



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

DEC 21 1982

OFFICE OF
WATER

MEMORANDUM

SUBJECT: Applicability of General Permits to New Sources

TO: Water Management Division Directors
Regions I, II, III, IV, VI, IX, X

FROM: Martha G. Prothro, Director
Permits Division (EN-336)

A handwritten signature in cursive script, reading "Martha Prothro".

A question has arisen recently as to the applicability of general permits to new sources. Specifically, we have been asked whether general permits should be written to include new sources, and if so, what procedures should be followed. We encourage Regions developing general permits to cover new sources whenever possible. This memorandum briefly sets forth the procedures to be followed if a general permit is to cover new sources.

The Consolidated Permit Regulations define a new source as any facility that began construction after promulgation or proposal of new source performance standards, if promulgation occurred within 120 days of proposal. The Clean Water Act provides that issuing an NPDES permit to a new source may be considered "a major federal action significantly affecting the quality of the human environment" under the National Environmental Policy Act (NEPA). To satisfy NEPA, EPA is required to conduct an environmental review under 40 CFR Part 6 whenever it issues a permit to a new source. An environmental review results in either issuing a "finding of no significant impact" (FNSI) or a notice of intent to issue an environmental impact statement (EIS). Until such a review is conducted, a general permit cannot cover new sources.

To ensure that the public and the permittees are fully aware of what kinds of dischargers will be covered, general permits issued without an environmental review should expressly exclude new sources. If new sources are so excluded, the Region later

can either modify the permit to include new sources or issue a separate general permit to cover new sources. In either case, the Region must first conduct an environmental review.

When developing a general permit that covers new sources, we encourage you to plan environmental reviews far enough in advance to avoid delaying issuance or modifying permits at a later date to satisfy our NEPA obligations. If we can be of any assistance or if you have any further questions, please call me at 755-2545 or Robin Conrad of my staff at FTS 755-0750.