

Federal Regulatory Developments

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Federal Water Quality Coalition

- Members are broad cross-section of regulated parties – industries, municipalities, and even some ag groups
- Keep track of EPA activities on water quality regulatory issues, let members know
- Develop comments on EPA proposals
- Meet with EPA staff to discuss concerns
- Participate in litigation over EPA rules
- Monitor Regional/State precedential actions
- Web site – www.fwqc.org

FWQC Issues

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

More FWQC Issues

- Ammonia Criteria
- Endocrine-Disrupting Chemicals
- Whole Effluent Toxicity
- Pinto Creek/New Sources
- PCB Test Method
- Use of Sensitive Test Methods
- EPA Clean Water Strategy

Non-FWQC Issues

- SSO Rule
- Stormwater Rules/Notices

Nutrient Issues

- EPA Standards for Florida
- NGO/EPA Activities in Other States
- State Rulemakings
- SAB Review of EPA Criteria Approach
- New Ammonia Criteria
- Chesapeake Bay Requirements
- NGO Petition for Mississippi/Gulf
- NGO Petition on Secondary Treatment

EPA Florida Standards

- EPA agreed to issue Federal criteria
- Proposal issued 9/14/09, comments submitted 4/28/10
- NODA issued 8/3/10, comments submitted 9/2/10
- Final rule signed 11/14/10
- Stressor/response and reference condition approaches
- New formulas for downstream values
- Averaging times – annual, once in 3 years
- Detailed implementation discussion, including restoration standards

State Activities

- NGOs filed notices of intent to sue in WI and KS, using same basic arguments as in FL
- Same claims could be filed in almost any State
- Some States have done criteria or are moving ahead to develop criteria, using available information
- Other States are not sure what to do
- KS is refusing to set numeric criteria; instead, doing tech-based approach for POTWs and aggressive nonpoint measures through watershed programs
- MT is working on “affordability variance”

SAB Review of EPA Approaches

- EPA used “conditional probability” to set nutrient TMDLs in PA – a stressor/response approach
- After significant pressure, EPA agreed to have SAB committee review its efforts
- EPA gave SAB new draft guidance on stressor/response approaches to review
- Final SAB report is highly critical of draft guidance – stressor/response OK for lakes, but should not be used by itself to develop criteria for rivers
- SAB will now do review of EPA’s Florida criteria for coastal and estuarine waters

New Ammonia Criteria

- 1999 ammonia criteria from EPA – pretty good
- Unresolved issue – impacts on freshwater mussels
- Those mussels are VERY sensitive to ammonia (and to metals too)
- EPA has proposed new criteria – two parts: mussels present and mussels absent
- If mussels present, new limits are 2-5 times stricter than current limits
- So when are mussels present? Do you have to prove that they're not in order to be “mussels absent”?
- Comments submitted, final criteria expected Jan. 2011

Chesapeake Bay Requirements

- EPA is doing a TMDL for Chesapeake Bay – draft issued 9/24/10, final to be issued by 12/31/10
- TMDL work being done in unique order – goals first, then implementation plans, then TMDL
- EPA has also issued Strategy and series of regulatory reports as to Bay efforts – expanding Federal role significantly, assuming new authority over States
- Legislation has also been introduced – Cardin/Cummings – goes beyond EPA Strategy
- EPA viewing this as a model for elsewhere in country

NGO Petitions

- Group of NGOs has submitted petition to EPA, demanding that EPA set Federal nutrient WQS and TMDLs for entire MS River/Gulf watershed
- No action yet by EPA on that petition
- NGOs have also submitted a petition to EPA demanding that Agency change definition of “secondary treatment” for POTWs to include nutrient removal – says that 3.0 mg/l TN and 0.3 mg/l TP are attainable with current technology
- EPA working on series of actions to respond

SSO Rule – FR Notice

- Issued on June 1
- Comments due August 2
- Public meeting in Seattle (6/24), other regions
- Issues
 - Monitoring, reporting and recordkeeping
 - CMOM plans & asset management
 - Coverage for satellite collection systems (NOTE EAB decision in Upper Blackstone)
 - Exception to discharge prohibition for SSOs caused by exceptional circumstances
 - Requirements for peak flows at POTWs (blending)

Stormwater Rules

- NAS report recommends major changes to stormwater permitting programs, some of which would require changes to CWA
- EPA announces plan to issue new stormwater rules in final form by Nov 2012 – proposal out in late 2011
- Focus is on tightening requirements for development, redevelopment, and existing development, including addressing both construction and post-construction runoff

Stormwater Notices

- Three FR notices so far on stormwater rules
- 10/30/09 – proposed Info Collection Request on questionnaires to gather info on stormwater discharges and controls
- 12/28/09 – request for input on new program to regulate stormwater discharges from development & redevelopment
- 5/10/10 – proposed ICR on questionnaires to gather info for development of new development/redevelopment regulations

EPA Rulemaking Goals

- Expand universe of regulated discharges
- Establish substantive post-construction requirements for new and redevelopment
- Develop single set of consistent requirements for all regulated MS4s
- Address stormwater discharges from existing development – consider imposing retrofit requirements
- Consider additional requirements for sensitive areas, such as Chesapeake Bay

Questions?

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