

IV

7-76-9

SEP 1 1976

MEMORANDUM

TO: Director, Enforcement Division, Region IX

FROM: Deputy Assistant Administrator for Water Enforcement (EN-335)

SUBJECT: Impact of Phase I Basin Plans on NPDES Permits

In response to your memorandum of August 6, 1976, I am attaching a copy of an August 24, 1976, memorandum from the Office of General Counsel addressing the impact of Phase I basin plans on NPDES permits.

Phase I basin plans are those developed pursuant to Section 303(e) of the Act and may include waste load allocations. The plans, in most cases, were to be submitted to the Regional Administrator by July 1, 1976.

Generally, the OGC memorandum indicates the following:

1. There are no legal implications of Phase I basin plans on NPDES permits, but great weight should be given to the plan recommendations and/or limitations.
2. If a permit is issued to a discharger in a State certified water quality limited segment of a stream, then the NPDES permit must reflect the more stringent effluent limitations necessary to meet the water quality standards. In these cases, the Phase I basin plans must be given serious consideration.
3. Existing NPDES permits should not be modified to conform to basin plans, except in extraordinary circumstances.

4. NPDES permits incorporating effluent limitations from basin plans can be challenged on the technical basis. The exception to this is where the limitations are adopted as State law.

It must be noted that the above applies to Phase I basin plans, and there should be no application of this memorandum to Phase II plans.

/s/

Jeffrey J. Miller

cc: Enforcement Division Directors
Regions I - VIII
Region X
Director, Facilities Technology
Division, Region II
Director, Water Division
Region VIII

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