



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION
Water Monitoring and Standards
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KIM GUADAGNO
Lt. Governor

April 18, 2013

Joan Leary Matthews, Director
Clean Water Division
U.S. Environmental Protection Agency,
Region II
290 Broadway, 24th Floor
New York, NY 10007-1866

Dear Ms. Matthews:

I am re-submitting New Jersey's revised nutrient criteria adopted into the Surface Water Quality Standards (SWQS) at N.J.A. C. 7:9B-1.14(d)4i and ii for your agency's review and approval. The New Jersey Department of Environmental Protection (Department) adopted amendments on nutrient policies and criteria on January 18, 2011 at 43 N.J.R. 174(b).

The Department formally transmitted the adopted rule along with the Attorney General's certification to EPA on February 18, 2011. EPA staff raised concerns with the proposed implementation of the narrative nutrient criteria through our NJPDES permitting program. On May 19, 2011 the Department notified EPA that while an assessment methodology had been developed to evaluate the narrative nutrient criterion in non-tidal freshwater Wadeable streams from a listing/delisting perspective, we had not documented actions planned to ensure that waters currently meeting the narrative nutrient criteria would continue to comply in the future.

EPA approved the expansion of the application of the narrative nutrient criteria from fresh waters to estuarine and coastal waters and the re-codification revisions of the State's nutrient criteria and implementation, through a letter dated June 30, 2011. However, based on the Department's May 19, 2011 request, EPA did not act on narrative nutrient and numeric total phosphorus criteria at N.J.A.C. 7:9B-1.14(d)4i and ii pending the submission of additional supporting documentation.

I am pleased to inform you that the Division of Water Monitoring and Standards has worked with the Division of Water Quality to develop the Narrative Nutrient Criteria Implementation (NNCI) document. The NNCI document outlines an approach that will enable the Department to impose phosphorus limits in permits for facilities that discharge to non-tidal freshwaters that do not meet the narrative nutrient criteria. The Division of Water Monitoring and Standards will initiate nutrient assessment monitoring during the summer of 2013 where a facility discharges to an unassessed waterbody. If the narrative criteria are not met, the waterbody will be listed on the

303(d) list for phosphorus and a WQBEL will be imposed in the facility's NJPDES permit. The numeric phosphorus criteria will be used to develop effluent limits in NJPDES permits unless watershed-specific translators are established.

In those few waterbodies where the Department has determined that an effluent limit for phosphorus was not required because the narrative nutrient criteria was met, annual field evaluations will be conducted to ensure that our unimpaired waters are not degraded. The Department will also conduct a field evaluation on unassessed waters impacted by very small public owned treatment plants before initiating full nutrient assessment monitoring. In addition, the visual nutrient assessment will be conducted when the Department performs biological monitoring. This will enable the Department to better evaluate compliance with the NNCI.

As indicated in our proposal, response to public comments and the adoption, the impact of nutrients is site-specific and the best way to evaluate whether the nutrient concentration results in undesirable impacts is by evaluating the biological response. The Department believes that using biological monitoring to confirm impairment ensures that our waters will be appropriately protected. The Department expects to supplement the NCCI as assessment methods are developed for other waterbody types.

The Department anticipates that with this clarification, EPA should be able to approve the Department's adopted amendments to the Surface Water Quality Standards. Please note that this letter and the NNCI document are being transmitted electronically to Wayne Jackson and Jeff Gratz. Questions concerning the NNCI can be referred to Debra Hammond, Chief, Bureau of Water Quality Standards and Assessment. She can be reached at (609) 777-1753.

Sincerely,



Jill Lipoti

Director

Water Monitoring and Standards

- c. Debra Hammond, Chief, Bureau of Water Quality Standards and Assessment
Jeff Gratz, EPA Region II
Wayne Jackson, EPA Region II