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## **ENVIRONMENTAL PROTECTION**

## **WATER RESOURCE MANAGEMENT**

## **WATER MONITORING, STANDARDS AND PESTICIDE CONTROL**

### **Notice of Administrative Corrections**

### **Surface Water Quality Standards**

### **N.J.A.C. 7:9B-1.14(d)1ii**

**Take notice** that the Department of Environmental Protection (Department) is making administrative corrections to the Surface Water Quality Standards (SWQS) rules at N.J.A.C. 7:9B-1.14(d)1(ii) to be consistent with the policy at N.J.A.C. 7:9B-1.5(c)8 and USEPA's 2012 recommended recreational water quality criteria (77 Fed. Reg. 71191).

The Department proposed and adopted revised primary contact recreation criteria for pathogen indicators enterococcus and *E. coli* at N.J.A.C. 7:9B-1.14(d)1(ii), which included an updated geometric mean and a new statistical threshold value (STV) in accordance with USEPA's 2012 recommended recreational water quality criteria (see 54 N.J.R. 1239(a); 55 N.J.R. 1722(a)). The Department intended to implement both the updated geometric mean and statistical threshold value to assess compliance with the SWQS and in New Jersey Pollutant Discharge Elimination System (NJPDDES) permits. Accordingly, the Department proposed and adopted a new policy at N.J.A.C. 7:9B-1.5(c)8 which states, "[t]he Department shall implement the geometric mean and statistical threshold values (STV), where applicable, for bacterial quality criteria established at N.J.A.C.7:9B1.14(d)1ii and iii...". Further, the Department states in its proposal at 54 N.J.R.

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1239(a) that “the Department would use a geometric mean and Statistical Threshold Value (STV) for fresh and saline waters designated for primary contact recreation” and “the Department is proposing a new provision to incorporate these changes, at N.J.A.C. 7:9B-1.5(c)8, that the geometric mean (for waters designated for both primary and secondary contact recreation) and statistical threshold value (for waters designated for primary contact recreation), specified at N.J.A.C. 7:9B-1.14(d)1ii and iii, respectively, would be implemented over a 90-day period in the NJPDES permits in accordance with N.J.A.C. 7:14A-13.15(a)2.” The Department also indicated its intent to implement both the geometric mean and the STV in its notice of rule proposal (54 N.J.R. 1239(a)): “[t]he proposed primary contact recreational criteria include magnitude, duration and frequency of excursion and consists of both geometric mean (GM) and a new measure, statistical threshold value (STV).” Further evidenced in the notice of rule adoption at 55 N.J.R. 1724, commenters demonstrated an understanding that both the geometric mean and STV would be utilized to determine compliance with NJPDES permits during the submittal of discharge monitoring reports.

However, an error was found in the adopted primary contact recreation criterion for enterococcus at N.J.A.C. 7:9B-1.14(d)1(ii)1, which states, “[e]nterococci levels shall not exceed a geometric mean of 30/100 ml over a 90-day period, or a Statistical Threshold Value of 100/100 ml...”. Similarly, the adopted criterion for *E. coli* at N.J.A.C. 7:9B-1.14(d)1(ii)2 states “*E. coli* levels shall not exceed a geometric mean of 100/100 ml over a 90-day period or a Statistical Threshold Value of 320/100 ml...”. The Department inadvertently did not amend each enterococcus and *E. coli* criterion to state “a geometric mean... [or] **and** a Statistical Threshold Value.”

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Therefore, the Surface Water Quality criteria for bacterial quality at N.J.A.C. 7:9B-1.14(d)1(ii) 1 and 2 are amended to state “[e]nterococci levels shall not exceed a geometric mean of 30/100 ml over a 90-day period, [or] **and** a Statistical Threshold Value...” and “*E. coli* levels shall not exceed a geometric mean of 100/100 ml over a 90-day period [or] **and** a Statistical Threshold Value.”

**Full text** of the changed rule follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

## CHAPTER 9B

### SURFACE WATER QUALITY STANDARDS

#### SUBCHAPTER 1. SURFACE WATER QUALITY STANDARDS

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N.J.A.C. 7:9B-1.14(d) General Surface Water Quality Criteria for FW2, SE and SC Waters:

(Expressed as Maximum concentrations unless otherwise noted)

<u>Substance</u>	<u>Criteria</u>	<u>Classifications</u>
1. Bacterial quality (Counts/100 ml)	<ul style="list-style-type: none"> <li>i. (No change.)</li> <li>ii. Primary Contact Recreation: <ul style="list-style-type: none"> <li>(1) Enterococci levels shall not exceed a geometric mean of 30/100 ml over a 90-day period[, or] <b>and</b> a Statistical Threshold Value of 110/100 ml which shall not be greater than 10 percent excursion frequency over a 90-day period.</li> <li>(2) <i>E. Coli</i> levels shall not exceed a geometric mean of 100/100 ml over a 90-day period [or] <b>and</b> a Statistical Threshold Value of 320/100 ml which shall not be greater than 10 percent excursion frequency over a 90-day period.</li> </ul> </li> <li>iii. (No change.)</li> </ul>	<ul style="list-style-type: none"> <li>Shellfish Waters</li> <li>SE1 and SC</li> <li>All FW2</li> <li>SE2</li> </ul>