

concentration of TP and TN derived from application of BATHTUB. The resulting criteria using BATHTUB could be either more or less stringent than the criteria derived using Vollenweider, depending on site-specific lake factors. EPA believes BATHTUB may be more appropriate for downstream protection value calculations than Vollenweider because BATHTUB has the capability to represent a greater number of site-specific variables, which may influence nutrient responses. In addition, BATHTUB can estimate TN concentrations. As noted above, a number of commenters observed that a limitation in EPA's original proposal was that it only addressed TP.

EPA is also considering additional rule language that would specifically authorize FDEP or EPA to use a model other than BATHTUB when either determines that it would be appropriate to use another scientifically defensible technical model or approach that demonstrates protection of downstream lakes. While BATHTUB is a peer reviewed and versatile model, there are other models that, when appropriately calibrated and applied, can offer additional capability to address more complex situations and address an even greater degree of site-specificity.

One example of an alternative model that FDEP or EPA might consider using for particularly complex site-specific conditions is the Water Quality Analysis Simulation Program (WASP) model. This model allows users to conduct detailed simulations of water quality responses to natural and manmade pollutant inputs. WASP is a dynamic compartment-modeling program for aquatic systems, including both the water column and the underlying benthos. WASP allows the user to simulate systems in 1, 2, or 3 dimensions, and a variety of pollutant types. The model can represent time varying processes of advection, dispersion, point and diffuse mass loading, and boundary exchange. WASP also can be linked with hydrodynamic and sediment transport models that can provide flows, depths, velocities, temperature, salinity and sediment fluxes. Additional technical information may be found at <http://www.epa.gov/athens/wwqtsc/html/wasp.html>.

EPA is considering recommending BATHTUB as the method for calculating the TN and TP downstream protective values in streams that flow into lakes because of its ability to incorporate site-specific factors in estimates, its use of data that may be readily available, and its ease of use and rapid processing time. BATHTUB has been used to model nutrients in lakes and reservoirs

throughout the United States. BATHTUB allows for greater site-specificity than the Vollenweider approach, and input of more local information to calculate concentrations of both nitrogen and phosphorus in streams that assure downstream protection of lakes. In certain circumstances, a more complex model such as WASP may be appropriate, and EPA is considering and requesting comment on adding specific provisions to allow either the Agency or FDEP to use an alternative model such as WASP where greater spatial or temporal detail in model output is called for, or where water quality considerations that fall outside the scope of BATHTUB are to be explicitly considered.

EPA is also requesting comment on including a provision in this section of the rule that would provide that if data are not readily available to derive a TN or TP downstream protection value using BATHTUB or another scientifically defensible model, the lake criteria values for TN and TP would be used as the downstream protection values where they are more stringent than the instream values. EPA believes that this approach is protective because the allowable concentration of nutrients entering the lake would be equal to criteria that are protective of the lake water itself; however, this approach may result in the application of more stringent criteria in the streams entering the lake than would be calculated using BATHTUB or another scientifically defensible model if site-specific data were available.

EPA is soliciting comment on the approaches to protect downstream lakes described in this supplemental notice. EPA will evaluate all data and information submitted by the close of the public comment period for this supplemental notice with regard to nutrient criteria to protect downstream lakes in Florida.

Dated: July 29, 2010.

Peter S. Silva,

Assistant Administrator for Water.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 272

[EPA-R02-RCRA-2010-0249; FRL-9178-7]

New York: Incorporation by Reference of State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to revise the codification of New York's authorized hazardous waste program which is set forth in the regulations entitled "Approved State Hazardous Waste Management Programs", New York's authorized hazardous waste program. EPA will incorporate by reference into the Code of Federal Regulations (CFR) those provisions of the State regulations that are authorized and that EPA will enforce under the Solid Waste Disposal Act, as amended and commonly referred to as the Resource Conservation and Recovery Act (RCRA).

DATES: Send your written comments by September 2, 2010.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R02-RCRA-2010-0249, by one of the following methods:

○ *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

○ E-mail: infurna.michael@epa.gov.

○ Fax: (212) 637-4437.

○ *Mail:* Send written comments to Michael Infurna, Division of Environmental Planning and Protection, EPA, Region 2, 290 Broadway, 22nd Floor, New York, NY 10007.

○ *Hand Delivery or Courier:* Deliver your comments to Michael Infurna, Division of Environmental Planning and Protection, EPA, Region 2, 290 Broadway, 22nd Floor, New York, NY 10007. Such deliveries are only accepted during the Regional Office's normal hours of operation. The public is advised to call in advance to verify the business hours. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-R02-RCRA-2010-0249. EPA's policy is that all comments received will be included in the public docket without change and may be made available on-line at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information

claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov>, or e-mail. The Federal <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties, and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters or any form of encryption, and be free of any defects or viruses. (For additional information about EPA's public docket, visit the EPA Docket Center homepage at <http://www.epa.gov/dockets/>).

Docket: All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy. You can view and copy the records related to this codification effort in the EPA Region 2 Library by appointment only. To make an appointment please call (212) 637-3185.

FOR FURTHER INFORMATION CONTACT: Michael Infurna, Division of Environmental Planning and Protection, EPA Region 2, 290 Broadway, 22nd floor, New York, NY 10007; telephone number (212) 637-4177; fax number: (212) 637-4377; e-mail address: infurna.michael@epa.gov.

SUPPLEMENTARY INFORMATION: In the "Rules and Regulations" section of this **Federal Register**, the EPA is codifying and incorporating by reference the State's hazardous waste program as a direct final rule. EPA did not make a proposal prior to the direct final rule

because we believe these actions are not controversial and do not expect comments that oppose them. We have explained the reasons for this codification and incorporation by reference in the preamble to the direct final rule. Unless we get written comments which oppose this incorporation by reference during the comment period, the direct final rule will become effective on the date indicated, and we will not take further action on this proposal. If we get comments that oppose these actions, we will withdraw the direct final rule and it will not take effect. We will then respond to public comments in a later final rule based on this proposal. You may not have another opportunity for comment. If you want to comment on this action, you must do so at this time.

For additional information, please see the direct final rule published in the "Rules and Regulations" section of this **Federal Register**.

Dated: April 27, 2010.

Judith A. Enck,

Regional Administrator, Region 2.

[FR Doc. 2010-18928 Filed 8-2-10; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

45 CFR Part 170

Planning and Establishment of State-Level Exchanges; Request for Comments Regarding Exchange-Related Provisions in Title I of the Patient Protection and Affordable Care Act

AGENCY: Office of Consumer Information and Insurance Oversight, Department of Health and Human Services.

ACTION: Request for comments.

SUMMARY: This document is a request for comments regarding the Exchange-related provisions of the Patient Protection and Affordable Care Act (the Affordable Care Act), enacted on March 23, 2010. The Department of Health and Human Services (HHS) invites public comments in advance of future rulemaking and grant solicitations.

DATES: Submit written or electronic comments by October 4, 2010.

ADDRESSES: In commenting, please refer to file code OClIO-9989-NC. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

You may submit comments in one of four ways (please choose only one of the ways listed):

- *Electronically.* You may submit electronic comments on this regulation to <http://www.regulations.gov>. Follow the instructions under the "More Search Options" tab.

- *By regular mail.* You may mail written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: OClIO-9989-NC, P.O. Box 8010, Baltimore, MD 21244-8010.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

- *By express or overnight mail.* You may send written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: OClIO-9989-NC, Mail Stop C4-26-05, 7500 Security Boulevard, Baltimore, MD 21244-1850.

- *By hand or courier.* If you prefer, you may deliver (by hand or courier) your written comments before the close of the comment period to either of the following addresses:

- a. For delivery in Washington, DC—Centers for Medicare & Medicaid Services, Department of Health and Human Services, Room 445-G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201.

(Because access to the interior of the Hubert H. Humphrey Building is not readily available to persons without Federal government identification, commenters are encouraged to leave their comments in the CMS drop slots located in the main lobby of the building. A stamp-in clock is available for persons wishing to retain a proof of filing by stamping in and retaining an extra copy of the comments being filed.)

- b. For delivery in Baltimore, MD—Centers for Medicare & Medicaid Services, Department of Health and Human Services, 7500 Security Boulevard, Baltimore, MD 21244-1850.

If you intend to deliver your comments to the Baltimore address, please call telephone number (410) 786-9994 in advance to schedule your arrival with one of our staff members.

Comments mailed to the addresses indicated as appropriate for hand or courier delivery may be delayed and received after the comment period.

For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Donna Laverdiere, Office of Consumer Information and Insurance Oversight, Department of Health and Human Services, at (301) 492-4100.