Andrew J. Edwards

From: Paul Calamita <paul@aqualaw.com>
Sent: Tuesday, October 13, 2026 3:55 PM
To: Andrew J. Edwards
Cc: Ann R. Clark; jdebessonet@water-ec.com; A.J. Johnson
Subject: Bacteria Permitting - Additional Triennial Review Comment

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Drew,

I hope you are doing well.

I want to share a couple of further clarifications to the proposed bacteria permitting revisions in the triennial review. We incorporate our September 29, 2026 comments again and would like to add the following:

First, we discussed that the 48-hour retest provision would be available to POTWs until they had 4 violations of the daily maximum. The wording in the proposal is confusing in that it says "there were no more than four (4) total bacteria samples exceeding the daily maximum limit in the current calendar year;" We think this should say "there were no more than four violations of the daily maximum limit in the current year."

Second, we don't understand why (C).iii is included? We don't see why this section (focusing on daily max results) should address/require "reasonably distributed" bacteria sampling for the rest of the month. That is a monthly average issue. The DES rule requires the two retests for a daily max high value to occur over the next 48 hours. So we think C.iii should be removed.

Finally, (C).iv states appears to say that we can't have a ">" value for the initial daily max result that would then be subject to the two retests. This made sense when there was an "800" count ceiling concentration but does not with its removal. Thus, we suggest removing this subsection (iv) or clarifying that the "no > values" be clarified as applying to the retests.

E.14(b)(12)(i)(C):

(C) ~~Either:~~There were no more than four (4) total bacteria ~~samples exceeding~~ violations of the daily maximum limit in the current calendar year; and

~~1. For facilities that routinely collect ten (10) bacterial samples per month (or one hundred twenty (120) or more samples per calendar year), there were no more than four (4) total bacteria samples exceeding the daily maximum limit in the previous twelve (12) months; or~~

~~2. For facilities other than those listed in (C)1. above (e.g., smaller facilities or those that do not routinely collect ten (10) samples or more per month), there was no more than one (1) bacterial sample exceeding the daily maximum limit in the previous twelve (12) months; and~~

ii. The permittee verifies that all disinfection equipment was fully functional, and the solids handling system was fully functional during that monitoring period; and

iii. ~~Any additional bacterial sampling collected during the monthly monitoring period when the daily maximum exceedance occurred was reasonably distributed in time while maintaining representative sampling; and~~

iv. The permittee must provide sufficient laboratory data sensitivity (e.g., dilutions) to accurately represent the effluent bacterial concentrations in the two retests to utilize this procedure. Effluent bacterial results reported as greater than (>) do not meet this criteria, ~~since~~ because the actual results are unknown.

Same change for (v)(C).

Thank you for considering these clarifications.

We are available to discuss at your convenience.

Best,

Paul

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