



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
WATER

SEP 27 1983

MEMORANDUM

SUBJECT: Final Procedures for the Review of Draft and Final
General NPDES Permits

FROM: Bruce R. Barrett, Director *Bruce R. Barrett*
Office of Water Enforcement and Permits

TO: Water Management Division Directors

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This memorandum describes the final review procedures for draft and final general NPDES permits. These procedures have been reviewed and accepted by the affected program offices in Headquarters and the Water Management Division Directors. The new procedures outlined below should significantly reduce the problems that have occurred in developing, reviewing, and processing general permits.

- o Attached general permits status report prepared by the Permits Division, OWEPP represents a list of all general permits currently in development. Copies of the status report will be sent to the Water Management Division Directors and Headquarters program offices on a monthly basis. Headquarters program offices are requested to identify those permits which they consider important to review each month.
- o Regional offices must submit all draft and final general permits to the Office of Water Enforcement and Permits, to the attention of the Permits Division Director. The Water Management Division Director and the Regional Counsel must review and sign all draft and final general permits submitted for Headquarters review. By so signing, these officials are certifying the programmatic, technical, and legal sufficiency of the general permit. General permits not duly signed will be returned to the Region.
- o Headquarters review of general permits for concurrence will be limited to issues of national significance and consistency with regulations, national guidance, and relevant case law. Any other comments regarding provisions generally within the discretion of the permit writer (such as technical adequacy, identified water quality standards, or general clarity, quality or enforceability) will be suggestions only.
- o Formal communications on general permit issues and Headquarters' concurrence will occur between the Director of the Permits Division and the Water Management Division Director. However, we continue to encourage staff level discussions concerning permit development so that issues can be resolved, to the maximum extent possible, before review for headquarters concurrence.
- o The Permits Division Director is to receive all comments from other Headquarters offices on draft general permits in ten working days. In the review of draft general permits, the Permits Division will identify to the Regional Office any issues which could lead to non-concurrence on the final. Generally, further processing of the draft permit will not be delayed while Headquarters' comments are being addressed by the Region prior to final promulgation. However, there may be occasions involving an issue significant enough to require modification of the fact sheet or draft permit before publication. If Headquarters review identifies a need for a change in the draft permit, the Permits Division Director will notify the Water Management Division Director by phone within the next two working days

after the deadline for submittal of all Headquarters comments to the Permits Division. Written comments will be sent from the Permits Division Director to the Water Management Division Director within five working days after the deadline for submittal of all Headquarters comments to the Permits Division. If the Water Management Division Director does not hear from the Permits Division Director within five days of the end of the Headquarters review period, he may assume that the Permits Division is processing the permit.

- o The procedures for the review of final general permits will be the same as those for draft permits except that Headquarters review time will be shorter. The July 1982 streamlined review process provides that the review period is five working days unless the final permit differs significantly from the draft. (In such cases the review period is specified as ten days.)

On August 8, 1983, the Office of Policy and Resource Management and the Office of Water requested an exemption for general NPDES permits from the review requirements of the Executive Order 12291 from the Office of Management and Budget (OMB). We understand that staff recommendations have been prepared for Robert Bedell, Deputy Administrator, and we expect a written response soon. We will make every effort to keep you informed on the request and OMB's response.

Thank you for your positive comments on these procedures, your efforts to follow them in the interim, and your continued support for the general permit program. Until an exemption is granted, both draft and final general permits must be submitted to OMB for review prior to publication in the Federal Register. Regardless, progress has been made. There was a time when a general permit status report included only permits for offshore oil and gas and animal feedlots.

Attachment