

Issue	40 CFR 122.44(d)	303(d) Approval Letter
Evaluate existing and projected exceedances	122.44(d)(i) : Limitations must control all pollutants or pollutant parameters (either conventional, nonconventional, or toxic pollutants) which the Director determines 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.	In developing Section 303(d) lists, States are required to assemble and evaluate all existing and readily available water quality related data and information, including, at a minimum, consideration of existing and readily available data and information about the following categories of waters: (1) waters identified as partially meeting or not meeting designated uses, or as threatened, in the State's most recent Section 305(b) report ; (2) waters for which dilution calculations or predictive modeling indicate nonattainment of applicable standards ; (3) waters for which water quality problems have been reported by governmental agencies, members of the public, or academic institutions; and (4) waters identified as impaired or threatened in any Section 319 nonpoint assessment submitted to EPA. See 40 CFR §130.7(b)(5). In addition to these minimum categories, States are required to consider any other data and information that is existing and readily available. (2012 303(d) Listing Approval Letter at 1-2).
Use current information	122.44(d)(ii) : the variability of the pollutants or pollutant parameters in the effluent, the sensitivity of the species to toxicity testing (when evaluating whole effluent toxicity), and where appropriate, the dilution of the effluent in the receiving water.	
Consider receiving water characteristics	122.44(d)(ii): When determining whether a discharge causes, has the reasonable potential to cause, or contributes to an in-stream excursion above a narrative or numeric criteria within a State water quality standard, the permitting authority shall use procedures which account for existing controls on point and nonpoint sources of pollution	
Use state's published methods	122.44(d)(vi) : Where a State has not established a water quality criterion for a specific chemical pollutant [...] the permitting authority must establish effluent limits using one or more of the following options: (A) Establish effluent limits using a calculated numeric water quality criterion for the pollutant which the permitting authority demonstrates will attain and maintain applicable narrative water quality criteria and will fully protect the designated use. Such a criterion may be derived using a proposed State criterion, or an explicit State policy or regulation interpreting its narrative water quality criterion , supplemented with other relevant information which may include: EPA's Water Quality Standards Handbook, October 1983, risk assessment data, exposure data, information about the pollutant from the Food and Drug Administration, and current EPA criteria documents; or [...]	In light of the narrative criteria, EPA believes it is reasonable for MassDEP to conclude that nutrient concentrations above normal background levels do not, in and of themselves, constitute use impairment. It is possible that a water body may have high nutrient levels, yet may not be undergoing cultural eutrophication because of site-specific factors (e.g., light limitation, retention time, and high dissolved organic matter content that may limit nutrient availability for plant growth). (2008 303(d) List Approval Letter at 12). EPA has reviewed all of the relevant material and concludes that the methodology MassDEP used to develop the impaired waters list is reasonable and consistent with Massachusetts' surface water quality standards, the Clean Water Act and EPA Section 303(d) regulations and guidelines. (2012 303(d) Listing Approval Letter at 7).