Learn How Performance Track Members Negotiated Reduced NPDES Permit Monitoring Frequencies

Performance Track Teleseminar Summary
July 26, 2005

Speakers

- Richard Kashmanian, EPA Performance Track
- Stan Kaczmarek, director of environmental affairs, Johnson & Johnson Consumer and Personal Products Worldwide, New Brunswick, New Jersey
- Kamran Azad, environmental manager, Eastman Kodak Company, Windsor, Colorado
- Dan Belack, environmental manager, US Steel Clairton Works, Clairton, Pennsylvania
- Charlie Souders, manager, environmental compliance, Pfizer, Inc., Lititz, Pennsylvania
- Jim Witkowski, environmental engineering manager, International Paper, Eastover, South Carolina

Topic Summary

This teleseminar described general strategies and specific examples of how Performance Track members have negotiated reduced NPDES* permit monitoring frequencies. There were approximately 45 participants.

*The National Pollutant Discharge Elimination System (NPDES) permit program was established under Section 402 of the Clean Water Act, which prohibits the unauthorized discharge of pollutants from a point source (pipe, ditch, well, etc.) to U.S. waters, including municipal, commercial, and industrial wastewater discharges and discharges from large animal feeding operations. Permittees must verify compliance with permit requirements by monitoring their effluent, maintaining records, and filing periodic reports.

Reductions in Monitoring Achieved by Performance Track Facilities

Kodak Colorado Division: Previously had to monitor stormwater at three locations for eight parameters (oil and grease, pH, total suspended solids, chemical oxygen demand, nitrates, copper, zinc, chromium). Based on eight years' of data demonstrating that site activities do not affect stormwater quality, the facility now only has to monitor two of the original eight parameters.

US Steel Clairton Works: Based on the strength of five years of data, the facility was able to negotiate the elimination of weekly sampling of total suspended solids at intake and outfall sites, reduce the frequency of stormwater sampling at 13 outfalls from twice per quarter to once per year, and reduce sampling at 38 steam condensate outfalls from once per year for each to just one sample from one outfall for the life of the permit.

Pfizer, Lititz: Based on approximately five years of data, negotiated annual stormwater outfall inspections in lieu of testing, based on results of extensive testing of pollutants and flow modeling.

International Paper, Eastover: Based on two years of data, eliminated or reduced frequency of monitoring in the sanitary treatment system, bleach plants, groundwater, and fish tissue.

Key Points from Presentations

- Facilities should build a collaborative relationship and open communication with permit writers. This point was stressed by all speakers. Permit writers and facilities share common objectives, and most permit writers will be open to flexibility as long as the permit remains protective of the environment.

- A permit is a contract. Every requirement has legal aspects, and the facility needs to abide by them.

- Everything covered in the permit is based on the permit application, so facilities should invest time up front in ensuring that the permit application is as complete and clear as possible.

- Negotiation with the permit writer is an important step. Facilities must understand what's going to be required and negotiate any areas of concern before the permit becomes final. Facilities may also ask to review and discuss the permit with permit writers before it goes out for public comment.

- Negotiating reductions in monitoring frequency typically happens during the permit renewal process. By this time, facilities have amassed data from their previous permit cycle, which they can use to support their request. It can be useful for the facility to provide the permitting authority with historical data (typically at least two years) and an analysis of these data to serve as the scientific basis for the reduction, as well as the regulatory rationale for the change.

- Facilities may benefit by proposing to monitor surrogate parameters, which can reduce the cost and frequency of monitoring. For example, monitoring a process that generates pollutants can be done continuously within the facility at lower cost than monitoring effluent. Process monitoring can help assess the effectiveness of internal processes. If a clear relationship is established between the process and the quantity of pollutants it generates, the facility should be allowed to reduce the frequency of effluent monitoring as long as it continues to monitor the process (and as long as the process itself doesn't change).

- Permits cover known pollutants that are believed to be generated by processes disclosed by the facility. Emerging pollutants cannot be regulated; permit writers can ask the facility to monitor those pollutants but cannot place restrictions on them.

- Some facilities receive runoff from neighboring properties that affects the level of pollutants in their test areas. Only about 17 percent of the stormwater that runs off the Pfizer site, for example, is generated by the site itself. In cases like this, building a relationship with permit writers is crucial so they understand what factors the facility can and cannot control.

- Some permit writers may be reluctant to grant reductions in monitoring frequency on the grounds of fairness; one speaker cited an example in which a permit writer said that if he reduced one facility's monitoring frequency he would have to extend that same reduction to all other similar facilities in the state. But the facility successfully argued that reductions in monitoring frequency should be based on demonstration of good performance, not on the generic type of facility.

- Some participants on the teleseminar noted that permit writers may be unfamiliar with Performance Track. EPA is aware of the problem and is working with states, starting with those that have signed Memoranda of Understanding with Performance Track, to try to raise awareness of the program among permit writers.