

**From:** [BACHMAN Jeff](#)  
**To:** [ROOT Jenny](#)  
**Subject:** FW: Action needed: Your input on potential change to Div. 12 classification of bacteria violations  
**Date:** Tuesday, January 07, 2014 12:32:37 PM

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**From:** SCHNURBUSCH Steve  
**Sent:** Friday, November 02, 2012 11:04 AM  
**To:** NOMURA Ranei; HUTCHENS-WOODS Cheryll; YELTON-BRAM Tiffany; GEIST Gregory; ADES Dennis R  
**Cc:** BACHMAN Jeff  
**Subject:** RE: Action needed: Your input on potential change to Div. 12 classification of bacteria violations

I don't have a feel for how much staff time would be needed to work on alternatives. But I'd be open to spending some time getting it the way we want it to avoid additional heartburn down the road. I'd be willing to offer up some of Jon's time. As a side note, I don't think a bacteria limit for recycled water is a technology based effluent limit – but maybe that doesn't matter.

If people disagree with spending time on this, then I'd go with option 2a below. But then we really need to have a discussion about the guidance (Appendix O) and how it reads and modifying some of the enforcement decisions. Because I think it's rather confusing.

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**From:** NOMURA Ranei  
**Sent:** Thursday, November 01, 2012 2:03 PM  
**To:** SCHNURBUSCH Steve; HUTCHENS-WOODS Cheryll; YELTON-BRAM Tiffany; GEIST Gregory; ADES Dennis R  
**Cc:** BACHMAN Jeff  
**Subject:** Action needed: Your input on potential change to Div. 12 classification of bacteria violations  
**Importance:** High

### **Background**

In our discussion of Div. 12 revisions, the issue of the classification of bacteria violations has come up. To summarize, it's a bigger deal to violate a bacteria limit when one is applying reclaimed (recycled) water compared to violating a permit limit for "regular" discharge in a WPCF or NPDES permit. Please see the class descriptions from Div. 12 at the end of this email. I checked in with Dick Nichols and his recollection is that the rule ended up this way because effluent being used for a beneficial purpose will have a higher likelihood of coming into contact with people. Classification of violations in Div. 12 are supposed to be based on the likelihood of actual or potential impact to human health or the environment or the significance of the regulatory structure of the environmental program with Class I having the greatest likelihood of impact and Class II the least likelihood.

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**Is the current rule a problem for the regions?**

I have only heard of one enforcement case in NWR where the current classification scheme in Div. 12 has been problematic; however, both WR and ER have noticed the “leniency” in the rules. There is no easy way to track this kind of information; we are basically relying on what staff remembers.

**Questions for you**

1) Do you want to change to Div. 12 for bacteria violations?

2) If “yes” to a change, do you:

a) Want to use the same “exceeds a bacteria limit by more than five times the limit” that is used for recycled water? OR

b) Free staff time to work on alternatives?

*Pro for option (a) is it won’t require more time; con is that it is not consistent with the current risk-based structure of the rule. Jeff Bachman initially asked for a number to replace “an inoperative disinfection system where there is no disinfection” but my preliminary research hasn’t turned up any sort of threshold number for bacteria exceedances that I can recommend as a “no brainer” so I’m throwing out what is currently used for reclaimed (recycled water). Pro for option (b) is the risk-based approach; con is resources are needed.*

*Also, FYI, I have already spoken to Mer Wiren, Jon Gasik, Mark Hamlin, Scott Hoatson, and Ron Doughten about this issue and they have all been very helpful (as usual!), but I’ve tried to keep from them from spending any significant time on the issue.*

**Excerpt from Div. 12**

340-012-0055

*Water Quality Classification of Violations*

**(1) Class I:**

*(k) Violating a technology based effluent limitation, except for removal efficiency, in an NPDES or WPCF permit if:*

....

*(C) The discharge exceeds a bacteria limit as a result of an inoperative disinfection system where there is no disinfection; or*

*(D) The discharge of reclaimed water exceeds a bacteria limit by more than five times the limit.*

....

**(2) Class II:**

*(a) Violating a technology based effluent limitation, except for removal efficiency, in*

an NPDES or WPCF permit if:

....

*(C) the discharge exceeds a bacteria limit by a factor of five or more, unless otherwise classified; or*

*(D) the discharge of reclaimed water exceeds a bacteria limit by an amount equal to or less than five times the limit.*

....

**(3) Class III:**

....

*(b) Violating a technology based effluent limitation, except for removal efficiency, in an NPDES or WPCF permit if:*

....

*(C) the discharge (except for reclaimed water) exceeds a bacteria limit by less than five times the limit.*

....