provided to a small mailing list. No comments were received by CT DEP during its one-month comment period.

The TMDL document discusses provisions to revise the TMDL in the future. CT DEP commits to a public participation process should the need ever arise to modify the TMDL based on new information (page 23). CT DEP intends to modify the TMDL only in the event that a modification is warranted by new information and if the modification would be consistent with the Connecticut Water Quality Standards.

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 waterbody, the pollutant(s) of concern, and the priority ranking of the waterbody.

The submittal letter accompanying the Kenosia Lake TMDL is dated August 12, 2004. The letter specifies that the Kenosia Lake TMDL was established as final on July 23, 2004. CT DEP clearly states that the Final TMDL has been submitted to EPA for approval in accordance with Section 303(d) of the Clean Water Act.