

ENVIRONMENTAL PROTECTION

ENVIRONMENTAL REGULATION

DIVISION OF WATER QUALITY

WATERSHED PERMITTING ELEMENT

Pollutant Discharge Elimination System – Monitoring and Pollutant Minimization

Plans for Polychlorinated Biphenyls

Adopted New Rules: N.J.A.C. 7:14A-11.13, N.J.A.C. 7:14A-14.4

Proposed: December 19, 2005 at 37 N.J.R. 4723(a)

Adopted: _____ by Lisa P. Jackson, Commissioner, Department of
Environmental Protection

Filed:

Authority: N.J.S.A. 58:10A-1 et seq., 58:11A-1 et seq., 58:11-49 et seq., 58:10-23.11 et
seq., 58:11-64 et seq., 13:1D-1 et seq., 13:1E-1 et seq., 58:12A-1 et seq., 13:1B-3 et seq.,
26:2C-1 et seq., 40:55D-1 et seq., 58:11-23 et seq., and 26:3A2-21

DEP Docket Number: 40-05-11/565

Effective Date:

Expiration Date: May 5, 2007

The Department of Environmental Protection (Department) is adopting new rules at N.J.A.C. 7:14A-11.13, and N.J.A.C. 7:14A-14.4 as part of the New Jersey Pollutant Discharge Elimination System (NJPDES) rules. The adopted rules establish monitoring and Pollutant Minimization Plans (PMPs) for major dischargers that discharge effluent into Polychlorinated Biphenyls (PCB) impaired waterbody segments of the State.

Summary of Hearing Officer's Recommendations and Agency Responses:

A public hearing on the proposed rules was held on January 30, 2006 at the Department's Public Hearing Room. Pilar Patterson, Chief of the Bureau of Point Source Permitting Region 2, within the Division of Water Quality, served as the Hearing Officer at the public hearing and recommended that the amendments be adopted with the changes described below in the Summary of Public Comments and Agency Responses. The Department accepts this recommendation. The hearing record is available for inspection in accordance with applicable law by contacting:

New Jersey Department of Environmental Protection

Office of Legal Affairs

Attn: DEP Docket No. 40-05-11/565

P.O. Box 402

Trenton, New Jersey 08625-040

Summary of Public Comments and Agency Responses:

The Department accepted comments on the proposal from the December 19, 2005 publication in the New Jersey Register through February 17, 2006. The following persons submitted timely written comments and/or made oral comments at the public hearing.

1. Robert E. Widdifield, Executive Director, Cumberland County Utilities Authority
2. Tim Dillingham, American Littoral Society; and Maya K. van Rossum, Executive Director, Delaware River Keeper, Delaware River Keeper Network
3. Edward A. Kondracki, Law Offices of Edward A. Kondracki, L.L.C., on behalf of the Evesham Municipal Utilities Authority

4. Paul N. Tremper, Superintendent, Twp. of Livingston Water Pollution Control Facility
5. Mick DeGraeve, Ph.D., Director, Great Lakes Environmental Center, on behalf of Passaic Valley Sewerage Commission
6. Cindy Zipf, Ph.D. Executive Director; Nicole Simmons, J.D. Water Pollution Analyst; Jennifer Samson, Principal Scientist, Clean Ocean Action
7. Sheldon Lipke, P.E., Chairman, New Jersey Harbor Dischargers Group
8. Michael Wright, Senior Associate, TRC Omni
9. Michael A. Egerton, Vice President, Environment and Transportation, NJ State Chamber of Commerce
10. Kelly Mack Carey, Post, Polak, Goodsell, MacNeill & Strauchler, P.A., on behalf of Warren Twp. Sewerage Authority
11. Brenda Hustis Gotanda, Manko, Gold, Katcher, Fox LLP, on behalf of Camden County Municipal Utilities Authority, PSEG Power LLC, Sunoco Inc., Dupont, and Valero Refining Company
12. Russell J. Furnari, Environ. Policy Manager – Water, PSEG Power LLC and PSEG Fossil LLC
13. John A. Maxwell, Associate Director, New Jersey Petroleum Council
14. David H. Brogan, Vice President, Environmental Policy, New Jersey Business & Industry Association
15. Anthony Russo, Director, Regulatory Affairs, Chemistry Council of New Jersey

16. Bill Wolf, on behalf of New Jersey Environmental Federation; Sierra Club, New Jersey Chapter; NJPIRG; NJ Audubon Society; and NJ Chapter of Public Employees for Environmental Responsibility
17. Jurek Patoczka, P.E., Ph.D. Hatch Mott MacDonald, on behalf of Berkeley Heights Twp. Water Pollution Control Plant
18. Mayda Martinez, Director, New Jersey Environmental Affairs, Merck & Co., Inc.
19. Clifford Gold, Sr. Vice President, Birdsall Engineering, on behalf of Edgewater Municipal Utilities Authority
20. John Botts, Aquatic Science, on behalf of New Jersey Harbor Dischargers Group
21. Lean Foster-Sitar, Policy Director, American Littoral Society, on behalf of the Delaware River Keeper

The timely submitted comments and the Department's responses are summarized below. The number(s) in parentheses after each comment identifies the respective commenter(s) listed above.

1. COMMENT: Proposed N.J.A.C. 7:14A-11.13(e) lists the major facilities that are subject to N.J.A.C. 7:14A-11.13 and N.J.A.C. 7:14A-14.4. Some of the facilities on the list should not have been included, as some facilities listed do not discharge to a PCB impaired segment of a waterbody within the State in accordance with the current New Jersey Integrated Water Quality Monitoring and Assessment Report. (1, 3, 4, 7, 8, 10, 17)

2. COMMENT: Clarify the permitting mechanics of implementing this new requirement. If the Department determines that a facility is a candidate for conducting the proposed monitoring, will the Department issue a permit modification? And if so, will the facility have the opportunity to comment on the modification, just as is the case for a new permit? If the permit is to be modified, how does the Department propose to impose the monitoring requirement? (5)

RESPONSE to COMMENTS 1 and 2: The Department acknowledges that the list of affected facilities proposed at N.J.A.C. 7:14A-11.13(e) was inaccurate. Specifically, some facilities were listed that should not, in fact, have been subject to the rule, while other facilities were mistakenly omitted. In addition, the notification procedures outlined in N.J.A.C. 7:14A-16.3(j)1ii were not appropriately applied during the public comment period. Therefore, the Department has determined that it is more appropriate to prepare permit modifications for each affected facility for those permits which are not expired. For expired permits, the Department will incorporate the provisions of this rule during the permit renewal process. The Department is therefore modifying N.J.A.C. 7:14A-11.13(e) on adoption to clarify that the Department will prepare permit modifications for appropriate major facilities that discharge to a PCB impaired receiving water in accordance with the procedures of N.J.A.C. 7:14A-16. It is the Department's intention to prepare permit modifications for the appropriate facilities within 12 months following adoption of this rule.

3. COMMENT: According to N.J.A.C. 7:14A-16.3(j)(2), when a permit is modified through a rule proposal, the proposal shall serve as the draft permit for the purposes of N.J.A.C. 7:14A-15.6 and the fact sheet for the purposes of N.J.A.C. 7:14A-15.8. The process outlined in N.J.A.C. 7:14A-16.3(j)(2) is violative of both the New Jersey Administrative Procedure Act and the New Jersey Water Pollution Control Act. (12)

RESPONSE: The commentor appears to be challenging existing NJPDES rules at N.J.A.C. 7:14A-16.3(j), which is beyond the scope of this rulemaking. However, as explained in the Response to Comments 1 and 2 above, the Department has determined that, rather than implement the monitoring and pollutant minimization plan requirements for PCBs through the procedures identified at N.J.A.C. 7:14A-16.3(j), the Department will undertake modifications of the affected permits to incorporate the requirements using the provisions at N.J.A.C. 14A-16. A minimum 30-day comment period will be provided to all affected permittees and the public prior to finalization of the modification to the permits.

4. COMMENT: Pollutant Minimization Plans (PMPs) should not totally displace or dismiss the importance of numeric limitations in New Jersey Pollutant Discharge Elimination System Discharge to Surface Water (NJPDES/DSW) permits. N.J.A.C. 7:14A-11.13 provides unjustified relief from numeric Water Quality Based Effluent Limitations (WQBELs) that are mandated by the Clean Water Act and the New Jersey Water Pollution Control Act and implementing regulations. Also, by allowing PMPs in lieu of calculated WQBELs, the proposal conflicts with procedures and criteria for

establishing waterbody specific Total Maximum Daily Loads (TMDL) pursuant to the provisions of State and Federal law. Since the proposal specifically applies to dischargers to “impaired waters,” WQBELs for PCBs are triggered and should be based on the numeric PCB Surface Water Quality Standards (SWQS) criteria at N.J.A.C. 7:9B-1.14(c). The Department should reconsider and move forward to re-propose and adopt the wildlife criteria notice in November 2002.

Not having limitations does not give the dischargers a goal to work towards. Numeric limitations can drive technology reforms that would spur development of new treatment methods to reduce PCBs. Numeric limitations will also serve as important enforcement mechanisms for ensuring that a permittee is making every effort to reduce PCBs in its discharges.

The proposal seeks to develop alternatives to WQBELs and to relax WQBEL requirements on the economic and technical grounds of costs, level of analytical detection, non-availability of treatment technology, or technical infeasibility as allowed by N.J.A.C. 7:9B-1.6. However, the proposal does not do this in accordance with the requirements at N.J.A.C. 7:9B-1.6. The rules allow the Department to consider cost only after the SWQS have been achieved.

The proposal improperly relies upon the United States Environmental Protection Agency (USEPA) comments and cost considerations. In the stated basis for the proposal, the Department cites USEPA response to industry comments on the DRBC Delaware estuary PCB TMDL, which states, “...a condition to eliminate the sources of PCBs is a more effective and efficient method by which to reduce PCB loadings to the Delaware River than codifying end-of-pipe wastewater treatment to meet a numeric limit.” (See 37

N.J.R. 4725.) The proposal takes this comment out of context and improperly relies upon an unsubstantial, undocumented, and informal USEPA response to an industry comment on the Delaware TMDL. (2, 6, 16, 21)

5. COMMENT: WQBELs become immediately applicable upon “impairment” listing, or reasonable potential determination. The Department should not wait until NJPDES permits are up for renewal before complying with applicable WQBEL requirements. Instead, the Department should modify all applicable NJPDES permits to incorporate applicable WQBELs for PCBs and toxic pollutants. (16)

RESPONSE to COMMENTS 4 and 5: The intent of this rule is to identify sources of PCBs and begin to develop avenues for possible reduction. The Department does not agree that it is appropriate to impose numeric WQBELs for PCBs for the existing SWQS at this time due to significant technical and implementation concerns. At this time, treatment technology does not exist that would allow the dischargers to meet WQBELs for PCBs.

For example, USEPA Region 2 conducted an evaluation of the technical feasibility of wastewater treatment at NJPDES point sources to meet very stringent NJDEP wildlife criteria for PCBs, DDT and mercury proposed on November 18, 2002 (see 34 N.J.R. 3889(a)). USEPA Region 2’s contractor, Science Applications International Corporation (SAIC), concluded that treatment to meet the criteria is not readily available and that additional testing of available end-of-pipe treatment technologies is necessary to ensure that installation of a particular technology will

achieve the proposed criteria. Pollution prevention was found to be a potentially more cost-effective strategy and could produce gains toward achieving standards without imposing the costs of unproven end-of pipe technologies. These findings were published in a report entitled *Technological Feasibility of Proposed Water Quality Criteria for New Jersey*, dated March 2005 prepared for USEPA Region 2 by SAIC (EPA contract No. 68-C-99-252). Additionally, the technology necessary to treat PCBs to the levels that would meet the current SWQS is not available.

While, in general, the Department agrees that the imposition of numeric limits may drive the available treatment technology forward, the circumstances surrounding the PCB criteria present unique challenges for both the regulated community and the Department. Imposing numeric limitations could result in mandated penalties under the Water Pollution Control Act and could also result in permits being stalled for years in litigation with no PCB reduction occurring during this timeframe. Requiring investigation to locate the source of PCBs (trackdown) and development of PMPs as a first phase will ensure that action towards PCB reduction will begin to take place in a timely manner.

The Department will evaluate these documents to ensure that the proposed work should result in PCB reductions, and that each PMP demonstrates a significant effort on the part of the permittee to accomplish the goals of locating the source of (trackdown), and reducing the discharge of PCBs. The Department may reject any PMP and/or require additional effort if the proposed plan does not appropriately meet PCB reduction goals. Any time frames that are included either in the NJPDES/DSW permit or as part of a PMP are enforceable to ensure that the proposed tasks are completed in a timely fashion. If the

Department determines that additional measures are necessary, the Department may require such measures pursuant to its statutory and regulatory authority.

6. COMMENT: Monitoring requirements and sample type as published at N.J.A.C. 7:14A-11.13 and N.J.A.C. 7:14A-14.4 are insufficient or need to be modified from those proposed. Is limiting the monitoring requirement to no more than six tests over a two-year period scientifically based? The frequency and number of samples should be increased and based on criteria of statistical variability (reliability, accuracy, and precision), not on cost as proposed in the rule. Frequency and sample size should be at least equivalent with USEPA NPDES Guidance in the USEPA Technical Support Document (<http://www.epa.gov/npdes/pubs/owm0264.pdf>) and should not be relaxed unless compliance with SWQS criteria has been demonstrated by at least four quarters of data. The rules should allow for additional samples to be taken if desired by the discharger for use in evaluation of the need for a PMP. (2, 11, 16, 21)

RESPONSE: At N.J.A.C. 7:14A-11.13(c), the Department requires a total of six samples using Method 1668A in order to balance the need for gathering sufficient data against the financial burden of the testing. Six samples will provide sufficient data for the Department to determine if PCBs are present at the site in significant quantities and if there is a need for a discharger to develop and implement a PMP. However, dischargers are not limited to taking only six samples, but may perform and submit additional samples if desired. The Department will consider such additional data in evaluating the PCB content of the effluent.

With regard to requiring sampling to continue until an effluent shows compliance with SWQS, the purpose of sampling for PCBs is not to determine if an effluent is meeting the criteria nor to develop WQBELs in accordance with the USEPA Technical Support Document, but to determine the average quantity of PCBs present, and to determine whether to require the discharger to develop and implement a PMP

7. COMMENT: The monitoring at N.J.A.C. 7:14A-11.13 should be expanded to include water column monitoring, sediment monitoring and toxics in biota monitoring for the receiving water. The rule does not mandate ambient water quality monitoring, fish tissue sampling, or any other biological sampling to gauge the environmental impacts of the discharge of PCBs. (16)

RESPONSE: The Department does not agree that the monitoring requirements at N.J.A.C. 7:14A-11.13 should be expanded. Based on the sampling performed by the permittees and the results of the PMPs, the Department will determine if any actions will be necessary to reduce PCBs in sediment, the water column, and the biota of the receiving waters.

Although sampling in air and soil is not required, the Department agrees that these sources can impact water quality. For example, PCBs in the soil may get routed to the facility's treatment system or directly to the receiving water in stormwater runoff. Such sources would need to be identified as part of a PMP and appropriately addressed.

8. COMMENT: Since dry weather conditions are much more common than wet weather conditions, dry weather sampling should be more predominant. Therefore, five of the six required samples should be performed during dry weather, with one sample reserved for wet weather rather than three dry and three wet. The New Jersey Harbor Dischargers Group has gathered information that indicates a significant contribution of PCBs from atmospheric deposition and subsequent mobilization of PCBs to storm sewers. Data gathered as part of the New Jersey Atmospheric Deposition Network provide evidence of a net deposition of PCBs on land. PCBs have been shown to accumulate on soil and building surfaces and precipitation washes deposited chemicals off of surfaces and possibly into municipal storm sewers. A literature review performed by the Delaware River Basin Commission (DRBC), as part of the PCB TMDL model for the Delaware Estuary, indicated that an average of 62 nanograms per liter (ng/L) of total PCBs could be present in urban runoff.

The DRBC has been able to show that PCBs represent a substantial, uncontrollable contribution to municipal wastewater treatment systems during wet weather. Given this uncontrollable contribution in wet weather, it is suggested that wet weather sampling be eliminated or that the Department consider the wet and dry weather sampling as separate data sets. Averaging the results of wet and dry samples may erroneously indicate higher PCB concentrations than actually occur over time. (5, 7)

RESPONSE: Since higher levels of PCBs will likely be present in the effluent during wet weather, three wet weather samples are necessary to establish whether there is a trend of significant higher quantities of PCBs in the discharge during wet weather. The

Department will consider dry data and wet data as separate data sets when reviewing the data for determining the necessity for a PMP. The two sets of data will not be averaged together. The Department will consider uncontrollable sources when evaluating this data, although dischargers will need to verify the uncontrollable nature of the PCBs sources.

9. COMMENT: Some potential sources of PCBs may be beyond the ability of dischargers to control. The rules should allow for credit for such sources. For example, the discharger should be able to subtract PCBs in the intake water, or PCBs present in stormwater due to air deposition on the site, from PCBs in the effluent. If the effluent, with appropriate credits demonstrates compliance with water quality criteria, the discharger should be exempt from N.J.A.C. 7:14A-11.13. (9)

RESPONSE: It is the intent of this rule to require only those facilities which have levels significantly above background levels to complete a PMP. It is premature for the Department to make a determination regarding whether a discharger is eligible for credit based on the source of PCBs prior to the completion of a PMP. The Department fully recognizes that background levels of PCBs do exist. However, such determinations will be made on a case-by-case basis after it reviews all the data and, if necessary, the PMP. It is not the intent of the rule to penalize those permittees whose discharges are at or below background levels of PCBs, but to require investigation into the source of the PCBs (trackdown) and reduction of PCBs for those discharges that are above background levels.

10. COMMENT: A 24-hour composite sample should be used for the sampling instead of a grab sample, since PCBs are strongly absorbed into solids and a grab sample would not be representative. The monitoring program for the Delaware Estuary specifies that samples be conducted with a 24-hour composite sample for continuous discharges. Composite samples offer the advantage of integrating variable concentrations over time, thereby minimizing the chance of observing atypically low or high effluent results. All major DSW permittees already utilize the equipment and personnel needed for composite sampling. (5, 7, 19)

RESPONSE: The Department agrees with the comment. In order to provide more representative data for PCBs during dry weather conditions and long-term wet weather discharges, a 24-hour composite sample should be required. Therefore, the Department has modified the sample type specified at N.J.A.C. 7:14A-14.4(a)1 for dry weather and long-term wet weather monitoring from grab to 24-hour composite. However, where stormwater only discharges occur during and/or immediately after precipitation events, or in situations where a discharge is intermittent by nature, the Department will require only a grab sample.

11. COMMENT: Section Six of the Department's "Recommended Outline For Pollutant Minimization Plans for Polychlorinated Biphenyls for Sanitary Wastewater Treatment Plants, Publicly Owned Treatment Works, and Industrial Dischargers" (hereafter Technical Manual) addresses "reduction of discharges to the air, soil, and water." The Department does have authority over air, soil and water, but this spectrum of

media seems inappropriate for a rule pertaining to water quality. Discharges to water would seem to be the appropriate focus. Discharges to air or soil should be regulated pursuant to the appropriate statutes and regulations germane to those media, after appropriate notice and comment. (9)

RESPONSE: The purpose of the PMP is to identify sources of PCBs, which may include air and contaminated soil. It is anticipated that successful implementation of a PMP (including appropriate and/or feasible components of section six of the Technical Manual) will show a reduction in PCBs in effluent. The Department will also, in accordance with its regulatory authority, look to programs existing within the Department, such as the Site Remediation Program, to help address PCB contamination in other media.

12. COMMENT: USEPA Method 1668A is too costly and overly sensitive to accomplish the Department's objectives for this program. Another viable and less costly option for performing the monitoring is the high-resolution gas chromatography/low resolution mass spectrometry (LRMS) method, employing the single ion monitoring (SIM) mode. The Department should allow the use of the LRMS method to satisfy the requirements of N.J.A.C. 7:14A-11.13.

USEPA regulations at 40 CFR 122.44(I)(iv) require the use of methods promulgated at 40 CFR 136 when such methods exist. Method 1668A is not currently an approved procedure for monitoring NPDES discharges (40 CFR Part 136, July 1, 2004, Table 1C). Therefore, the Department should not require the use of this method. The

PCB PMP program included in this rule should be postponed until USEPA properly validates and promulgates the method in accordance with 40 CFR 136 requirements and appropriate notice and comment. (5, 8 through 11, 13 through 15, 18)

RESPONSE: The Department is requiring the use of USEPA Method 1668A in accordance with N.J.A.C. 7:9B-1.5(e)7, which states, “The Department may require characterization monitoring in NJPDES permits for ... PCBs using the USEPA ...1668A for PCBs (Method 1668A. Revision A: Chlorinated Biphenyl Congeners in Water, Soil, Sediment, and Tissue by HRGC/HRMS. EPA-821-R-00-002, December 1999) as supplemented and amended.”

In December 2003, USEPA approved a TMDL for PCBs in the Delaware Estuary which incorporated effluent characterization monitoring using Method 1668A for 142 point sources that are deemed to be potential sources of penta-PCBs. Based on the experience of the Delaware River Basin Commission (DRBC) requiring the use of Method 1668A, there is sufficient laboratory capability to provide analytical results.

Despite the lack of final USEPA approval, Method 1668A is an appropriate method to use for the purpose of determining the presence of PCBs in the effluent. The Department is not requiring the use of Method 1668A to determine compliance with an effluent limitation. The permittee is required to perform the initial monitoring (six samples) using Method 1668A. However, sampling for the purpose of doing a PMP can be performed with less costly methods. Any additional baseline sampling or sampling of other media, such as air and sediment, the discharger chooses to do may also be conducted with less costly methods. The Department recognizes that there are significant

costs associated with Method 1668A. However, the Department determined that the benefits of using this method outweigh the costs. The Department is willing to work with the permittees to develop sampling strategies and possible reductions in monitoring to make sampling more cost effective.

13. COMMENT: Method 1668A will produce inconsistent results among subject dischargers, since it has quite a few options for the specific method that can be used to collect the effluent, the type of column used for the testing, and how the data is validated.
(7, 20)

RESPONSE: Method 1668A for PCBs is a performance-based analytical method. Therefore, any laboratory doing work for a NJPDES permitted facility must demonstrate the ability to analyze PCBs to the levels specified in Method 1668A. The Department will only accept data from a laboratory capable of meeting the performance standards specified in this method.

To ensure consistency among discharger data, the Department intends to utilize the sampling approach and Project Quality Control Requirements as used by the DRBC for the Delaware River dischargers. The Project Quality Control Requirements can be found at <http://www.state.nj.us/drbc/PCB-Modifications020305.pdf>. If all dischargers comply with these requirements, consistency among dischargers' data should be achieved.

14. COMMENT: There are no laboratories in the State of New Jersey that are certified to use Method 1668A, so all testing would need to be performed out of State. Therefore, the NJDEP Office of Quality Assurance would have no direct enforcement capability for these labs and could not inspect them to ensure compliance. Also, all laboratory fees would be transferred out of State. (18)

RESPONSE: The Department recognizes that there are no laboratories in New Jersey certified to perform PCB analysis with Method 1668A at this time. However, based on the experience of the Delaware River Basin Commission (DRBC) requiring the use of USEPA Method 1668A, there is sufficient laboratory capability elsewhere to provide valid analytical results. Also, increased future use of Method 1668A should cause an increase in demand for laboratories that can perform this analysis, which in turn should cause laboratories in New Jersey to seek certification for this method.

15. COMMENT: It is important that the adopted regulation put in place a process by which effluent monitoring data, PMPs, and annual reports will be subject to public review and comment as well as NJDEP approval. (2, 6, 16)

RESPONSE: Permit related information submitted to the Department becomes part of the public record and will be made available by the Division of Water Quality for review and comment upon request.

16. COMMENT: It is unknown if any upgrade to the permittees' treatment plants could provide a level of treatment to meet potential PCB criteria, and the expenditures associated with treatment to attempt to meet potential criteria would be enormous. DRBC and USEPA stated in a recent report on TMDLs for the Delaware River that "Reducing point source discharges alone will not be sufficient to achieve the estuary water quality standards." In fact, the report indicates that in the study area more than 70 percent of estimated loading is from nonpoint sources and that "air concentrations of PCBs in the region are currently two orders of magnitude above the concentration required to achieve equilibrium and halt contributions of PCBs from the air to the water." Therefore, it does not seem appropriate to only limit point source dischargers for PCBs. The Department should complete a TMDL for PCBs prior to arbitrarily establishing financially burdensome regulations for point source dischargers. (8, 9)

RESPONSE: The rules require monitoring of effluent for PCBs, and subsequent PMP development for select dischargers which show elevated levels of PCBs. The intent of these rules is not to make point source dischargers solely responsible for reducing PCB loadings, but to begin the process of tracking down and reducing PCBs in waters of the State. The DRBC's report titled, "Revised Calibration of the Water Quality Model for The Delaware Estuary For Penta-PCBs And Carbon - Staged TMDLs for Total PCBs for Zones 2 – 6 of the Delaware River"

(<http://www.state.nj.us/drbc/TMDL/RevisedModelCalibrationReport090506.pdf>)

shows that point source discharges ranked third out of nine categories of PCB sources for contributing to the overall load in the Delaware River Basin. In order to significantly

reduce loadings of PCBs into waters of the State, all sources of PCB discharges need to be identified and an effort made to reduce their contributions. Data and information gathered during implementation of these requirements will be useful in any TMDL process for PCBs that occurs in the future, and all PCB reductions, including those from point source discharges, will be beneficial to the receiving waters. Once PCB levels are determined at a particular site, it will be up to the permittee to determine how to achieve PCB load reduction in its discharge. The Department is optimistic that Best Management Practices implemented through the PMPs will serve to reduce PCB loadings to waters of the State.

17. COMMENT: Because a specific method (1668A), with associated laboratory fees at several times more than traditional methods, is required to comply with this rule, the laboratory analysis costs associated with all routine PCB monitoring would increase significantly. (8)

RESPONSE: As described in the Economic Impact Analysis, the cost associated with monitoring using Method 1668A ranges from \$700.00 to \$1,200.00 per sample. In consideration of the cost of performing sampling using Method 1668A, the Department is only requiring that this method be used for the initial baseline testing (up to six effluent samples). N.J.A.C. 7:14A-14.4(a)2 allows permittees to request not to complete all six samples if they obtain non-detectable PCB values. Additionally, N.J.A.C. 7:14A-14.4(a)3 allows suspension, reduction, or elimination of the remaining monitoring requirements if it is determined that a PMP is necessary. Factors that the Department

will consider when looking at reducing sampling may include the type and size of the facility, receiving water flow, the designated uses of the receiving water, and Significant Industrial Users (SIUs) discharging to the system.

18. COMMENT: The economic burden of preparing and implementing a PMP must be justified by the presence of controllable PCB loads, at a specified numeric value, that is determined and supported by solid scientific data and analysis. Further, the Department's economic analysis is incomplete in that it does not offer a cost estimate for the preparation of PMPs. While it may be true that the cost is a range, that should not preclude the Department from estimating the ends of the range and the average cost to a facility. The experience of facilities subject to the Delaware River TMDL should provide a ready source of this cost data. (8, 9)

RESPONSE: The Department has consulted with the DRBC regarding PMP costs for dischargers under the Delaware River TMDL. However, at this early stage, the DRBC is unable to provide an average PMP cost due to the high variability in the cost and type of control technologies proposed to be used in reducing PCBs. Some permittees under the Delaware River TMDL have been able to implement some low cost, yet effective solutions, including simply putting hay bales at stormwater sewers, and raising stormwater discharge point weirs to prevent discharges during small rain events. PMPs submitted in compliance with the Delaware River TMDL are public information and may be reviewed by the dischargers.

The initial testing for PCBs will provide a baseline to determine the levels present in a given facility's effluent. After the implementation of the PMPs, the Department will compare sampling results performed periodically to the baseline results to determine whether reductions are being achieved.

19. COMMENT: The proposed rules do not contain specific guidelines that will be used to make the decision as to how and when a PMP will be required for a discharger after the monitoring is complete. Specific guidelines should be adopted to determine when a PMP is necessary to prevent nonessential data collection and needless cost to the permit holders. For example, the summary of proposed rules uses the subjective terms, "more elevated levels," and "close to background" as a dividing line for determining which facilities will be required to prepare a PMP. Since the preparation of a PMP will be an added burden on the facility resources, a specific process is called for to establish a threshold. This requirement is unduly vague and the Department must include more specific language linking the PMP requirements to significant sources of PCBs where PMPs will be of practical effect. (5 through 10, 13 through 20)

RESPONSE: The purpose of the PMP is to lead to the identification and elimination of discrete sources of PCBs. For some facilities, this approach is not likely to be effective. Diffuse background levels of PCBs will commonly be found in the effluent, and it will be difficult to identify discrete sources of PCBs at facilities discharging at or close to background levels. However, the Department expects that a facility discharging at statistically significantly higher levels than background will be able to identify discrete

sources, and address them. The determination of whether a PMP must be developed and implemented will be site-specific based on the sampling data and factors such as the type and location of the facility, and background PCB concentrations.

20. COMMENT: All terms and standards used in the proposed regulations and the PMP Technical Manual must be clearly defined. Although the term “background levels” is discussed in the Rule Summary in reference to deciding who must complete a PMP, it is not stated in the rule itself. This term should be included in N.J.A.C. 7:14A-11.13(d) to ensure that facilities that have PCB levels “at or close to background” will not need to complete a PMP. It is suggested that the Department should look at the background levels of PCBs in the effluents of dischargers in the State and the background levels in the waterbodies of the State.

The New Jersey Harbor Dischargers Group proposes to work with the Department, EPA Region 2 and the Harbor Estuary Program in the Implementation Advisory Committee workgroup to help define decision criteria for “background levels” of PCBs and “significant PCB sources” in discharges to the NY/NJ Harbor. It is envisioned that this effort will draw upon the Delaware Estuary experience.

The term “non-detectable levels” is not defined in the rule and should be. The Department will allow a decrease or ceasing of monitoring if “non-detectable levels” are shown, but what does the Department consider to be non-detectable since Method 1668A will find levels in very low quantities? (7, 8)

RESPONSE: The initial monitoring performed by the permittee on its effluent and any other available effluent data provided by the permittee, or available to the Department, will represent the baseline effluent levels of PCBs. Once the Department has the opportunity to evaluate all available data, including, but not limited to, effluent characterization and ambient monitoring, the Department will determine background levels. A discharger will always have the opportunity to perform additional sampling to demonstrate that they are discharging at or below background levels.

The Department appreciates the opportunity to work with the New Jersey Harbor Dischargers Group, EPA Region 2, and the Harbor Estuary Program in the Implementation Advisory Committee workgroup and any other interested parties to help provide information in regards to the decision criteria for “background levels” of PCBs and “significant PCB sources” in discharges to the NY/NJ Harbor.

A non-detectable level using Method 1668A is a sample that shows no detection of PCBs in the effluent. If low levels of PCBs are shown in the effluent during any given sample, that sample will be considered as having a detectable value.

21. COMMENT: “Maximum Practical Reduction” will be a standard applied pursuant to the Technical Manual in reviewing PMPs, but the term is not defined. The meaning of “maximum practical reduction” must be defined in the PMP Technical Manual so that dischargers can understand their responsibility under the PMP. The DRBC’s PMP Technical Manual provides a definition, which could be used. Section six of the Technical Manual does list some minimization actions, but does not define what is

practical. Factors such as feasibility, potential benefits, cost, and cost effectiveness should be explicitly considered in establishing what is practical. (9, 13 through 15)

RESPONSE: The definition in DRBC's technical manual explains that "maximum practical reduction" is the most reduction that can be achieved given certain considerations related to, for example, economic and technological feasibility of methods to identify and address discrete sources of PCBs, and principles of pollution prevention. These considerations are those the Department contemplates as being addressed through the PMPs, as noted in the rule proposal summary and as described in more detail in the technical manual. While the Department did not include the DRBC's definition in its technical manual, the rule does contemplate the same concepts. Consequently, the Department will review the section six of the technical manual and clarify it on this point as appropriate.

22. COMMENT: How will the Department determine if a PMP is effective at reducing PCBs at discrete sources and what happens if the PMP is not effective? Other concerns of the commenters are what follow-up will be required once PCB sources are identified, what happens if PCB sources are out of the control of the discharger, and who will pay for the clean-up/reduction measures identified in the plan? (6)

RESPONSE: The Department will determine if a PMP is effective at reducing PCB loadings by comparing the baseline sampling results with sampling performed following the PMP implementation. The Department will look for an overall reduction in

the concentration of PCBs over time. For PMPs that do not result in a reduction, the Department will seek to identify other regulatory options for reducing PCB loadings consistent with its statutory authority, and will seek a revised PMP, as appropriate.

23. COMMENT: PMPs need to require measures that will result in measurable and quantified reductions of PCBs to receiving streams and must include milestones; PMPs must have explicit enforceable measures; and PMPs must require periodic review and must be updated where they are not being successful in reducing PCBs. As currently proposed, it is not clear how the Department will be able to ensure a permittee is executing the provisions of the PMP and successfully reducing PCB loadings to the impaired waterways. If the “maximum practical reduction” is not met, is this considered a NJPDES permit violation, and if so, what penalty would the applicant be subject to? (2, 6, 21)

RESPONSE: The Department will review the substance of the PMPs and if at any time it finds that a PMP is not likely to achieve the maximum practicable reduction of pollutant discharges to the receiving water, then the Department may require the permittee to submit a revised PMP to more aggressively reduce pollutant loading.

Once the requirements of these rules are incorporated into a permit, the Department will evaluate a permittee’s compliance, and will determine if enforcement action is needed. For example, the Department will consider a permittee’s failure to conduct sampling, failure to submit a PMP, failure to respond to a technical deficiency letter or failure to implement an approved PMP as a violation of the permit.

24. COMMENT: Under section 303 of the Clean Water Act (33 U.S.C. §1313), WQBELs are justified, to the extent that they are necessary to achieve water quality standards. (See 40 CFR 122.44(d)(1).) The Department should first be developing TMDLs to make this demonstration. It is entirely possible, as demonstrated by the Delaware River TMDL, that point sources are de minimis contributors to current problems. A TMDL analysis must consider all sources of PCBs to water, including point sources, non-point sources, air deposition, etc. Thus, even if point sources were brought to zero, the standard would not be achieved. Therefore, it is premature to mandate these requirements for dischargers before an appropriate TMDL is developed.

The proposed rule attempts to prematurely and narrowly impose substantive TMDL-type implementation measures on a limited group of dischargers without any efforts to first comprehensively identify the universe of potential sources contributing to an impairment and without developing any type of comprehensive plan for PCB reductions by all contributing sources.

Based on lessons learned in the Delaware River PCB TMDL, regulating point sources is both premature and unlikely to have any significant impact on the reduction of PCBs to the receiving waters. (7, 9 through 16, 20)

RESPONSE: Since the development of a TMDL is a very involved and lengthy process, the Department is promulgating these rules as an initial step in the process of identifying sources, determining background levels, and beginning to reduce PCB loading to the State's receiving waters. Should PCB TMDLs be proposed in the future, the information gathered under these rules will be utilized in these TMDLs, and any

reductions necessary under these TMDLs will build on the reductions achieved under these adopted rules.

Point sources are not de minimis contributors to the current PCB problem. As described in Response to Comment 16, above, the Delaware River TMDL has demonstrated that point source discharges are a major contributor when compared to all categories of sources. Therefore, the Department has determined that reduction of PCBs from point sources will result in reduction in PCB loadings to the State's waterbodies.

Containing and removing local sources and potential sources found during the investigation for the sources (trackdown) of PCBs will accelerate improvements in water quality, whereas waiting for the TMDL will only allow additional releases of PCBs to continue, which will only serve to aggravate and prolong improvements in the quality of the State's waterbodies. Two major industries within the Delaware Estuary have already achieved reductions of PCB discharges at their facilities through best management practices and manufacturing process revisions as a result of the PMP process. For example, a chemical manufacturer in Wilmington, Delaware achieved a 22 to 32 percent reduction through raw material changes and anticipates a 90 percent reduction goal by 2007 with more raw material changes, process changes, settling, and sand filtration. Another facility in Wilmington, a rail company, demonstrated 90 percent reduction in PCBs in surface water runoff by using erosion control measures.

25. COMMENT: The appropriate first step in any program to address stringent standards such as these for PCBs, is a Use Attainability Analysis (UAA) to assess whether the standards are actually appropriate and achievable. For a particular

waterbody, a water quality standard includes a numeric criterion tied to a designated use of the water body. If the designated use of the water body is inappropriate and will never be met, it is unlikely the water quality criterion will ever be achieved. Under such circumstances the water quality standard, and in particular the designated uses, should be reevaluated. The outcome of the PCB TMDL on the Delaware River (where achieving the standard, if it is achievable at all, will take somewhere between decades and centuries) strongly suggests that a UAA is the appropriate first step for New Jersey waters. The USEPA recognizes that UAAs are an appropriate and important part of managing water quality standards. Indeed, the USEPA is currently holding workshops around the country to address the UAA program and is attempting to streamline the UAA process. (9)

RESPONSE: A UAA is an assessment that can support the reclassification of a waterbody for less restrictive uses (see N.J.A.C. 7:9B-1.10). While UAAs are an important part of developing water quality standards, the Department does not agree that a UAA should be the first step in addressing problems associated with PCBs in our waterways. A UAA, as suggested by the commenter, would be used to determine if the PCB impaired waterbodies could actually meet the SWQS, if the SWQS should be revised, and if the waterbodies should be reclassified as “non-fishable.” Prior to taking such a drastic action, the Department is instead seeking to reduce PCB loading to PCB impaired waterbodies.

26. COMMENT: The Delaware Estuary rule (Section 4.30.9 of the Delaware Water Quality Regulations and Comprehensive Plan as amended on May 18, 2005) fully defines discharger requirements for implementation of a PMP for PCB loading reductions. Nothing in the Delaware Estuary rule indicates that additional rules will be necessary with regard to implementation of PCB loading reductions. Therefore, the proposed rule should be considered the implementation plan for other PCB-impaired waters in NJ, not “...the initial component of an implementation plan which will be developed further in the future,” as stated in the proposal Summary (38 N.J.R. 4725). This sentence in the Summary should be removed. (7)

RESPONSE: The conditions of these rules constitute one component of an implementation plan and therefore, the language in the proposal Summary is correct. The Department intends to evaluate the success of PMPs and then determine whether additional measures will be necessary in accordance with the Water Pollution Control Act, NJSA 58:10A-1 et seq. and the Federal Clean Water Act.

27. COMMENT: The New Jersey Harbor Dischargers Group has been conducting, at a cost of about \$300,000, an intensive PCB trackdown study at the Linden Roselle Sewerage Authority at the request of USEPA Region 2. The purpose of this study is to provide information to determine if a trackdown can be accomplished in a municipal sewer system. It is the NJHDG’s understanding that if successful, the trackdown methods are to be applied as part of the implementation of the NY/NJ Harbor TMDL. Given the above, can the Department be confident that no additional requirements will be

forthcoming from USEPA as part of the TMDL? If additional requirements are forthcoming from USEPA, does the Department have the authority to reject the requirements and/or select only what it determines is necessary to control PCBs? Given the potential for TMDL requirements that may supercede this rule, the rule should be delayed (at least for NY/NJ Harbor dischargers) until after the TMDL for the Harbor is published. The Department is not obligated to establish an implementation rule before the TMDL is published. (7)

RESPONSE: The rule at N.J.A.C. 7:14A-11.13(b) states “Facilities subject to an adopted TMDL that establishes requirements for PCBs shall be subject to that TMDL. The adopted TMDL shall supercede the requirements of this section.” Therefore, if the NJ/NY Harbor TMDL is adopted while a permittee is sampling and fulfilling the requirements of this rule, that TMDL will supercede these requirements. The permittee will then have to fulfill any additional requirements established by the TMDL. The Department anticipates that data gathered and any reductions that result from the requirements of these adopted rules will be consistent with the goals of any future TMDL.

28. COMMENT: The New Jersey Harbor Dischargers Group is currently conducting a pilot study (trackdown) to locate the source of PCBs at the Linden Roselle Sewerage Authority (LRSA). As part of this study, dry weather samples have been collected from one of Merck’s permitted NJPDES monitoring points, along with samples taken at Merck’s permitted discharge point to LRSA. For cost effectiveness, N.J.A.C. 7:14A

should clearly provide for the use of these, or other similar appropriate sample results, to meet the monitoring requirements of the proposed rules.

Some permit holders request that existing effluent data using Method 1668A be allowed to be used to complete the proposed requirements. As an example, Moorestown Township Water Treatment Plant in 2005 completed dry weather testing in support of its NJPDES permit and Delaware River Basin Commission Phase 2 TMDL requirements. Repeating this testing is not necessary, and criteria should be adopted to prevent nonessential data collection and needless cost to permit holders. (8, 18)

RESPONSE: As part of a facility's permit, the Department will allow existing data to be used to fulfill the requirements of these rules, provided that the sampling was performed using Method 1668A, the sampling was conducted within the past three years and meets the sampling criteria at N.J.A.C. 7:14A-11.13(c)2i. and ii and all applicable QA/QC procedures.

As stated at N.J.A.C. 7:14A-11.13(b), where a facility is subject to an adopted TMDL, it will remain subject to that TMDL, rather than become subject to the requirements of the adopted rules. Consultation with DRBC indicated that Moorestown Township was not originally part of the Delaware TMDL, but decided to do the sampling. Therefore, Moorestown will be subject to these adopted rules and Moorestown can use the data and any other work done to date that satisfies the requirements of these adopted rules.

29. COMMENT: PCB concentrations in water are often difficult to detect for a variety of reasons. For this reason, the use of Alternative Approaches as a supplement to effluent monitoring (using USEPA Method 1668A) is a valid approach for understanding the entire picture of PCB loadings and reductions. It is important that the Department recognizes and considers all the limitations of each of these approaches when analyzing the data and reports. A good example is the PISCES (passive in-situ chemical extraction sampler) effluent sampling approach. These innovative devices can tell you whether the PCB load is high or low, but they are unable to provide quantitative values for PCBs, as they cannot be calibrated for factors such as water volume/flow rate and temperature. (6)

RESPONSE: Sampling for the purpose of establishing a baseline is to be done using Method 1668A. However, the Department will accept alternative approaches to demonstrate subsequent reductions during PMP implementation. The Department considers PISCES an approach that has value in conducting a PMP. However, the Department recognizes and will consider the limitations of alternative sampling approaches when data is submitted.

30. COMMENT: N.J.A.C. 7:14A-14.4(a)2 states, "If monitoring under N.J.A.C. 7:14A-11.13 demonstrates non-detectable levels in the effluent utilizing Method 1668A, the permittee may request a frequency reduction in accordance with this subchapter." The rule should specify the number of samples that are needed to qualify for a waiver of further effluent monitoring. If only dry weather monitoring is to be performed, the New Jersey Harbor Dischargers Group proposes that non-detectable PCB concentrations in

one dry sample should be sufficient to qualify for a waiver of monitoring. If both dry and wet weather monitoring is to be performed, non-detectable PCBs in one dry and one wet sample should qualify for a waiver of monitoring.

The method required by the Department quantifies congeners at the picogram per liter level. It has been shown that method blanks prepared from laboratory grade purified water consistently produce “detectable levels.” A numeric threshold should be assigned to prevent arbitrary data collection by an expensive testing procedure. This threshold should be congener specific, as the toxicity of the individual congeners varies significantly. (7, 8)

RESPONSE: Pursuant to N.J.A.C. 7:14A-14.2(c), the Department may allow a reduction in monitoring if the sampling demonstrates non-detectable levels in the effluent. A permittee may request a reduction in sampling based on the results of one sample performed using Method 1668A where there are non-detectable levels and the Department has full confidence that all specified detection levels and QA/QC procedures were adhered to. The Department will utilize the DRBC document entitled, “Delaware River Estuary Stage 2 PCB TMDL Polychlorinated Biphenyls - EPA Method 1668A Project Quality Control Requirements” when determining if there are non-detectable levels.

31. COMMENT: The proposal appears to signal a retreat from - and serve as an alternative to - adoption of the November 2002 proposed wildlife criteria. Even if the Department goes forward with the proposal, implementation and Federal law will still

require the adoption of revised criteria. The proposal fails to propose or incorporate mandatory revisions to the SWQS criteria for PCBs, mercury, and DDT, as mandated by USEPA and USFWS Biological Opinion. The Department should reconsider and move forward to re-proposal and adoption of the wildlife criteria. The Department is urged to revise the SWQS and impose the wildlife criteria that have been mandated for over 10 years to protect bald eagles and peregrine falcons. (16)

RESPONSE: The issue regarding the Department's adoption of wildlife criteria under the New Jersey SWQS, N.J.A.C. 7:9B, is outside of the scope of this rule. The Department's rationale for not adopting wildlife criteria for PCBs, Mercury and DDT can be found in the February 17, 2004 New Jersey Register at 36 NJR 912(a).

32. COMMENT: As the Department is aware, the Passaic Valley Sewerage Commission (as a member of the New Jersey Harbor Dischargers Group (NJHDG)) has been an active participant in USEPA's Harbor Estuary Program (HEP) for over a decade. NJHDG is a member of the HEP Toxics Work Group and Toxics TMDL Work Group, and NJHDG was a key participant in the recently completed Contaminant Assessment and Reduction Program. One of the additional initiatives that NJHDG has undertaken is a pilot study (trackdown) at the Linden Roselle Sewerage Authority (an NJHDG member agency) to investigate the sources of PCBs. Because of the relevant experience that PVSC and NJHDG have gained by working with HEP on toxics-related issues, PVSC would like to recommend that the Department allow the NJHDG to work directly with the Department and HEP in a cooperative manner to meet the requirements of the

proposed rule. PVSC believes that by working in a collaborative fashion on the PCB contamination issue, the Department will benefit by taking full advantage of the PCB-related experience that has been gained over the past nine years by NJHDG and the Department.

The NJHDG proposes to evaluate the PMP framework as part of the group's involvement in the Implementation Advisory Committee workgroup with the Department, USEPA Region 2 and HEP. This work should lead to a better understanding of the PMP elements that can successfully reduce PCB loadings to the NY/NJ Harbor. (5, 7)

RESPONSE: The Department is willing to work with both the NJHDG and HEP in a cooperative manner to meet the requirements of the adopted rule and to become familiar with the knowledge that has been gained by the NJHDG and HEP.

33. COMMENT: N.J.A.C. 7:14A-11.13(c)(2) refers to the "effective date of the proposed new rule" as the trigger date for the start of the 24-month sampling period. This should be revised to refer to the "effective date of this rule" to clarify that the trigger is the effective date of this adoption, and not the proposed rule. (11)

RESPONSE: The Department acknowledges this error in the proposal. However, as discussed in Response to Comments 1 and 2, above, the Department is not adopting the rule requirements as a final permit modification for the affected facilities, but instead will modify the affected facilities' permits individually to incorporate the PMP for PCB

requirements. Consequently, the Department is modifying N.J.A.C. 7:14A-11.13(c)2 on adoption to state that the 24 month monitoring period will begin following the effective date of the final modification or renewal of the permits, rather than the effective date of these rules.

Federal Standards Analysis

Executive Order No. 27 (1994) and N.J.S.A. 52:14B-1 et seq. (P.L. 1995, c.65) require State agencies that adopt, readopt or amend State regulations which exceed any Federal standards or requirements to include in the rulemaking document a Federal Standard Analysis. The adopted rules would not impose standards or requirements that exceed any Federal standards or requirements.

The adopted rules set forth requirements for PCB monitoring, and for the development and implementation of PMPs for PCBs. There are no specific comparable Federal rules. However, the Federal government has made it clear that this method of pollution reduction is appropriate to reduce PCB loadings, because there is no available treatment to meet criteria. In promulgating the Delaware River TMDL discussed in the Summary, the USEPA stated its belief that "it should be reasonable and consistent with TMDL and NPDES regulations that point sources contributing PCB loads be required to reduce PCB discharges through the development and implementation of PCB minimization plans that will be required by the NPDES permitting programs in Delaware, New Jersey, and Pennsylvania." [Response-To-Comment Document for the Proposed Total Maximum Daily Loads for PCBs for Zones 2-5 of the Tidal Delaware River,

December 15, 2003, p. 12] Accordingly, the adopted new rules' approach to reducing PCB loadings is consistent with the approach taken by the Federal government.

Full text of the adopted new rules follows (additions to proposal are indicated in boldface with asterisks ***thus***; deletions from proposal are indicated in brackets with asterisks ***[thus]***):

N.J.A.C. 7:14A-11.13 NJPDES/DSW PCB Pollutant Minimization Plans for Major Facilities Discharging to PCB Impaired Waterbodies.

(a)-(b) (No change from proposal.)

(c) Monitoring requirements shall be in accordance with N.J.A.C. 7:14A-14.4 and include the following.

1. (No change from proposal.)

2. Sanitary wastewater treatment plants and publicly owned treatment works shall perform three dry weather and three wet weather samples on the facility's main outfall by ***[(24 months after the effective date of this rule)]*** ***24 months after the effective date of the modification or renewal of the facilities' permits under (e) below***. Industrial facilities with discharges consisting of process wastewater, as defined at N.J.A.C. 7:14A-1.2, shall perform three dry weather samples by [24 months after the effective date of the proposed new rule] ***24 months after the effective date of the modification or renewal of the facilities' permits under (e) below***. Industrial facilities with commingled process wastewater and stormwater discharges shall perform three dry weather and three wet weather samples by ***[(24 months after the effective date of this rule)]*** ***24 months**

after the effective date of the modification or renewal of the facilities' permits under (e) below*.

i.- ii. (No change from proposal.)

3. - 6. (No change from proposal.)

(d) (No change from proposal.)

(e) *[In accordance with N.J.A.C. 7:14A-16.3(j), the following major DSW permits are modified to incorporate the requirements of (a) through (c) above and N.J.A.C.

7:14A-14.4.]* * **The Department will modify the permits of the major facilities**

identified in (a) above in accordance with the procedures at N.J.A.C. 7:14A-16.* For

any permit *[listed below]* that is expired as of (the effective date of rule), the

requirements set forth in this section and N.J.A.C. 7:14A-14.4 will be incorporated into

the permit at the next renewal of the permit.

*[NJPDES Permit Number	Facility Name
NJ0000221	CHEVRON PERTH AMBOY ASPHALT FACILITY
NJ0000647	HUDSON GENERATING STATION
NJ0000655	KEARNY GENERATING STATION
NJ0000663	LINDEN GENERATING STATION
NJ0000680	SEWAREN GENERATING STATION
NJ0002348	MERCK & CO INC
NJ0002551	REHEIS INC

NJ0002747	RELIANT ENERGY SAYREVILLE GENERATING STATION
NJ0004456	CURTIS SPECIALTY PAPERS – MILFORD MILL
NJ0004952	DSM NUTRITIONAL PRODUCTS INC
NJ0005240	BRIDGEPORT DISPOSAL LLC
NJ0005509	SYBRON CHEMICALS INC
NJ0005517	GILBERT GENERATING STATION
NJ0020028	BERGEN CNTY UTILITIES AUTHORITY
NJ0020141	MIDDLESEX CNTY UA
NJ0020389	CLINTON TOWN WWTP
NJ0020427	CALDWELL WASTEWATER TREATMENT PLANT
NJ0020591	EDGEWATER MUA WTP
NJ0020915	LAMBERTVILLE SEWAGE AUTH
NJ0021636	NEW PROVIDENCE WWTP
NJ0022047	RARITAN TOWNSHIP MUA STP
NJ0022489	WARREN TWP SEWERAGE AUTH STAGE I-II STP
NJ0022519	RIVERSIDE WATER RECLAMATION AUTHORITY
NJ0023361	WILLINGBORO WATER POLLUTION CONTROL FACILITY

NJ0023507	DELRAN SEWERAGE AUTHORITY
NJ0024015	MOUNT HOLLY WPCF
NJ0024031	ELMWOOD WTP
NJ0024040	WOODSTREAM STP
NJ0024511	LIVINGSTON TWP STP
NJ0024643	RAHWAY VALLEY SEWERAGE AUTH
NJ0024651	CUMBERLAND COUNTY UTILITIES AUTHORITY
NJ0024678	BLACK'S CREEK WTP
NJ0024821	PEMBERTON TOWNSHIP MUA STP
NJ0024856	SALEM CITY WASTEWATER TREATMENT FACILITY
NJ0024864	SOMERSET RARITAN VALLEY SA
NJ0024937	MOLITOR WATER POLLUTION CONTROL FACILITY
NJ0024996	MOORESTOWN TWP WWTP
NJ0025178	MOUNT LAUREL TWP MUA
NJ0025321	NORTH HUDSON SEWERAGE AUTHORITY
NJ0025518	FLORHAM PARK SEWERAGE AUTH
NJ0026085	ADAMS STREET WTP
NJ0026301	HAMILTON TWP WPCF
NJ0026832	MEDFORD TOWNSHIP STP
NJ0027961	BERKELEY HEIGHTS WPCF

NJ0029084	WOODCLIFF STP
NJ0029467	MILLVILLE (WTP) CITY OF
NJ0055395	BURLINGTON CNTY RESOURCE RECOVERY COMPLEX
NJ0069167	MAPLE SHADE TWP PARK AVE WWTP]*

N.J.A.C. 7:14A-14.4 Monitoring frequency requirements for Polychlorinated Biphenyls (PCBs) effluent characterization.

(a) This section establishes the monitoring frequencies for conducting effluent characterization for PCBs if required by N.J.A.C. 7:14A-11.13.

1. The monitoring frequency for the PCB effluent characterization will be up to six samples during a period of 24 months, not to exceed 3 dry samples and/or 3 wet samples.

All samples shall be performed using a *[grab]* ***24-hour composite*** sample type*, **with the exception of short-term wet weather discharges, which shall be performed using a grab sample***.

2. – 3. (No change from proposal)

Based on consultations with staff, I hereby certify that the above statements, including Federal standards analysis addressing the requirements of Executive Order 27 (1994), permit the public to understand accurately and plainly the purpose and expected consequences of this rule. I hereby authorize this adoption.

Date: _____

Lisa P. Jackson, Commissioner
Department of Environmental Protection