



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

OFFICE OF  
WATER

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MEMORANDUM

SUBJECT: Federal Register Publication Costs of  
EPA-Issued General NPDES Permits

FROM: Bruce R. Barrett, Director *Bruce R. Barrett*  
Office of Water Enforcement and Permits (EN-335)

TO: Water Management Division Directors

Many of you have encountered difficulties in providing funds for Federal Register (F.R.) publication of draft and final general NPDES permits. The consolidated permit regulations are not detailed as to what is required for publication.

In most cases the Agency has published with the public notice of a draft or final general permit a complete fact sheet and permit. Publication of the complete permit package may be an ideal mechanism to inform the public of the Agency's permit decisions, but in many cases it is prohibitively expensive. Other less costly mechanisms are available to ensure that the public is adequately informed and satisfy the statutory and regulatory requirements of public notice. For example, a public notice may provide a description of the regulated activity and a general summary of the terms of the permit. Copies of the complete fact sheet and permit can be provided on request to reduce publication costs.

Below we have outlined the minimum statutory and regulatory public notice requirements for issuing draft and final general permits. In every case, the public notice and/or fact sheet summary must provide sufficient information to the public to support the Agency's conclusion that the covered facilities are more appropriately controlled under a single general permit than under individual permits.

Draft General NPDES Permit

Under the NPDES regulations, a public notice of draft general permits must be published in a daily or weekly newspaper in the area affected by the permit and for an EPA issued general permit, the public notice must be published in the F.R. Publication of the complete fact sheet or the draft permit is not required. The Administrative Procedure Act (APA) additionally requires a general explanation of the terms and substance of the draft permit.

Final General NPDES Permit

Although publication requirements for final general permits are not detailed in the regulations, reference to "publication by EPA of the general permit in the F.R." is contained in §122.59(h)(2)(iii). Publication is required because it is generally the only mechanism available to notify dischargers covered by a general permit of the terms and conditions in the permit since general permits are not issued to named parties.

In summary, the minimal requirements for the publication of a draft or final general permit are as follows:

Draft General NPDES Permit

1. Public notice in the F.R. including a statement of availability of the complete fact sheet, permit, and for marine dischargers, 403(c) documents,
2. Summary of the fact sheet and terms of the permit, and
3. OMB requirements under the Regulatory Flexibility Act, Executive Order 12291, and Paperwork Reduction Act.

Final General NPDES Permit

1. Public notice including availability of the complete fact sheet and where appropriate 403(c) documents, and
2. Final general NPDES permit.

These minimal requirements for F.R. publication are consistent with the NPDES regulations and the APA; and they meet the Agency's obligation to inform the public of permit decisions. They are not intended to preclude the publication of additional information or replace the requirements of public notice in §124.10(c)(2) and (d), or the requirements of §124.6 and §124.8 governing draft permits and fact sheets.

The general NPDES permit program is an important approach to our responsibilities under the Clean Water Act, and we intend to continue our efforts to ensure its success. If you have further questions concerning these or other general permit problems, please contact Martha G. Prothro, Director, Permits Division (FTS 755-2545).