

U.S. EPA would be reimbursed for all of its outstanding past costs of \$2,545,773.63 incurred at the Ninth Avenue Dump Site; (2) the Settling Parties agree to reimburse the U.S. EPA for all of its future response costs incurred at the Site; (3) the Settling Parties agree not to assert any claims or causes of action against the United States with respect to any matters concerning the Site; and (4) the U.S. EPA affords the Settling Parties a covenant not to sue for past and future response costs and contribution protection as provided by CERCLA Sections 113(f)(2) and 122(h)(4) upon satisfactory completion of their obligations under the Settlement. However, U.S. EPA is free to pursue any other necessary and appropriate judicial and administrative relief against the Settling Parties and any necessary and appropriate judicial and administrative relief against any other party. The Site is on the National Priorities List ("NPL"), and remedial response activities at the Site are continuing. The Attorney General has approved the Settlement.

DATES: Comments on the proposed AOC must be received by U.S. EPA on or before February 23, 1996.

ADDRESSES: A copy of the proposed AOC is available for review at U.S. EPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604. Please contact Mike Berman at (312) 886-6837 or Mike Anastasio at (312) 886-7951, prior to visiting the Region 5 office.

Comments on the proposed AOC should be addressed to Mike Berman/ Mike Anastasio, Office of Regional Counsel, U.S. EPA, Region 5, 77 West Jackson Boulevard (Mail Code CS-29A), Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Mike Berman at (312) 886-6837 or Mike Anastasio at (312) 886-7951, of the U.S. EPA Region 5 Office of Regional Counsel.

A 30-day period, commencing on the date of publication of this notice, is open pursuant to Section 122(i) of CERCLA, 42 U.S.C. 9622(i), for comments on the proposed AOC. Comments should be sent to the addressee identified in this notice.

Valdas V. Adamkus,

Regional Administrator, U.S. Environmental Protection Agency, Region 5.

[FR Doc. 95-1050 Filed 1-23-96; 8:45 am]

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[FRL-5402-3]

CWA 303(d): Establishment of Phased Total Maximum Daily Loads (TMDLs) for Copper, Mercury, Nickel and Lead in New York-New Jersey Harbor

AGENCY: Environmental Protection Agency, Region II.

ACTION: Notice.

SUMMARY: The U.S. Environmental Protection Agency (EPA) Region II is hereby issuing final public notice on the establishment of Phased Total Maximum Daily Loads (TMDLs) for copper and mercury in New York-New Jersey Harbor. The TMDLs are being established in cooperation with the States of New York and New Jersey.

DATES: January 24, 1996.

ADDRESSES: Copies of the responsiveness summary and TMDL support documents can be obtained by writing to Ms. Rosella T. O'Connor, Technical Evaluation Section, U.S. Environmental Protection Agency Region II, 290 Broadway, 25th Floor, New York, New York 10006-1866 or calling (212) 637-3711.

The administrative record containing background technical information on the TMDLs developed by EPA, in conjunction with the States of NY and NJ, is on file and may be inspected at the U.S. EPA, Region II office between the hours of 9:00 a.m. and 4:30 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 (212) 637-3711.

SUPPLEMENTARY INFORMATION:

I. Background

II. Final Determination

I. Background

The New York-New Jersey Harbor is geographically defined as the Hudson River from the Tappan Zee Bridge extending out to the Outer Harbor and including the Harlem River, East River to the Throgs Neck Bridge, Jamaica Bay, Newark Bay, Hackensack River below the Oradell Dam, Passaic River below the Dundee Dam, Kill Van Kull, Arthur Kill, and the Raritan River/Bay below the Fieldville Dam.

Under the auspices of the New York-New Jersey Harbor Estuary Program, the States of New York and New Jersey and EPA joined in a cooperative effort to collect ambient and source data, develop a water quality model to assess relative loadings from all sources (municipal and industrial discharges, storm water, combined sewer overflows,

sediment flux, atmospheric deposition and tributaries), and develop Total Maximum Daily Loads (TMDLs).

Due to the interstate nature of the New York-New Jersey Harbor and the desirability of consistency and equity among dischargers, the State of New Jersey requested that EPA promulgate TMDLs for the New York-New Jersey Harbor. EPA will, therefore, establish TMDLs as a federal action. Except for the Kill Van Kull, New York State has already implemented the necessary water quality-based effluent limits for waterbodies within the Harbor by issuing individual control strategies in the form of modified permits. EPA is establishing TMDLs for the remaining waterbodies for which New York State has not established TMDLs as well as Harbor waterbodies in the State of New Jersey. The EPA promulgation will result in the incorporation of TMDLs into State Water Quality Management Plans. In the State of New Jersey, this promulgation will amend the Northeast, the Lower Raritan/ Middlesex County and the Monmouth County Water Quality Management Plans. In New York State, this promulgation will amend the New York State Water Quality Management Plan.

II. Final Determination

In the proposed public notice (40 FR 41293, August 11, 1994), EPA indicated that the basis of the TMDLs was the most stringent of the applicable NJ or NY standards for mercury (0.025 µg/L), nickel (7.1 µg/L) and lead (8.5 µg/L), expressed as the total recoverable form of the metal. Since that time, EPA issued an Interim Final Rule (60 FR 22228, May 4, 1995), amending the National Toxics Rule. The Interim Final Rule became effective on April 14, 1995. This rule establishes dissolved criteria for nickel and lead in New Jersey. Phase I TMDLs are not being developed for nickel and lead, at this time. Insufficient data were available to determine if TMDLs based on the dissolved nickel and lead criteria were necessary. The mercury criterion will continue to be expressed as total recoverable since it is a fish tissue based criterion. The copper criterion used to develop TMDLs is 5.6 µg/L (expressed as dissolved metal). This value is the most stringent of the two proposed site-specific copper criteria developed (7.9 [acute] and 5.6 [chronic] µg/L dissolved) for the Harbor waters (for additional information regarding the development of the site-specific copper criteria, refer to EPA's document entitled "Development of a Site-Specific Copper Criterion for the NY/NJ Harbor Complex Using the Indicator Species Procedure").

Based on ambient monitoring data and/or water quality modeling efforts, certain waterbodies within the Harbor exceed or are projected to exceed applicable water quality standards. In such cases, the Clean Water Act requires that the States calculate the maximum amount of the pollutant that the waterbody can assimilate and still meet ambient water quality standards. This amount, called the total maximum daily

load, is then used to allocate loads among sources of pollutants. Loads allocated to point sources (e.g. municipal dischargers) are termed Waste Load Allocations (WLAs). Loads allocated to nonpoint sources (e.g. atmospheric inputs) are termed Load Allocations (LAs).

Waterbodies within the Harbor which are known or projected to exceed applicable water quality standards and

have been determined to require TMDLs are denoted by an "X" in Table 1. Certain waterbodies in the Harbor do not require TMDLs for all the metals of concern. For these waterbodies, no further action is being proposed. The "#" notation indicates that the need for TMDLs will be reassessed, based on dissolved nickel and lead criteria, after the completion of the Phase II monitoring in these waterbodies.

TABLE 1.—WATERBODIES NEEDING TMDLS

Waterbody	Copper	Mercury	Nickel	Lead
Hudson River		X		
Inner Harbor		X		
Outer Harbor		X		
Arthur Kill/Kill Van Kull	X	X	#	#
East R./Harlem R.		X		
Jamaica Bay		X		
Raritan River/Bay	X	X	#	#
Hackensack R./Passaic R./Newark Bay	X	X	#	#

The TMDLs for copper, and mercury use a phased TMDL approach. For copper, the waterbodies listed in Table 1 exceed applicable water quality standards based on concentrations projected to occur by the water quality model employed for this TMDL effort. Due to the limited ambient and loading data, the state of the model calibration is uncertain for the Raritan River/Bay, the Hackensack and Passaic Rivers, and Newark Bay. Based on the available ambient data, it has been determined that existing loads are adequate to meet applicable water quality standards. The Phase I TMDLs for these waters will be based on limiting municipal and industrial point source dischargers to existing loads. Additional data collection and modeling for the Hackensack River, Passaic River, Newark Bay, Kill Van Kull, Arthur Kill, and Raritan River/Bay will be required. Once sufficient data have been collected and the water quality model has been adequately calibrated, Phase II TMDLs will be developed, adopted and implemented, as necessary, by the States of New York and New Jersey with assistance from EPA.

As indicated in Table 1, both ambient and model projected exceedances of mercury standards occur throughout the Harbor. Water quality modeling for

mercury indicated that a significant portion of the total mercury load was not identified by the monitoring conducted to support the TMDL effort. This load, attributed to atmospheric deposition, drives exceedances of water quality standards. The Phase I TMDLs for mercury are based on freezing existing point source loads and reducing atmospheric deposition loading by a portion of the anticipated levels of reduction resulting from the implementation of the Clean Air Act. Additional monitoring and water quality modeling will be conducted to: reassess the previously identified sources; quantify loads from atmospheric deposition and sediment flux; recalibrate the mercury water quality model; and to calculate Phase II TMDLs.

Based on applicable water quality standards and an assessment of loadings to the Harbor, Phase I TMDLs were calculated and allocated among municipal dischargers, industrial dischargers, combined sewer overflows, storm water, atmospheric, and tributaries. These TMDLs/WLAs/LAs are shown in Table 2.

For copper, the Phase I TMDLs/WLAs/LAs are based on existing loads from: industrial/municipal dischargers identified as contributing significant loads of the above substances; combined

sewer overflows; storm water dischargers; atmospheric deposition; and tributary sources.

For mercury, Phase I TMDLs/WLAs/LAs are based on existing loads for all point sources and a projected reduction in atmospheric loads due to implementation of the Clean Air Act.

The TMDLs/WLAs/LAs listed in the Tables below are not enforceable permit limits. The enforceable permit limits for municipal and industrial dischargers will be developed by the States based on the WLAs listed below. The Phase I effluent limits for municipal and industrial dischargers will be based on existing effluent quality and will be developed in accordance with "EPA Region II's Guidance for Calculating Permit Effluent Limitations Based on Existing Effluent Quality." A copy of this document may be obtained by contacting the above mentioned person.

The tables below identify the Phase I TMDLs/WLAs/LAs for copper and mercury in the Harbor. Additional information regarding the calculation of the TMDLs/WLAs/LAs and a listing of the individual WLA for each municipal and industrial discharger may be found in EPA's document entitled "Total Maximum Daily Loads (TMDLs) for Copper, Mercury, Nickel and Lead in NY-NJ Harbor."

TABLE 2.—T4TMDLs/WLAs/LAs for New York-New Jersey Harbor

TMDL: Copper	Loading Zone (loads in lbs/day total recoverable metal)	Hack/Pas/Newark	
		Kills	Raritan R/Bay
WLA/LA			
MUN./IND.	11.16	31.21	34.85
CSO	17.30	17.10	1.40
STORM WATER	53.30	35.10	42.70
BOUNDARY	2.73	0.00	3.90
ATMOSPHERIC	7.40	46.40	67.60
TMDL	91.89	129.81	150.45

TMDL: Mercury

[Loads in lbs/day total recoverable metal]

Loading zones	Mun./ind.	CSOs ¹	Storm water ²	Boundary ¹	Atmospheric ³	TMDLs
Hudson River	0.185	0.057	0.481	0.138	0.245	1.106
Inner Harbor	0.183	0.034	0.007	0	0.054	0.278
Outer Harbor	0.000	0.026	0.010	0	1.139	1.175
Kills	0.328	0.066	0.516	0	0.225	1.135
East & Harlem R.	1.005	0.216	1.260	0	0.679	3.16
Jamaica Bay	0.274	0.106	0.119	0.	0.093	0.592
Raritan Bay	0.442	0.005	0.628	0.003	0.328	1.406
Hack/Pas/ Newark B.	0.215	0.060	0.784	0.002	0.036	1.097

¹ Load includes a projected 10% reduction.² Load includes a projected 30% reduction.³ Load includes a projected 60% reduction.

NOTES: Hack/Pas/Newark=Hackensack River, Passaic River and Newark Bay.

Mun./Ind.=Municipal and Industrial dischargers.

Dated: December 15, 1995.

William Muszynski,

Acting Regional Administrator.

[FR Doc. 96-1052 Filed 1-23-96; 8:45 am]

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**FEDERAL COMMUNICATIONS
COMMISSION****[CS Docket No. 95-61, FCC 95-491]****Annual Assessment of the Status of
Competition in the Market for the
Delivery of Video Programming****AGENCY:** Federal Communications
Commission.**ACTION:** Second Annual Report to
Congress.

SUMMARY: Section 628(g) of the Communications Act of 1934, as amended, 47 U.S.C. 548(g), requires the Commission to report annually to Congress on the status of competition in the market for the delivery of video programming. On December 11, 1995, the Commission released its second such annual report ("1995 Report"). The 1995 Report provides data and information that summarize the status of competition in the market for the delivery of video programming and update the Commission's first Annual

Assessment of the Status of Competition in the Market for the Delivery of Video Programming ("1994 Report"), summarized at 59 FR 64657 (December 15, 1994). The 1995 Report is based on publicly available data, filings in various Commission rulemaking proceedings, and information submitted by commenters in response to a Notice of Inquiry in this docket, summarized at 60 FR 29533 (June 5, 1995).

ADDRESSES: Federal Communications Commission, 1919 M Street NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Marcia A. Glauber, Cable Services Bureau (202) 416-1184 or Martin L. Stern, Office of the General Counsel (202) 418-1880.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's 1995 Report in CS Docket No. 95-61, FCC 95-491, adopted December 7, 1995, and released December 11, 1995. The complete text of the 1995 Report is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, N.W., Washington, D.C., 20554, and may also be purchased from the Commission's copy contractor, International Transcription Service ("ITS, Inc."), (202) 857-3800, 2100 M

Street, N.W., Suite 140, Washington, D.C. 20037. In addition, the complete text of the 1995 Report is available on the Internet at <http://www.fcc.gov/Bureaus/Cable/Reports/fcc95491.zip>

Synopsis of the 1995 Report

1. The 1995 Report examines the cable television industry, other existing multichannel video programming distributors ("MVPDs"), and other existing and potential competitors to cable television. In the 1995 Report, the Commission also examines market structure and competition, measures horizontal concentration in the cable television industry, and evaluates vertical integration between cable television systems and programming services. In addition, the 1995 Report provides information on issues of access to programming and technical advances. Finally, the 1995 Report assesses the status of competition in the market for the delivery of video programming by examining the extent of competition, evaluating market performance, and reporting on existing and potential impediments to entry and competition, including strategic behavior that could deter entry and regulatory, legal, and other potential impediments.

2. Key Findings.