

(Suite 275), Washington, DC. Some members of the Council will be participating by conference call. The meeting is open to the public, but due to past experience, seating will be limited.

The purpose of the meeting is for the Council to deliberate on the recommendations from the Arsenic Cost Working Group. The Arsenic Cost Working Group, comprised of nationally recognized technical experts, will have completed their review of the cost of compliance estimates associated with the January 22, 2001 Arsenic Rule. The Council will also provide its recommendations on the Arsenic Cost Review to the Agency. Oral statements from the public will be taken if time permits. Written statements from the public will also be accepted.

**DATES:** The meetings will be held on August 22 and 30, 2001 in Washington, DC

**SUPPLEMENTARY INFORMATION:** Following the January 22, 2001 **Federal Register** promulgation of the arsenic rule, a number of concerns were raised to EPA by States, public water systems, and other stakeholders regarding the adequacy of science and the basis for national cost estimates underlying the rule. Because of the importance of the arsenic rule and the national debate surrounding it related to science and costs, EPA's Administrator publicly announced on March 20, 2001, that the Agency would take additional steps to reassess the scientific and cost issues associated with this rule and seek further public input on each of these important issues.

The Council encourages the hearing of outside statements and will allocate, if time permits, a portion of the meeting for this purpose. Any outside parties interested in presenting an oral statement should petition the Council by telephone at (202) 260-9194, before August 20, 2001. Requests made after this date will not be accepted. Oral statements will be limited to five minutes per speaker and no more than 30 minutes total.

Any person who wishes to file a written statement can do so before or after a Council meeting. Written statements received prior to the meeting will be distributed to all members of the Council before any final discussion or vote is completed. Any statements received after the meeting will become part of the permanent meeting file and will be forwarded to the Council members for their information.

Members of the public that would like to attend the meeting, present an oral statement, or submit a written

statement, should contact Ms. Janet Pawlukiewicz, Designated Federal Officer, National Drinking Water Advisory Council, U.S. EPA, Office of Ground Water and Drinking Water (4601), 1200 Pennsylvania Avenue, NW., Washington, DC 20460. The telephone number is (202) 260-9194 or E-Mail [pawlukiewicz.janet@epa.gov](mailto:pawlukiewicz.janet@epa.gov)

Dated: July 26, 2001.

**Cynthia C. Dougherty,**

*Director, Office of Ground Water and Drinking Water.*

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## ENVIRONMENTAL PROTECTION AGENCY

[FRL-7020-8]

### Clean Water Act (CWA) 303(d): Proposed Addition of Six Waters to the State of New Jersey's 1998 Section 303(d) List

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** EPA today notices its intent to disapprove the State of New Jersey's omission of six waters on its 1998 Clean Water Act Section 303(d). EPA is proposing to add the following six waters to New Jersey's 1998 Section 303(d) list: Ackerman's Creek, Berry's Creek, Birch Swamp Creek, Capoolony Creek, Edmund's Creek, and the Singac River. EPA solicits public comment on the addition of the above six waterbodies to New Jersey's Clean Water Act Section 303(d) list.

**DATES:** Comments on the proposed action must be submitted to EPA on or before August 17, 2001.

**ADDRESSES:** Copies of the relevant supporting documents may be obtained by writing to Ms. Rosella O'Connor, U.S. Environmental Protection Agency Region 2, 290 Broadway, 24th Floor, New York, New York 10006-1866, [oconnor.rosella@epamail.epa.gov](mailto:oconnor.rosella@epamail.epa.gov), or by calling (212) 637-3823.

The administrative record containing background technical information is on file and may be inspected at the U.S. EPA, Region 2 office between the hours of 8 a.m. and 5:30 p.m., Monday through Friday, except holidays. Arrangements to examine the administrative record may be made by contacting Ms. Rosella O'Connor.

**FOR FURTHER INFORMATION CONTACT:** Ms. Rosella O'Connor, telephone number (212) 637-3823.

**SUPPLEMENTARY INFORMATION:**

I. Background

II. Proposed Action

### I. Background

Section 303(d) of the Clean Water Act (CWA) and EPA's implementing regulations at 40 CFR 130.7, require states and territories to: develop lists of water-quality limited waters still requiring Total Maximum Daily Loads (TMDLs); establish a priority ranking of these waters; identify pollutants causing their impairment; and identify waters targeted for TMDL development over the next two (2) years. TMDLs include a determination of pollutant loadings compatible with achievement of applicable state water quality standards. State 303(d) lists and TMDLs are submitted to the EPA for approval or disapproval.

Under 40 CFR 130.7(b)(1), water quality-limited segments are not required to be listed on a State's Section 303(d) list where: effluent limitations required by the CWA; more stringent effluent limitations required by State or local authority; or, other pollution control requirements required by State, local or federal authority, are stringent enough to implement applicable water quality standards. Waters may be removed from the 303(d) list if any of the listed control actions result in meeting water quality standards by the next listing cycle. If water quality standards are not expected to be achieved by the next listing cycle, through implementation of other required controls, it is appropriate for waters to remain on the 303(d) list to ensure that implementation of the required controls and progress towards compliance with applicable water quality standards occur.

On September 15, 1998, the State of New Jersey ("New Jersey") submitted its 1998 CWA Section 303(d) list to EPA for review and approval. On October 8, 1998, EPA approved New Jersey's CWA Section 303(d) list. This list included approximately 1,048 water-quality limited segments. This list was challenged in a lawsuit commenced in the Federal District Court for the District of New Jersey, entitled *American Littoral Society and New Jersey Public Interest Research Group v. United States Environmental Protection Agency, et al.* [Civil Action No. 96-339 (MLC)]. In a preliminary decision and order issued in this case in December 2000, the Court directed EPA to provide for the inclusion on New Jersey's 303(d) list the five following waters: Ackerman's Creek; Berry's Creek; Birch Swamp Brook; Capoolony Creek; and Edmund's Creek. These five waters should have

been included on New Jersey's list due to impairment by toxic pollutants, but were inadvertently omitted.

Subsequently, during the course of the litigation, EPA determined that a sixth water, the Singac River had also been inadvertently omitted from New Jersey's 303(d) list. More specifically, while the Lower Passaic River, reach number 02030103-012-125/ at Singac, is listed in the State's 1998 303(d) list at page A 9 for fecal coliform and phosphorus, the Singac River, reach number 02030103, is not listed for whole effluent toxicity, despite the fact that New Jersey had previously determined it that was impaired due to violations of whole effluent toxicity requirements.

In preparing its 1998 CWA Section 303(d) list, New Jersey relied upon several sources of information, including the EPA approved CWA Section 304(l) lists. Under CWA Section 304(l), states were required to submit to EPA several lists, including, pursuant to

Section 304(l)(A)(i)—a list of water bodies the state does not expect to achieve State water quality standards due to discharges of toxic pollutants from point or nonpoint sources (the "mini list"). In 1993, EPA approved New Jersey's CWA Section 304(l) lists. A notice announcing EPA's final approval of New Jersey's 304(l) lists, including New Jersey's mini list, was published in the **Federal Register** on November 2, 1993 (58 FR 58548).

The six waters that EPA is proposing to add originate from New Jersey's CWA Section 304(l) mini list. With the exception of these six waters, the remaining waters listed under the CWA Section 304(l) mini list were included in New Jersey's 1998 CWA Section 303(d) list.

Five of the six waters: Ackerman's Creek, Berry's Creek, Birch Swamp Brook, Capoolony Creek, and Edmund's Creek were found to be potentially impaired due to contamination from

adjacent hazardous waste sites listed under the National Priority List. The Singac River was identified by New Jersey as requiring additional water-quality based controls for whole effluent toxicity.

## II. Proposed Action

EPA is proposing to disapprove New Jersey's omission of six waters from its 1998 CWA Section 303(d) list. EPA is proposing to add the six waters (shown in Table 1) to New Jersey's 1998 Section 303(d) list. Consistent with EPA's regulations, 40 CFR part 130.7(b)(4), the pollutants potentially causing impairments of the listed waters are identified in Table 1. The toxic pollutants identified for the listed waters (with the exception of the Singac River) are based on data collected at the adjacent hazardous waste sites. For the Singac River, specific toxic pollutants have yet to be identified.

TABLE 1.—LIST OF SIX WATERS PROPOSED FOR ADDITION TO NEW JERSEY'S 1998 CWA SECTION 303(D) LIST

Waterbody	Reach No.	Pollutant(s)
Ackerman's Creek .....	02030103	Chromium, mercury, PCBs, chlorinated benzenes.
Berry's Creek .....	02030103034	mercury, other metals.
Birch Swamp Creek .....	02030104	arsenic, lead, copper, zinc, PCBs.
Capoolony Creek .....	02030105	DDT.
Edmund's Creek .....	02030105	PCBs.
Singac River .....	02030103	Whole Effluent Toxicity.

CWA Section 303(d)(1) and EPA's regulations at 40 CFR 130.7(b)(4) require States to prioritize waters on their Section 303(d) lists for TMDL development. EPA is proposing that a ranking of low priority be assigned to the six waters. A low priority is appropriate because of the control actions that are currently underway for the five waterbodies (Ackerman's Creek, Berry's Creek, Birch Swamp Brook, Capoolony Creek, Edmund's Creek) that have been listed due to potential contamination from adjacent hazardous waste sites. These waters should be restored upon implementation of the remediation plans for the sites impacting the waters. EPA believes that any TMDL that is developed for these waters will rely on the remediation plans, required under 40 CFR § 300.430 for the hazardous waste sites. EPA expects that New Jersey will track the progress of remediation plans for the relevant hazardous sites and the water quality of the above five waters. In the case of the Singac River, the original listing under CWA Section 304(l) was not specific and there is some uncertainty as to the specific toxic pollutants and the degree of

impairment. EPA recommends that New Jersey review and evaluate existing and readily available data and information regarding the presence of toxic pollutants in the Singac River to determine the specific toxic pollutants and degree of impairment.

EPA is soliciting public comment on the proposed addition and priority ranking of Ackerman's Creek, Berry's Creek, Birch Swamp Creek, Capoolony Creek, Edmund's Creek, and the Singac River to New Jersey's 1998 CWA Section 303(d) list.

Dated: July 20, 2001.

**George Pavlou,**

*Acting Regional Administrator.*

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## FEDERAL DEPOSIT INSURANCE CORPORATION

### Sunshine Act Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 3:00 p.m. on Monday, July 30, 2001, the Board of Directors of the Federal

Deposit Insurance Corporation met in closed session to consider matters relating to the Corporation's resolution activities.

In calling the meeting, the Board determined, on motion of Director Ellen S. Seidman (Director, Office of Thrift Supervision), seconded by Director John D. Hawke, Jr. (Comptroller of the Currency), concurred in by Acting Chairman John M. Reich, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was held in the Board Room of the FDIC Building located at 550-17th Street, NW., Washington, DC.

Dated: July 31, 2001.