



pennsylvania
DEPARTMENT OF ENVIRONMENTAL
PROTECTION

COMMENT AND RESPONSE DOCUMENT

WATER QUALITY TOXICS MANAGEMENT STRATEGY

25 Pa. Code Chapter 16
47 Pa.B. 6703 (October 21, 2017)
DEP Statement of Policy #7-516

Commenter List

**25 Pa Code Chapter 16
Water Quality Toxics Management Strategy
Statement of Policy**

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The regulation that constitutes the Commonwealth of Pennsylvania’s Triennial Review of Water Quality Standards was adopted by the Environmental Quality Board (Board) as a proposed rulemaking at the Board’s April 18, 2017 meeting, and includes, as a companion, the Department of Environmental Protection’s (Department) 25 Pa. Code Chapter 16 Water Quality Toxics Management Strategy – Statement of Policy. Public notices for the proposed rulemaking (Board – Chapter 93) and proposed statement of policy (Department - Chapter 16) were published in the *Pennsylvania Bulletin* on October 21, 2017 (47 Pa.B. 6609 and 6703, respectively) with provisions for 70-day concurrent public comment periods on each proposal, which were set to end on December 29, 2017. The Board and Department published supplemental corrections in the *Pennsylvania Bulletin* on October 28, 2017 (47 Pa.B. 6727 and 6730, respectively) to correct errors that were published in the October 21 *Bulletin* notices for the date and location for the public hearings to be held at the Northeast Regional Office on December 6, 2017.

The Board and Department held back-to-back public hearings for the purpose of accepting comments on the proposed rulemaking and statement of policy on December 6, 8, and 14, at the Department’s Northeast Regional Office in Wilkes-Barre, the Southcentral Regional Office in Harrisburg, and the Southwest Regional Office in Pittsburgh, respectively.

In response to requests for an extension of the public comment period and to add a public hearing in the southeast region of Pennsylvania, public notices were also published in the *Pennsylvania Bulletin* on December 30, 2017 (47 Pa.B. 7852 and 7861). Additional public hearings were held on January 30, 2018, at the Department’s Southeast Regional Office in Norristown, for both the Proposed Regulation and Proposed Statement of Policy. The extended public comment periods for these proposals closed on February 16, 2018.

As a result of the public hearings and extended public comment period, the Department received comments on the proposed statement of policy from five commenters, including from the United States Environmental Protection Agency (EPA). The following is a summary of the comments received on the proposed amendments to 25 Pa. Code Chapter 16, and the Department’s responses to those comments.

General Comments

Comment 1:

Subject to specific comments provided for each section or topic, the commenter indicated they are fully supportive of Pennsylvania’s proposed revisions. (1)

Evaluating water quality data and assessing compliance with water quality standards and attainment of designated uses are among the most technically daunting tasks the Department of Environmental Protection performs. The language provided in the Water Quality Toxics Management Strategy (along with Chapter 93 – Water Quality Standards) outlines certain aspects necessary in completing these tasks. In doing so, the Water Quality Toxics Management Strategy, and amendments so proposed, will have lasting impacts to not only the quality of the state’s waters but also those entities that are directly related to those waters – most notably the dischargers of treated wastewater. It is our intention with these comments to assist the

Department in performing these tasks by asking for clarification on the amendments. Addressing these clarifications now will allow for permitted dischargers to properly address their specific cases when permitting issues arise. (5)

Response:

The Department appreciates these comments.

Specific Comments by Section or Topic

Comment 2:

The commenter recommends the Department clarify how duration and frequency is defined for aquatic life use criteria in section §16.21 and for the acute and chronic criteria in Chapter 93 Table 3. The Department should also clarify how the duration and frequency described in the criteria development rationale and supporting documentation relates to the frequency presented in Chapter 96 (§96.3), which states water quality criteria described in Chapter 93 “shall be achieved in all surface waters at least 99% of the time,” unless otherwise specified in Title 25. (1)

Response:

The Department appreciates these comments and edited the final statement of policy, clarifying how duration and frequency is defined for aquatic life use criteria.

Comment 3:

Would like to commend the Department on inclusion of the freshwater Copper Biotic Ligand Model (BLM) as an approved method in §16.24(c)(3). The commenter notes that PADEP states the copper BLM is preferred by the Department but recommends that PADEP state that the Department can require use of the Copper BLM. The commenter also recommends the Department revise the statement about the “availability and toxicity of metals.” to clarify that “The BLM is used in evaluating the differences in the bioavailability and toxicity of metals.” The term “bioavailability” refers to conditions that make the metal available to biota which are to be protected by the freshwater copper BLM criterion. (1)

Section 16.24(c) states that “NPDES dischargers may request alternate effluent limitations by using site-specific water quality characteristics in a request to modify an existing water quality criterion, in accordance with 93.8(d) (relating to development of site-specific water quality criteria)” by using one or more methods including Recalculation Procedure, WER, BLM, or developing a criterion using other guidance approved by the department. The commenter recommends PADEP clarify which methods can be combined and which cannot. For example, a WER and a BLM cannot be combined since a WER is a post-derivation adjustment while the BLM is used to derive the criteria. Further, PADEP should clarify that a BLM cannot be combined with a recalculation procedure. (1)

Section 16.24(d) states that “The discharger may choose to conduct either the WER or BLM. Either the WER or BLM may be combined with a chemical translator study or the Recalculation Procedures. If the Recalculation Procedure is selected, the procedure requires the recalculation of

the existing criterion before the WER is applied.” It is recommended that PADEP clarify that dischargers may choose to conduct either WER or BLM studies, but, that BLM is the preferred method. PADEP should also specify that the BLM cannot be combined with a recalculation procedure. PADEP should also clarify that Pennsylvania regulation at 93.8d(f)(3) indicates that site-specific criteria are to be submitted to EPA for review and approval under CWA Section 303(c). (1)

Response:

The Department appreciates these comments and edited the final statement of policy to be more consistent with EPA’s recommendations and national guidelines.

Comment 4:

The commenter is seeking clarification from the Department regarding Section 16.24 (Metals Criteria). Is it the Department’s position that the only acceptable site-specific definition of the water quality criteria for copper is the one calculated from the Biotic Ligand Model? According to subpart (d) Section 16.24, the discharger may choose to conduct either the WER or BLM. When will the Department accept a site-specific WER? (5)

Response:

The Department appreciates these comments and made appropriate clarifications in the final statement of policy to be more consistent with EPA’s recommendations and national guidelines. The Department indicated that it will require the use of the Biotic Ligand Model (BLM) method for the development of site-specific criteria for freshwater copper based on consideration of site conditions, since BLM is based on more appropriate and current science than the Water Effects Ratio (WER) methodology. The Department reminds the commenter that the BLM method is currently limited to use in evaluating site-specific criteria for freshwater copper. The BLM has not been approved for other metals, or other forms of copper. The WER method is still available for other metals, as approved by the Department.

Comment 5:

The commenter recommends the Department not delete Table 1A in Appendix A, Site-Specific Water Quality Criteria for Toxic Substances, but rather maintain this table in Chapter 16. This commenter also points to their comments on proposed revisions to Chapter 93 that PADEP formalize the establishment of site-specific criteria as revisions to its water quality standards regulations, commenting that in order for EPA to take a CWA Section 303(c) action on site-specific criteria, those criteria must be in state law or regulation. They recommend PADEP maintains Table 1A, §16 Appendix A to house these site-specific criteria. In addition, PADEP does not indicate to where the information currently housed in Table 1A will be relocated if PADEP does remove it from the regulations. (1)

Response:

The Department is currently taking a comprehensive review in an attempt to add clarification of its site-specific criteria review and development process. The Department appreciates the recommendation to retain Table 1A, §16 Appendix A, Site-Specific Water Quality Criteria for Toxic Substances in addition to maintaining a publicly available online table of approved site-

specific criteria, but Chapter 16 is a codification of the Department's Water Quality Toxics Management Strategy Statement of Policy, not state law or regulation. Also, the Department believes having this duplication of two separate tables, Table 1A and the online table could create confusion and greater potential for the introduction of errors and inconsistency in determining the applicable criteria. Therefore, the Department deleted Table 1A from Chapter 16, Appendix A, along with the corresponding cross references in 25 Pa. Code §§ 93.8a(b) and 93.8c(a), to be replaced by the current online table for site-specific criteria, as proposed.

The Department will continue to work closely with EPA in clarifying Pennsylvania's site-specific criteria review, development, and approval process. Further clarification and updates to the Department's site-specific criteria process will be included in appropriate implementation guidance, and, if it is found to be warranted, will address any necessary regulatory updates in a future water quality standards rulemaking, following this comprehensive review and further coordination with EPA.

Comment 6:

As the language about hardness and pH [*in §16.51(a)*] was also included in the amendments to Chapter 93 – Water Quality Standards, we have provided the following comments to those proposed amendments as well. (5)

We would like the Department to clarify what it means by “instream measurements or best estimates, representative of the median concentrations or conditions of the receiving stream for the applicable time period and design conditions.” Is it the Department's position that the water quality (i.e., hardness or pH) that is used to define the stream criteria should be characterized by collecting instream samples of the water quality (i.e., hardness or pH) downstream of the discharge? We also ask that the Department clarify what it means by “best estimate.” Is it the Department's position that stream hardness will no longer be considered a default value (i.e., 100 mg/L), but rather the Department will use best judgement to estimate the stream hardness? We would also like clarification on what the Department means by “applicable time period and design conditions.” (5)

We believe that the characterization of the water quality that is used to calculate certain aquatic life criteria should be done under the same conditions to which those criteria are applied. In other words, if the criteria are going to be applied, e.g., at the edge of the mixing zone, under critical low-flow stream and permitted treatment plant conditions, then water quality needs to be characterized under those same conditions. The only way to accomplish this is to characterize both the receiving water body (upstream of a discharge) and the discharge individually and use a mass balance approach to combine the two using the appropriate stream and discharge flows. (5)

Response:

The Department appreciates these comments. The Department made clarifying edits to the pH implementation language as published at proposed rulemaking at 17 Pa.B. 6609 (October 21, 2017). Further, Department-approved data collection protocols will be used to determine the pH values. These current Department-approved sampling protocols are contained within the 2018 version of the Water Quality Monitoring Protocols for Streams and Rivers, found at

http://files.dep.state.pa.us/Water/Drinking%20Water%20and%20Facility%20Regulation/WaterQualityPortalFiles/Technical%20Documentation/MONITORING_BOOK.pdf (refer to Chapter 4: Chemical Data Collection Protocols).

Comment 7:

The commenter recommends the Department clarify in §16.51(b), as well as in Chapter 93, how “natural quality” will be determined. They also note that this change in criteria would need to be submitted to EPA for review and approval as it represents a change in a water quality standard. The publicly available list of surface waters and parameters where an aquatic life criterion based on natural conditions applies should be maintained and updated in Pennsylvania’s water quality standards regulations. The commenter says it appears that this provision (natural quality becoming the criterion) does not apply to the Great Lakes, and if that is the case, PADEP should clarify that. (1)

Response:

The Department appreciates these comments and is working to clarify how “natural quality” will be determined. The Department is currently determining if or where this provision has been applied to Pennsylvania waters, and will develop and maintain a publicly available list of the waters and parameters for which this provision does apply. As needed, the Department will submit these determinations of “natural quality” and where they are being applied, to EPA for appropriate review and approval.

Comment 8:

The commenter’s sustainability initiative - Better Practices, Better Planet 2020 - comprises one of the most extensive quantifiable sets of sustainability goals for a U.S. manufacturing industry and is the latest example of our members’ proactive commitment to the long-term success of our industry, our communities and our environment. We have long been responsible stewards of our planet’s resources. We are proud to report that our members have already achieved the greenhouse gas reduction and workplace safety goals. Our member companies have also collectively made significant progress in each of the following goals: increasing paper recovery for recycling; improving energy efficiency; promoting sustainable forestry practices; and reducing water use. AF&PA and several of our members have a direct interest in this rulemaking because those members’ facilities’ water permits could include limits based on the water quality criteria in the Proposal. (2)(3)

They comment that DEP should not adopt the proposed Human Health Water Quality Criteria (“HHWQC”) without undertaking analysis of its economic and other impacts. The states are not required to adopt EPA’s National HHWQC under Section 304 of the Clean Water Act (CWA). EPA issues national recommended HHWQC pursuant to Section 304(a) of the CWA, and states use these as the starting point for developing the water quality criteria in their water quality standards. States have the primary responsibility to develop water quality standards, including the water quality criteria that are one of the key components of those standards. EPA regulations (40 C.F.R. § 131.11(b)) are clear that states have three options when developing their criteria and submitting them to EPA for approval: 1) adopt the EPA national criteria; 2) modify the national criteria to reflect site-specific conditions; or, 3) develop other “scientifically defensible” criteria.

Therefore, states are not required to adopt the national criteria or to use the identical default values that EPA included in the equations to derive those national criteria. The states' criteria must protect the designated use and be based on "sound scientific rationale" (40 C.F.R. § 131.11(a)). This provides states the opportunity to work with key stakeholders and to undertake the analysis needed to appropriately adapt national criteria to the state. This is consistent with the concept of "cooperative federalism," that underlies the CWA, and the statute envisions a process by which states adopt water quality standards to address the water quality needs of its streams, lakes, and other water bodies. (2, 3)

They also comment that the states have Risk Management Discretion in the EPA's 2000 Human Health Methodology, discussing the science and policy considerations inherent in the establishment of HHWQC. For example, in Section 2.2 (Science, Science Policy, and Risk Management), EPA states:

"Risk management is the process of selecting the most appropriate guidance or regulatory actions by integrating the results of risk assessment with engineering data and with social, economic, and political concerns to reach a decision. In this Methodology, the choice of a default fish consumption rate which is protective of 90 percent of the general population is a risk management decision. The choice of an acceptable cancer risk by a State or Tribe is a risk management decision." (2)(3)

The Methodology then goes on to make clear that this discretion applies to other aspects of HHWQC derivation:

"Many of the components in the 2000 Human Health Methodology are an amalgam of science, science policy, and/or risk management. For example, most of the default values chosen by EPA are based on examination of scientific data and application of either science policy or risk management. This includes the default assumption of 2 liters a day of drinking water; the assumption of 70 kilograms for an adult body weight; the use of default percent lipid and particulate organic carbon/dissolved organic carbon (POC/DOC) for developing national BAFs; the default fish consumption rates for the general population and sport and subsistence anglers; and the choice of a default cancer risk level. Some decisions are more grounded in science and science policy (such as the choice of default BAFs) and others are more obviously risk management decisions (such as the determination of default fish consumption rates and cancer risk levels). Throughout the 2000 Human Health Methodology, EPA has identified the kind of decision necessary to develop defaults and what the basis for the decision was." (2, 3)

In short, DEP has the discretion to consider the costs of meeting the criteria and other social costs and benefits of their adoption, as well as other relevant factors. As it undertakes the risk management inherent in establishing its HHWQC, DEP also should recognize the uncertainties and conservative assumptions involved in risk estimates. (2)(3)

They comment that the National HHWQC are unnecessarily conservative and based on unrealistic default values, which result in unnecessarily stringent criteria because of "compounded conservatism." They reference the National Council for Air and Stream

Improvement (NCASI) comments that discuss in more detail the compounded conservatism embodied in the national HHWQC and a number of other issues. For example, the national HHWQC assume that every day, for 70 years, everyone drinks 2.4 liters (about 2.5 quarts) of water per day; this is more water than 90 percent of the people in the U.S. drink. The HHWQC also assume that each person is drinking water directly out of a lake or stream or other surface water — and that the water has not been filtered or treated to remove any pollutants. The HHWQC also assume that everyone is eating 22 grams of locally caught fish every day for 70 years, all of which are contaminated at the resulting criteria level and that none of the pollutants in the fish were lost due to preparation or cooking. Compounded conservatism means that the HHWQC assume that everyone exhibits these and all of the other default characteristics that are used to derive the national HHWQC. It is extremely unlikely that there is a significant portion of the population that exhibits most or all of these characteristics, and it strains credulity to assume that everyone has all of these characteristics. (2, 3)

The National HHWQC are not necessarily applicable to Pennsylvania waters. As noted in other comments, states may revise the national HHWQC to reflect site-specific conditions. Two values in EPA's HHWQC derivation equation in particular should be revised to reflect Pennsylvania waters. EPA's national HHWQC include a bioaccumulation factor (BAF), instead of a Bioconcentration Factor (BCF). Both Washington and Florida declined to use BAFs when they adopted their own HHWQC, noting that EPA's BAFs were developed based on a model tailored to Great Lakes waters, which EPA has consistently characterized as "unique." Washington also declined to use the national default Relative Source Contribution (RSCs), citing states specific data of information justifying the departure from the default RSCs. (2, 3)

The permit limits resulting from adoption of EPA's National HHWQC can be extremely expensive or impossible to comply with. DEP is proposing to adopt the national HHWQC EPA issued in 2015, without additional analysis or modification. Development of the national HHWQC was controversial for a variety of reasons, including consideration of the costs that could be imposed by permit limits based on those criteria. First, many of the national HHWQC are more stringent than the previous national HHWQC, in some cases, many times more stringent. They attached a spreadsheet, comparing the old and new criteria. They identify 66 water and organism criteria and 61 organism-only criteria that are more stringent than the previous criteria. (2)(3)

Second, a study conducted by HDR for industrial and municipal dischargers on proposed HHWQC for Washington State (also attached to their comments) indicated that compliance costs for those dischargers could reach hundreds of millions of dollars or more, and that even with the expenditure of these funds for advanced treatment technologies, many of the criteria still could not be achieved. While some of the assumptions underlying the Washington criteria are different than EPA's national HHWQC, certain of the conclusions of the HDR report may still be relevant to Pennsylvania dischargers. The HDR study also documented negative environmental impacts associated with implementing proposed HHWQC for Washington, including increased energy use resulting in increased greenhouse gas emissions, and increased solid waste generation. (2)(3)

Finally, it is our understanding that only one state has adopted the national HHWQC as issued by EPA. Several states that are updating their HHWQC are considering undertaking analyses of many of the issues we raise in our comments and in those attached or referenced. (2)(3)

Conclusion, DEP should not adopt the national HHWQC as it has proposed. Instead, DEP should take the opportunity provided under EPA regulations to develop more scientifically defensible criteria that are achievable and applicable to Pennsylvania waters. In particular, DEP should undertake analysis to determine the potential technologies needed, and associated costs to Pennsylvania dischargers, of achieving any HHWQC it adopts. DEP also should consider using BCFs and RSCs that are applicable to Pennsylvania waters in the development of those criteria. (2)(3)

This letter and referenced documents are submitted in response to the Department's proposed updates of water quality criteria that are being considered as part of the triennial review process. Specifically, comments are offered regarding the Department's consideration of revised criteria for protection of human health, including those for carcinogens, non-carcinogens, and bacteria. The commenter conducts research and technical studies on behalf of forest products companies across the US, and its members represent nearly 90% of pulp and paper and two-thirds of wood panels produced nationwide. Most forest products facilities operating in Pennsylvania are NCASI members. NCASI has been an active participant at the state and federal levels in technical and scientific aspects of water quality criteria development for many decades and appreciates this opportunity to offer technical information that can improve the scientific foundation of water quality management decisions made in Pennsylvania. (4)

These comments relate specifically to potential changes in Human Health-based Water Quality Criteria (HHWQC) and Recreational Water Quality Criteria (RWQC) for bacteria. As regards HHWQC, the commenter has collaborated with Arcadis to compile a significant amount of technical information regarding the 2015 criteria update prepared by EPA. This information is relevant because EPA's 2015 criteria recommendations form the basis of PDEP's proposed HHWQC criteria. The technical information is contained within the report titled *Derivation of human health ambient water quality criteria: review of key scientific and technical assumptions and approaches*, which is being submitted with these comments. In reviewing the report, you will note that it identifies numerous concerns regarding the many changes in both policy and science that EPA employed in deriving updated criteria in 2015. These changes represent a significant departure from past EPA practices for deriving HHWQC, and PDEP may wish to review these in light of both their scientific veracity and their appropriateness for the waters of Pennsylvania. The commenter hopes that the Department will give due consideration to this material as it moves forward with the triennial review process, and we would be pleased to meet with you to more thoroughly review the matters of science detailed in the report. (4)

Response:

The Department appreciates these comments. EPA did not update the human health protection target (1×10^{-6}). The target of one in a million has been applied in accordance with EPA's *Methodology for Deriving Ambient Water Quality Criteria for the Protection of Human Health*.

2000. The 2015 recommended updates do not reflect a different health protection target than has been used previously.

EPA and the Department are also not updating the methodology regarding the appropriate Relative Source Contribution (RSC) value. The 2000 Human Health methodology allows flexibility in applying the RSC (i.e., 0.2 to 0.8), but the guidance sets a maximum of 80%. In many cases, it would be difficult, if not impossible, to unequivocally state that there were no other possible sources of a pollutant such that the RSC should be equal to 100%. The 80% maximum threshold acknowledges the probability of an unknown source or unknown sources of a pollutant. When developing criteria, the Department will select the most appropriate RSC based on the best available information. When insufficient RSC information is available, a conservative value of 20% will be used in the calculation, but the maximum contribution will not exceed 80% in accordance with the 2000 Human Health methodology. Many of the 2015 updated criteria were previously updated in 2002 following this methodology.

National recommended water quality standards and criteria are intended to be adequately protective of a human population over a lifetime. The exposure factors for the 2015 update, as well as previous updates in 2002 and 2003, were chosen for the general adult population. If the Department identifies a specific sensitive subpopulation (e.g., women, children, infants) then criteria will be developed based on that sensitive subpopulation if sufficient scientific data is available.

As stated in the EPA 2000 Human Health methodology, the EPA 1980 methodology emphasized the measurement of bioconcentration. Bioconcentration refers to the uptake and retention of a chemical by an aquatic organism from water only. Bioaccumulation refers to the uptake and retention of a chemical by an aquatic organism from all surrounding media (i.e., food, water, sediment). For some chemicals (especially those that are highly persistent and hydrophobic), the magnitude of bioaccumulation by aquatic organisms can be substantially greater than the magnitude of bioconcentration. EPA's 2000 Human Health methodology reflects this important scientific advancement and emphasizes the measurement of chemical bioaccumulation.

It should also be recognized that Pennsylvania is a Great Lakes state. Bioaccumulation Factors (BAFs) that utilize Great Lakes models or data are expected to be generally representative of Pennsylvania waters.

The 2015 updated human health criteria reflect advances in our understanding of the toxicity of pollutants and the exposure factors used to develop criteria. Many of the recalculated criteria are based on updated toxicity data and use of BAFs instead of bioconcentration factors (BCFs), which resulted in a dramatic change for some pollutants. The significant change in the value of the criterion was primarily due to the updated reference dose and BAFs not the updated inputs for body weight, drinking water consumption, and fish consumption rates. Note that EPA's recommended body weight input increased from 70 kg to 80 kg. Use of this value in the calculation of human health criteria results in a less conservative criterion. The drinking water intake and fish consumption values did slightly increase, but when combined with the increased body weight should not dramatically affect the overall value of the criterion.

Under the federal Clean Water Act, states may not consider economics in the development of water quality standards and criteria. However, dischargers may be afforded some limited flexibility in achieving new water quality standards when the criteria are implemented through NPDES permits.

Comment 9:

We offer comments regarding the proposed bacterial standards for recreational waters. If PDEP adopts EPA's RWQC for *Escherichia coli* (*E. coli*) in fresh water, some industrial sectors may not be able to meet the criteria due to the presence of bacteria originating from natural environmental sources. This concern has become more widely known in recent years as states and the regulated community have engaged in more robust testing of ambient waters and effluents using new bacterial assays. NCASI has published two recent reports on this topic (NCASI 2016, 2017). (4)

Some states have addressed this matter by incorporating provisions in their standards so a discharger can provide scientifically defensible data demonstrating that the sources responsible for elevated levels of these indicator bacteria are not associated with connections to sanitary sources. For example, Oregon's Department of Environmental Quality (ODEQ) recently issued its RWQC, and an accompanying issue paper (Borok 2016) discusses its position regarding industrial discharges with non-fecal sources. The paper contains the following passage:

This change acknowledges that certain non-fecal containing discharges, such as pulp and paper effluent, may contain bacteria that are detected as *E. coli* or enterococcus, but are not pathogenic and do not indicate the presence of fecal contamination. (Gauthier and Archibald 2001; Degnan 2007; Croteau, et al. 2007). Due to the potential interference of plant-based bacteria in enterococcus tests, it may be difficult for pulp and paper mills to achieve compliance with enterococcus criteria even if the discharge poses little risk to public health due to the lack of pathogenic bacteria in the discharge. The proposed provision will allow flexibility to entities that can demonstrate to DEQ that their discharge does not come from fecal sources. DEQ would require such entities to demonstrate through biochemical species identification techniques that the effluent contains non-fecal based bacteria species. Once the demonstration is made, DEQ would include appropriate effluent limits in the permit to ensure that public health is protected. (4)

In a similar action, the Florida Department of Environmental Protection included a memorandum as part of the record in its revision of RWQC that recognizes this same concern and affords dischargers the opportunity to demonstrate that bacterial assay results are not indicative of the presence of bacteria linked to sanitary wastewater (FDEP 2015). (4)

For these reasons, PDEP may wish to consider acknowledging the potential for false positive bacteria results as part of the triennial review record and provide some guidance regarding approaches that might be taken to avoid unwarranted effluent limits. (4)

Response:

The Department appreciates these comments. Since these comments are similar to those that were also received on the Chapter 93 Triennial Review of Water Quality Standards Proposed Rulemaking and not relevant to the proposed revisions in this Proposed Statement of Policy, the Department refers the commenter to the related sections that address in more detail these comments in the Comments and Response Document to the EQB's Chapter 93 Proposed Rulemaking.

LITERATURE CITED

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