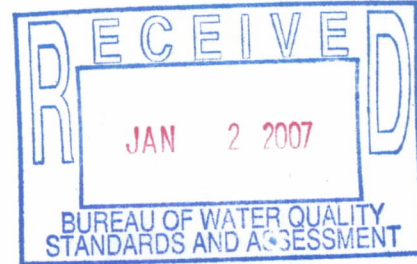




UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

DEC 20 2006

Mr. Mark P. Mauriello
Assistant Commissioner
Land Use Management
New Jersey Department of
Environmental Protection
CN 402
Trenton, New Jersey 08625-0402



Dear Assistant Commissioner Mauriello:

The U.S. Environmental Protection Agency (EPA) has completed its review of the revisions to the New Jersey Surface Water Quality Standards (NJSWQS) dated October, 2006. N.J.A.C. 7:9B. These revisions were both adopted by the New Jersey Department of Environmental Protection (NJDEP) and became effective on October 16, 2006. They were submitted to EPA on November 8, 2006. The submission was accompanied by a letter, dated October 20, 2006 from New Jersey Deputy Attorney General Jane F. Engel, which certified that the 2006 revisions had been adopted in accordance with New Jersey law. In taking this action, EPA considered the following documents submitted in connection with the revised NJSWQS:

1. the letter from the New Jersey Deputy Attorney General Jane F. Engel, certifying that the standards were duly adopted pursuant to New Jersey law (dated October 20, 2006);
2. the applicable notices from the New Jersey Register (dated September 19, 2005, November 21, 2005, and October 16, 2006).

Under Section 303(c) of the Clean Water Act (CWA), 33 U.S.C. § 1313(c), states are required to conduct a triennial review of their water quality standards and submit any new or revised standards to EPA for review. Federal regulations at 40 C.F.R. §§ 131.20-131.22 implement these requirements. New Jersey's previous review and revision of its water quality standards were adopted and became effective on June 20, 2005. As part of the review process on the 2006 revisions, NJDEP held a public hearing November 9, 2005 to receive public input and

comment on the proposed revisions to the NJSWQS. EPA considers the adoption of the 2006 revisions to the NJSWQS, along with the public review and comment process, to constitute the State's triennial review of water quality standards. Based on our review, NJDEP's procedures are consistent with, and satisfy the procedural requirements of 40 C.F.R. § 131.20.

The following constitute the revisions which are being addressed under this action. These revisions enhance the NJSWQS, and represent improvements in the NJSWQS.

- the additions of definitions for "Best Management Practices (BMPs)," "Carcinogen," "Non-carcinogen," and "Water Effect Ratio (WER)," (N.J.A.C. 7:9B-1.4), which are approved as being consistent with the requirements under 40 C.F.R. § 131.3;
- revisions to the statements of policy on carcinogens and non-carcinogens to clarify the derivation of human health criteria for carcinogens and non-carcinogens (7:9B-1.5(a)(5)), which are approved as being consistent with the requirements under 40 C.F.R. § 131.11(a);.
- revision to the statements of policy on interstate waters to acknowledge the change in name of the Interstate Environmental Commission from the Interstate Sanitation Commission (7:9B-1.5(b)), which are approved as being consistent with the requirements under 40 C.F.R. § 131.3;.
- revisions to the statements of policy on design flows by listing each design flow individually instead of aggregating them into one paragraph (7:9B-1.5(c)(2)), which are approved as being consistent with the requirements under 40 C.F.R. § 131.13;
- the addition of a new statement of policy on assessing compliance with bacterial criteria. providing that NJDEP will utilize the geometric mean to assess compliance with its bacterial indicators to protect primary contact recreation (enterococci for marine waters and e-coli for freshwaters), and that the single sample maximum will be used for beach notification purposes (7:9B-1.5(c)(7)), which is approved as being consistent with the requirements under 40 C.F.R. § 131.13;
- the relocation of the statements of policy on the implementation of temperature criteria. from 7:9B-1.14(c)(11) to 7:9B-1.5(c)(8) without substantive revisions (7:9B-1.5(c)(8)), which is approved as being consistent with the requirements under 40 C.F.R. § 131.13;
- the addition of a new statement of policy which allows NJDEP to require characterization monitoring in NJPDES permits for mercury and PCBs using EPA Method 1631 for mercury and EPA proposed Method 1668A for PCBs (7:9B-1.5(e)(7)), which is approved as being consistent with the requirements under 40 C.F.R. § 131.13;
- the relocation of statements of policy on heat dissipation areas from 7:9B-1.14(c)(11ii) to 7:9B-1.5(h)(2i) without substantive revisions (7:9B-1.5(h)(2i)), which is approved as being consistent with the requirements under 40 C.F.R. § 131.13;

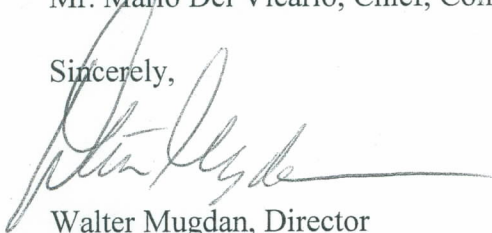
- revisions to the surface water quality criteria for Pineland (PL) waters so that the bacterial criteria in 7:9B-1.14(d) apply to PL waters (7:9B-1.14(b)(2ii)), which are approved as being consistent with the requirements under 40 C.F.R. § 131.11(a);
- revisions to the surface water quality criteria for bacterial quality to replace the previous fecal coliform criteria for waters classified as SE-1 and SC with enterococci-based criteria, and waters classified as FW-2 with e-coli criteria (7:9B-1.14(d)(1ii)), which are approved as being consistent with the requirements under 40 C.F.R. § 131.11(a);
- revision of the surface water quality criteria for temperature to include a maximum temperature criterion of 20°C (68°F) for trout production (TP) waters, to be applied as a summer seasonal average (7:9B-1.14(d)(1i)), which is approved as being consistent with the requirements under 40 C.F.R. § 131.11(a);
- revision of the surface water quality criteria for temperature to include a statement that the applicable maximum temperature criteria are to be applied as a summer seasonal average (7:9B-1.14(d)(1i)), which is approved as being consistent with the requirements under 40 C.F.R. § 131.13;
- adoption of new or revised surface water quality criteria for aquatic life protection for the following 14 substances: Arsenic, Lindane, Cadmium; Chromium III, Chromium VI, Copper, Dieldrin, Endrin, Mercury, Nickel, Pentachlorophenol, Selenium, Silver and Zinc (7:9B-1.14(f)), which are approved as being consistent with the requirements under 40 C.F.R. § 131.11(a) and (b)(1);
- the adoption of a 6 hour averaging period for cadmium, chromium, lead, mercury, nickel, silver and zinc, and a 24 hour averaging period for copper, (7:9B-1.14(f)), which are approved as being consistent with the requirements under 40 C.F.R. § 131.11(b)(1);
- adoption of new or revised surface water quality criteria for the protection of human health for over 100 substances based upon: EPA's 2000 Human Health Methodology; EPA's recommended fish consumption rate of 17.5 g/day; updated toxicity information from either IRIS or the New Jersey Drinking Water Quality Institute; and EPA's 2005 Guidelines for Carcinogenic Risk Assessment (7:9B-1.14(f)), which are approved as being consistent with the requirements under 40 C.F.R. § 131.11(a) and (b)(1);
- the addition of a place holder for the inclusion of site-specific surface water quality criteria which may be developed and adopted in the future (7:9B-1.14(g)), which is approved as being consistent with the requirements under 40 C.F.R. § 131.11(b)(1)(ii); To date only the previously adopted, and EPA-approved, site-specific copper criteria for the New York/New Jersey Harbor are included in this section; and,
- revisions to seven water body classifications based on trout status (N.J.A.C. 7:9B-1.15), which are approved as being consistent with the requirements under 40 C.F.R. § 131.10(a) - (e).

By this letter, I am pleased to approve the above revisions to the NJSWQS pursuant to Section 303(c) of the CWA, subject to the results of consultation under section 7(a)(2) of the Endangered Species Act.

EPA initiated consultation with the U.S. Fish and Wildlife Service and NOAA Fisheries (Services) on November 22, 2006, under Section 7(a)(2) of the Endangered Species Act. Section 7(a)(2) requires that federal agencies, in consultation with the Services, insure that their actions are not likely to jeopardize the existence of federally listed species or result in the adverse modification of designated critical habitat of such species. Upon completion of consultation with the Services, EPA will notify NJDEP of the results.

EPA Region II looks forward to continuing to work with NJDEP to further improve the NJSWQS. If you have any questions, please call me at (212) 637-3725 or have your staff contact Mr. Mario Del Vicario, Chief, Community and Ecosystem Protection Branch at (212) 637-3779.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Walter Mugdan', is written over a horizontal line.

Walter Mugdan, Director
Division of Environmental Planning and Protection

cc: Leslie McGeorge, NJDEP
Debra Hammond, NJDEP
Lauren Wisniewski, OST-SHPD