

Water pollution can degrade our surface waters, making them unsafe for drinking, fishing, swimming and other activities. The Environmental Protection Agency's (EPA's) [National Pollutant Discharge Elimination System](#) (NPDES) permit program, created in 1972 by the [Clean Water Act](#), helps address water pollution by regulating [point sources](#) that discharge pollutants into [waters of the United States](#). There are a number of opportunities for the public to participate at various points during the permit issuance process. This fact sheet outlines the NPDES per-mitting process, highlighting opportunities for public in-volvement.



## The NPDES Permit Issuance Process

### Step #1: Permit Application Submission:

NPDES permits are issued by the EPA or [authorized states](#). In most cases, the NPDES permit program is carried out by authorized states, but the EPA is the permitting authority in four states (Massachusetts, New Hampshire, New Mexico, and Idaho) and for certain discharges in other states, territories, and Indian Country.

**Individual Permits:** For [individual permits](#), the NPDES permitting process begins when the operator of a facility seeking a permit submits an NPDES [permit application](#) to their permitting authority for a new permit, or to renew a permit that is close to expiring. (Permit terms are limited to no more than five years.) After receiving the application, a permit writer reviews it for completeness and accuracy. When the application is complete, the permit writer uses the application data and other information to develop the draft permit and the justification for the permit conditions.

**General Permits:** For [general permits](#), the NPDES permitting process begins when the permitting authority decides to issue the permit to cover a group of dischargers with similar qualities (for example, similar industrial process or materials used) within a given geographical location. In order to obtain coverage under a permit, each facility in that group is generally required to submit a notice of intent (NOI) to be covered under the general permit. In some cases, the individual facilities are automatically covered under the general permit and do not need to submit an NOI.

### How Can I Find Information on Draft Permits?

Members of the public may review permit applications in order to familiarize themselves with permits that may affect them. By becoming involved early in the permitting process, you can have a greater opportunity to prepare to provide comments on the draft permit either in writing or at public hearings.

**Individual Permits:** Copies of individual permit applications can be obtained from the [permitting authority](#). The permit application contains useful information about the proposed discharge, including outfall locations, the types and amounts of pollutants to be discharged, and descriptions of the processes taking place at the discharging facility, as well as the contact information for the discharging facility.

**General Permits:** Interested members of the public may comment on general permits. Some general permits will also provide an opportunity to comment on individual NOIs.

## Step #2: Notice and Comment of Proposed Permit Action:

Once the permit writer finishes drafting the NPDES permit, the permitting authority initiates a public notice period (of at least 30 days) during which any interested person may submit written comments on the draft permit and accompanying fact sheet and/or request a public hearing on the draft permit. The public notice and comment period is one of the most significant opportunities for the public to become involved in the NPDES permitting process.

### How Can I Submit Public Comments on an NPDES Permit?

**For EPA-issued general permits:** Methods for submitting comments are described in the *Federal Register* notice of publication of the draft permit, but typically include the following methods:

1. **Online** at <http://www.regulations.gov> (follow online instructions for submitting comments);
2. **Via email** to [ow-docket@epa.gov](mailto:ow-docket@epa.gov); or
3. **Via mail** to Water Docket, U.S. Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

**For EPA-issued individual permits:** Methods for submitting comments can be obtained from the EPA Regional Office issuing the permit. NPDES contact information for each Regional Office can be found at [EPA Regional Contact Information Page](#).

**For permits issued by states or tribes:** Check the permitting authority's website for contact information (it may be listed under NPDES program, Office of Water, etc.). Most states receive comments by the same means as the EPA (online comment database, email, or regular mail). In addition, the NPDES website includes [state program contact information](#) as well as information on individual state NPDES programs.

Following the notice and comment period and prior to permit issuance, the permitting authority is required to respond to all significant comments and explain any changes made to the draft permit. Responses to comments are publicly available from the [offices of the permitting authority](#).

When EPA is the permitting authority, it must issue a "response to comments" document whenever a final permit decision is issued. A "final permit decision" is "a decision to issue, deny, modify, revoke and reissue, or terminate a permit."

Under federal regulations, when states or tribes are the permitting authority, they are only required to respond to comments when a final permit is issued. Note, however, that state law may require a response to comment document in other situations as well.

**Methods for Issuing Notice:** To help publicize the notice and comment period, the NPDES regulations require the permitting authority to:

- Mail a copy of the notice to people who have joined mailing lists by submitting a written request to the permitting authority. The permitting authority notifies the public of the opportunity to be put on the mailing list through periodic publications in the public press and other media.
- Publish a public notice in a newspaper in the area to be affected by the following types of permits: major individual permits, state-issued general permits, and permits that include sewage sludge land application plans; and
- For EPA-issued general permits, publish a notice in the *Federal Register*.



**Process for Requesting a Public Hearing:** Any interested person may request a public hearing on a draft permit during the public comment period by submitting a written statement to the permitting authority describing the issues proposed to be raised at the hearing. A public hearing will be held if the permitting authority finds that there is significant public interest. The permitting authority may also decide to hold a public hearing at its discretion.

Public notice of a public hearing must be given at least 30 days before the hearing takes place, and may be combined with the public notice of the draft permit. Scheduling a hearing automatically extends the comment period until at least the close of the hearing, and the comment period may be extended by the hearing officer by announcing an extension at the hearing.

### **Step #3: Permit Review, Approval, and Issuance Process:**

Following the notice and comment period, the permitting authority reviews all comments and, based on an evaluation of the comments, decides whether to issue the permit. States and tribes may provide additional opportunities for public involvement.

For permits *issued by EPA* instead of by a state, there are some additional steps that may provide additional opportunities for public involvement. Public notice for these processes often occurs concurrently with EPA's public notice of the permit.

**Section 401 certification** – Under [section 401 of the Clean Water Act](#), every applicant for a federally issued NPDES permit must provide a State Water Quality Certification that the proposed activity will comply with applicable provisions of the Clean Water Act, including EPA-approved state and tribal water quality standards. The federal permit may not be issued unless the state or tribe provides (or waives) section 401 certification. Section 401 requires that each state, tribe or interstate agency issuing certifications must establish procedures for public notice in the case of all applications for certification and, to the extent it deems appropriate, public hearings.

**National Environmental Policy Act (NEPA) – NEPA review** applies only to EPA-issued new source permits, and should occur at the same time as an applicant's NPDES permit issuance process. The administrative record for the final NPDES permit must include any NEPA documents.

If a NEPA environmental assessment and finding of no significant impact is prepared, a preliminary finding is made available to the public for comment. If a more detailed environmental impact statement (EIS) is prepared, opportunities for public comment are provided to scope out the issues to be addressed, to comment on the draft EIS, and to comment on the final EIS. Federal agencies are required to make "diligent efforts" to keep the public informed and involved in NEPA procedures, and provide notice to the public of NEPA-related hearings, public meetings, and available documents.

After the permit review and approval process, the permitting authority prepares and issues the final permit. Each person who submitted written comments must be notified of the final permit issuance.

### **Step #4: Permit Appeals Process:**

For EPA-issued NPDES permits, individuals who are unsatisfied with the terms of a final permit may petition the Environmental Appeals Board to review the permit. Generally, in order to be eligible to appeal a permit, an individual must have either submitted comments on the draft permit or participated in a public hearing on that permit. Once any appeal to the EAB has been resolved, the Agency's final decision may be challenged in court.



## Enforcement & Compliance of NPDES Permits

The public can review publicly available data about whether a permittee is in compliance with its permit. Many NPDES permit holders are required to monitor and report the type and volume of pollutants that they discharge. Monitoring results are typically reported on Discharge Monitoring Reports (DMRs). The information contained in DMRs, including the location of dischargers, what pollutants they are discharging, and the types and amounts of pollutants being discharged, are all publicly available from the permitting authority.

- EPA's website contains a [Discharge Monitoring Report \(DMR\) Pollutant Loading Tool](#), which can be used to look up information on specific discharges.
- Additional facility information is available from EPA's [Enforcement and Compliance History Online \(ECHO\) database](#).

Anyone adversely affected by Clean Water Act violations may bring lawsuits against alleged violators of the Act. In cases where the state or EPA fails to take adequate enforcement actions, citizens can sue for injunctive relief (court orders prohibiting the pollution from continuing), civil penalties, and attorneys' fees.

### How Can I Report Possible Permit Violations?

Members of the public may report permit violations or facilities that are discharging without a permit.

Permit violations or emergency spills may be reported [online](#) or via phone to the National Response Center at 1-800-424-8802.



## Additional Resources

For additional information on the NPDES Permitting Program:

- [NPDES Permit Program Basics](#)
- [Contact Information](#) for NPDES State and Tribal Programs
- NPDES Permit Programs of Special Interest:
  - [Stormwater Program](#)
  - [Concentrated Animal Feeding Operations \(CAFOs\) Program](#)
  - [Pesticides Program](#)
  - [Vessels Program](#)

*This document is not a rule, is not legally enforceable, and does not confer legal rights or impose legal obligations on any federal or state agency or on any member of the public. This document is intended to provide a general summary of the opportunities for public involvement in the NPDES program. While EPA has made every effort to ensure the accuracy of this document, the provisions governing public participation in the NPDES program are determined by statutes, regulations, or other legally binding requirements. In the event of a conflict between the discussion in this document and any statute or regulation, this document would not be controlling.*