

Federal Water Quality Update

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FWQC Issues

- Nutrient Requirements
- Chesapeake Bay TMDL
- Water Quality Standards Regulation
- Conductivity Benchmark
- Selenium Criteria

More FWQC Issues

- Chloride Criteria
- Ammonia Criteria
- Whole Effluent Toxicity
- Pinto Creek/New Sources
- PCB Test Method

Nutrient Issues

- EPA and NGOs pressing States to adopt stringent nutrient criteria
- Florida – EPA adopted numeric criteria, legal challenges are being briefed
- Wisconsin – State adopted numeric criteria for P and permitting procedures – EPA approved criteria on 12/30/10, approval on permitting procedures is pending (allows 15 years to meet WQS)

More on Nutrients

- Other States with activity – Kansas, Montana, California, Colorado
- FWQC, WESTCAS and other groups (including ACWA) are pressing EPA to change independent applicability policy as applies to nutrients and bio info
- EPA has denied NGO petition for Federal WQS and TMDLs for MS River Basin – litigation possible
- Petition to add nutrient removal to Fed secondary treatment requirements – no action by EPA

Chesapeake Bay TMDL

- EPA issued TMDL for Bay watershed 12/30/10
- Lawsuits are being briefed
- TMDL includes specific wasteload allocations down to individual residence level
- Implementation is part of TMDL process
- If States do not comply with all Fed requirements, EPA will step in and take over
- Viewed by EPA as model for elsewhere

Water Quality Standards Rule

- In 1998, EPA issued ANPRM about possible changes to all aspects of Water Quality Standards Regulation
- No action till late 2010, when EPA issued notice for comment concerning possible changes to WQSR on antidegradation, uses, variances, other issues
- Proposed rule to come in early 2012

Conductivity Benchmark

- EPA issued draft guidance with recommended conductivity aquatic value of 300 – equivalent to 129 mg/L TDS
- Applied only to Appalachian region, but approach could be used anywhere
- EPA is demanding that States use its value in permits, even though not officially issued
- Permit appeals and other legal actions have started
- DC court has ruled in NMA case that EPA probably acted outside of CWA authority
- EPA looking at issuing national draft in late 2011

Selenium Criteria

- EPA issued new draft aquatic criteria based on fish tissue levels
- Those levels would have been OK in East, but above natural levels in West
- Studies ongoing, and EPA has been working to issue final criteria based on water column and egg/ovary concentrations
- But NGOs objected to levels and took issue to EPA Administrator
- New draft criteria may be issued in fall 2012

Chloride Criteria

- EPA is working on new recommended chloride aquatic criteria
- Expected to be similar to Iowa approach – hardness and sulfate-dependent
- Draft should be issued in spring 2012
- Research ongoing into seasonal/temp differences – showing that aquatic toxicity may be less in winter, during periods of extensive salt use on roads

Ammonia Criteria

- EPA revising ammonia criteria to address freshwater mussels
- Draft criteria would reduce standards by up to 80% where mussels present
- But “mussels present” didn’t mean that mussels actually have to be present – might need to show that they’re absent and could not have ever been present to fall into “mussels absent” category
- Latest – criteria could be based on data from snails and mussels, which could mean one set of numbers
- EPA will probably issue final in early 2012

Whole Effluent Toxicity (WET)

- EPA issued draft WET permitting guidance in 2004, but met strong opposition and has not been finalized
- EPA pressing States to adopt stringent WET procedures, especially as to “reasonable potential” decisions to issue permit limits
- CO has developed new WET procedures
- CA has issued draft WET policy for comment
- TX is fighting with EPA on WET issue, no resolution yet – may lead to legal challenge

Pinto Creek/New Sources

- Ninth Circuit Court of Appeals issued ruling in Pinto Creek case that restricts issuance of NPDES permits to new sources on impaired waters
- EPA has not yet issued any guidance on how to implement the ruling
- Agency may propose changes to rule instead, which could address both new sources and expansions of existing sources – would require offsets from other sources

PCB Test Method

- EPA has proposed approval of new/revised methods, including 1668C for PCBs
- 1668 has detection level in PPQ
- Major problems with method that need to be addressed before required in permits
- Once method used, nearly every source will have PCBs at levels above water quality standards, and no methods available to treat discharges to reach compliance

Non-FWQC Issues

- Construction & Development ELGs
 - Info request in late 2011
- Dental Amalgam Pretreatment Standards – proposal in Feb 2012
- Recreational Criteria Revisions
- SSO Rule & Blending
- Stormwater Rule
- Integrated Permitting Approach

Questions?

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