Presentation: "NPDES Permitting"

Speaker: Mr. John Tinger, EPA Region 9

Mr. Tinger works in Region 9's Clean Water Act (CWA) Standards and Permits Office. Prior to this, he worked at EPA Headquarters in Washington, D.C.

Handout: "Overview of the CWA and the National Pollutant Discharge Elimination System (NPDES) Program" and "NPDES Permits: Types, Components, and Issuance Process"

Notes:

Mr. Tinger discussed the requirements of new and existing regulations in the CWA and NPDES Program.

Mr. Tinger began with a brief summary of the Federal Water Pollution Control Act Amendments (1972) that established NPDES, pretreatment, and construction grant programs as well as provided for authorization of state NPDES permitting programs. The CWA (1977) clarified that federal facilities are subject to state programs and authorized EPA to delegate pretreatment programs at the local level.

All point sources discharging pollutants into waters of the U.S. must obtain an NPDES permit from EPA or an approved state. A permit is a license issued by the government granting permission to do something that would be illegal in the absence of the permit. There are two types of permits, individual and general. With a general permit, one permit is issued and many applications submitted. General permits are issued on an area-wide (state, watershed, etc.) basis and are available when same or similar operations and discharges are present.

Permits are not required for dredged or fill materials, some marine vessel discharges, non-point source runoff, and indirect discharges to publicly-owned treatment works (POTW).

Mr. Tinger discussed the permit application process and schedule, providing details on major components of the forms and permit. Technology-based requirements are national standards that establish minimum levels of control for all point sources within an industrial category.

Effluent limit guidelines are established for most primary and some secondary industries (over 50 industrial categories).

Discussion:

Regarding	Questions/Remarks	Response*
Effluent limitations guidelines and technology-based requirements	If you want to challenge an existing regulation that is changing, such as arsenic limits, could you give an economic and feasibility presentation to show that compliance would not be economically achievable?	Development of the arsenic rule contained an economic component. When regulations are proposed or are ongoing (e.g., metal products and machinery regulation), EPA proposes technology-based options with costs and provides economic justifications. If they are not economically achievable, then EPA cannot promulgate a number based on that technology. After a rule is finalized, there's only one way to avoid complying, which is to demonstrate that your facility was completely different than anything EPA considered. If EPA did not consider your specific situation, which would be reflected in the Administrative Record, then you could apply for variance, but this would probably be hard to justify.
Water quality standards, aquatic life criteria and dilution credits		Water quality standards define the water quality goals of a water body, or portion thereof, by designating the use or uses to be made of the water and by setting criteria necessary to protect the uses. There are some dilution credits that can be used to evaluate the capacity of the water body to which you're discharging. Criteria do not need to be met at the end of the pipe, unless your pipe is the entire water body.

Regarding	Questions/Remarks	Response*
Dilution credits	Are dilution credits bought and sold?	No. Dilution is part of the assimilative capacity for a water body. We wouldn't allow dilution credit for discharges into the river if the whole river would be a problem. Credits relate to the vicinity of discharge sources.
Dilution credits, TMDLs	If a TMDL is met, then is discharge credit allowed?	A discharge credit wouldn't be allowed if the discharge were 20 feet above where the municipal water intake structure is. Discharge credits are permit-specific.