Andrew J. Edwards

From: Paul Calamita <paul@aqualaw.com>
Sent: Tuesday, October 20, 2026 3:38 PM
To: Andrew J. Edwards
Cc: Shawn M. Clarke; Ann R. Clark; Myra C. Reece
Subject: Bacteria Permitting
Attachments: Rationale for Monthly Weekly Geomean POTW Permit Limits for Bacteria.docx; June 24 2025 Monthly Weekly Triennial Review Comments.pdf; SCWQA Triennial Review Comments - February 27 2026.pdf

I hope everyone is doing well.

I am surprised to hear that DES has only applied the bacteria permitting change to POTWs discharging to fresh waters. While we discussed, by way of example, the effect of lifting the 800-count e.coli value that prevents using the re-test procedure, we have been consistent that we want the change (lifting the ceiling concentration) for all POTWs. I have previously sent the attached "Rationale" document to all of you and it does not limit the request to POTWs discharging to fresh waters. It does not mention freshwater, saltwater, or otherwise. It requests monthly/weekly for all POTWs. Our February 27, 2026 comments asked for Monthly/Weekly and attached for all POTWs. Our June 24, 2025 letter (copy attached) also did not limit the request to POTWs discharging to freshwater dischargers.

When we met on the eve of DES sending language to the register, we were surprised to first hear of DES' proposed compromise of lifting the ceiling concentration(s) as a counter to our request for monthly/weekly geomean limits for all POTWs. Had we known the relief was just for POTWs discharging to fresh waters, we would have rejected it because it would be arbitrary (and unfair) not to provide such relief to our coastal discharge members as well.

I don't recall during that meeting that DES indicated the lifting of the ceiling threshold would only apply to freshwater dischargers and that there was a reason DES had to not apply it to saltwater. I thought the reference to the 800 counts for e.coli was an example/illustrative of the benefit (65% of the prior violations would now be eligible for the retest option).

We think the ceiling concentrations for both e.coli and entero, which limit the availability of the retest option, should be removed from the regulation. Moreover, in our view, none of this permitting implementation language should be in the regulation in the first place.

We are available to discuss at your convenience.

Paul

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