

Reasonable Potential:



Not Great, but “Reasonable!”

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Huh?

- Water quality-based effluent limits required for pollutants that:

“are or may be discharged at a level which will cause, have the reasonable potential to cause, or contribute to an excursion above any State water quality standard, including State narrative criteria for water quality.”

§ 122.44(d)(1)(i)



If RP Found, So What?

- If numeric criterion – numeric limit
- If numeric WET – numeric WET limit
- If narrative – numeric WET limit (unless chemical-specific limits sufficient to achieve numeric and narrative WQ criteria)
- If pollutant specific concern:
 - Use EPA national criteria
 - Develop site-specific criterion
 - Control through indicator



What Must Be Considered?

- Existing controls on point and nonpoint sources
- Variability of pollutant in effluent
- Sensitivity of species (if tox testing)
- Dilution in receiving water (where appropriate)

But RP Is A Numbers Game!

Dilution Values? (Y/N)		Y calculated		Hardness		mg/L CaCO ₃									
Dilution @ ZID		4.9 *		Effluent		70		(Hardness values should be >25 and <400 mg/L)							
Dilution @ MZ		17.0 *		Stream		70									
If no dilution values enter info below				Mixed											
Facility Effluent Flow		* MGD		ZID		70									
7Q10		* CFS		MZ		70									
1Q10		* CFS													
% dilution at ZID		* %		Confidence Level		99%									
% dilution at MZ		* %		Probability Basis		95%									
Fresh Water? (Y/N)		Y													



Tricks of the Trade

- More data to reduce coefficient of variability – during 5 year permit term
- Negotiate confidence level where possible
- Background
 - Are data solid? If not, supplement
 - If $>$ WQ Criterion, RP
 - Think about intake credits



Tricks of the Trade (Cont'd)

- Negotiate non-detects (MDL? $\frac{1}{2}$ MDL?)
- Correct WQ Criteria? For example:
 - Metals
 - Total vs. Dissolved
 - Hardness
 - Bioavailability
 - Ammonia
 - Temperature
 - pH
- ZID? Mixing Zone?



Storm Water-Land

- EPA acknowledges mis-fit between RPA and intermittent (*e.g.*, Interim Permitting Approach for WQBELs in Storm Water Permits (1996))
 - Flow variability
 - Load variability
 - Duration variability



Storm Water-Land II

- Consider applying 122.44(k)(3):

(k) “Best management practices . . . when:

(1) . . .

(2) . . .

(3) Numeric effluent limitations are infeasible

(4). . .



Storm Water-Land III

- But, which way are you better off?
 - Admitting that you have a water quality issue and arguing about BMPs ("*4 CSOs per year*")?
 - Slogging through an RPA that you tailor to storm flows to conclude there is no Reasonable Potential?



Thank You
