

FINAL REVISED JOB IMPACT STATEMENT (JIS)
BEACH ACT STANDARDS AND RECLASSIFICATION RULE
6 NYCRR PARTS 700, 703, and 890

This document is prepared in accordance with the State Administrative Procedure Law (SAPA) § 201-a. Pursuant to SAPA § 201-a (2) (a), the Department has determined that a Job Impact Statement is not required because the adopted rule will not have a substantial adverse impact on jobs and employment opportunities. This document contains the Department's rationale for this determination.

1. Nature of Impact

The Department has adopted new standards for all coastal recreation waters to meet the requirements of the federal Beaches Environmental Assessment and Coastal Health (BEACH) Act of 2000 (P.L. 106-284). In addition, the Department has reclassified certain Class I waters consisting of Upper New York Bay and a portion of Lower New York Bay to add the best usage of primary contact recreation to these waters. The only businesses or entities that could potentially be adversely impacted by this rule are those that hold State Pollutant Discharge Elimination System (SPDES) permits for discharge to the affected waterbodies.

2. Categories and Numbers Affected

The Department reviewed the adopted rule and identified the likely anticipated costs that are set forth in this section. The Department identified 41 municipal wastewater treatment plants ranging from 0.1 million gallons per day (MGD) to 135 MGD treatment capacity discharging to coastal recreation waters (including waters reclassified by this rule). Sixteen (16) of the 41 municipal wastewater treatment plants discharge to the Great Lakes, while the remaining 25 facilities discharge to marine coastal recreation waters (including waters reclassified by this

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rule). Additionally, 4 Private, Commercial, and Institutional (PCI) facilities were identified as surface water sanitary dischargers to marine coastal recreation waters.

The financial impact due to the adoption of the *E. coli* standard is considered to be *de minimus*, as existing treatment facilities with disinfection discharging to the Great Lakes are expected to meet the adopted standard without significant adjustments. Additional costs for laboratory analysis of up to \$73,350 may occur should the Department require such facilities to sample and report both *E. coli* and fecal coliform.

Under the adopted enterococci standards, 25 municipal wastewater treatment plants and 4 PCI facilities discharging to marine coastal recreation waters (including waters reclassified from Class I to Class SB by this rule) will likely need to upgrade their existing disinfection systems or incur increased operation and maintenance (O&M) costs resulting from higher dosing. The Department analyzed the costs associated with disinfection using chlorination and ultraviolet radiation (UV).

The estimated unit cost for building a UV disinfection system is \$512,676/MGD design flow in capital costs with an estimated O&M cost of \$10,000/MGD per year. Given that the total capital cost for conversion to UV disinfection is significantly higher than other alternatives, the estimated financial impact assumes that the impacted facilities will not choose the UV option. For facilities that already have an existing UV disinfection system, the most cost-effective alternative is to double the UV light intensity or dosing, thus the financial impact of \$10,000/MGD per year will be that resulting solely from increased O&M expenditures. Construction of a de-chlorination facility is estimated to cost \$220,000/MGD. The average O&M cost of approximately \$18,600/MGD per year was used to determine the potential financial impact associated with O&M for facilities utilizing chlorination and de-chlorination and

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\$27,900/MGD per year for facilities that currently chlorinate but will need to add de-chlorination facilities. Additional costs for laboratory analysis of up to \$208,620 may occur should the Department require such facilities to sample and report both enterococci and coliform.

The Department estimates that 9 municipal wastewater treatment facilities and 2 PCI facilities would incur a collective capital cost of approximately \$55 million to construct chlorination/dechlorination and that all 29 impacted facilities would incur increased O&M costs, collectively totaling approximately \$14 million per year.

Although these costs are not *de minimis*, they are spread across a large number of facilities over time and are not likely to impact in any measurable way job opportunities in New York State. To the contrary, this rule may create job opportunities for engineers and construction firms to design and construct necessary waste water treatment plant retrofits.

Certain coastal Class SB waters (including waters reclassified from Class I to Class SB by this rule) are impacted by Combined Sewer Overflows (CSO). The New York City (NYC) CSO control program is being implemented through the development of Long Term Control Plans (LTCPs). The LTCPs must meet the regulatory requirements of the EPA's CSO Control Policy as per the Clean Water Act (CWA) section 402 (q) and adhere to the terms of the 2005 Consent Order between NYSDEC and NYC (Case No. CO2-20000107-8), as modified in 2008, 2009, 2012, 2015, 2016, and 2017 (collectively the "Consent Order"). LTCPs evaluate the cost-effectiveness of a range of control options/strategies, including up to 100% CSO capture. Given that NYC must comply with EPA's CSO control policy through the development and implementation of these LTCPs, no additional costs are anticipated to be driven by this rulemaking beyond those already required by the Consent Order, the LTCPs, NYC's SPDES Permits, the CSO Control Policy and CWA section 402 (q). These existing and continuing

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requirements are expected to result in the submission of approvable Jamaica Bay and City-Wide LTCPs that will include projects designed to achieve the highest attainable condition within the CSO impacted waterbodies. For the waterbodies subject to the proposed rule, the LTCP analysis includes comparison of enterococci criteria. This analysis predicts that the proposed new criteria does not necessitate additional CSO projects at this time.

The adopted reclassification has also caused a more stringent, existing Class SB aquatic life standard for Dissolved Oxygen (DO) to apply to these waters. The existing DO standard for Class I is a minimum of 4.0 mg/L, while the existing DO standard for Class SB is a minimum of 4.8 mg/L, with allowable excursions below 4.8 mg/L for limited periods of time. An examination of the current DO levels in these water bodies reveals that the new standard will be attained and not likely result in additional costs.

3. Regions of Adverse Impact

This rule sets forth new water quality standards for coastal recreation waters. These waters are found along the shores of Bronx, Cayuga, Chautauqua, Erie, Jefferson, Kings, Monroe, Nassau, Niagara, Orleans, Oswego, Queens, Richmond, St. Lawrence, Suffolk, Wayne, and Westchester counties. This rule also upgraded the classification of Class I coastal waters of Upper New York Bay and a portion of Lower New York Bay, found along the shores of Kings, New York, and Richmond counties. However, as mentioned above, the adopted rule is not likely to negatively impact in any measurable way job opportunities in the State of New York. To the contrary, this rule may create job opportunities for engineers and construction firms to design and construct necessary wastewater treatment plant retrofits and may result in fewer beach closures which in turn would potentially increase tourism revenue for the affected areas.

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4. Minimizing Adverse Impact

The adopted regulatory changes will take effect on the date specified in the Notice of Adoption. However, the Department recognizes that it may be unreasonable, both physically and fiscally, to expect regulated parties to comply with the regulations immediately. After the rule making becomes effective it would be implemented in permits when modified. If additional treatment is required, a compliance schedule may be included with the permit on a case-by-case basis. Such a compliance schedule may require the permittee to submit a report describing their chosen treatment alternative and include a schedule for construction. Under such a scenario, the Department would review and, if appropriate, would approve the report before construction would commence. Although it is difficult to estimate, with accuracy, the amount of time necessary for regulated parties to achieve compliance with the adopted rule, it is expected that the Department will be able to review and renew affected permits within five years of the effective date of promulgation.

5. Conclusion

The Department has determined that this potential impact is not a “substantial adverse impact on jobs and employment opportunities” as that term is defined in section 201-a (6) (c) of the New York State Administrative Procedure Act. In addition, this rule will not have a measurable impact on self-employment. Therefore, the Department has determined that a Job Impact Statement is not required.