

NOTICES OF DECISION

A notice of decision presents the permitting agency's decision regarding permit issuance, denial, or modification to include corrective action. EPA must send a notice of decision to the facility owner/operator and anyone who submitted public comments or requested notice of the final permit decision. EPA also must prepare a written response to comments that includes a summary of all significant comments submitted during the public comment period and an explanation of how the Agency addressed or rejected the comments in the final permit decision. This response to comments shows the community that the Agency considered the community's concerns in the final permit decision. The Agency must make the response to comments document available as part of the administrative record.

The notice of decision provides a clear, concise public record of the decision. However, it should not substitute for other public participation activities that allow for direct, two-way communication with the public.

Required activity?

Yes. RCRA requires the permitting agency to issue a notice of decision to accompany the final permit decision (under [40 CFR § 124.15](#) procedures). Class 3 modifications and corrective action final remedy selection also follow [40 CFR § 124.15](#) procedures and therefore require a notice of decision. Notices must be sent to the permit applicant and to any person who submitted written comments or requested notice of the final permit decision. Exhibit 5-2 in Chapter 5 of the [2016 Edition of the RCRA Public Participation Manual](#) contains additional information and resources regarding notices of decision and other required public participation activities.

Making It Work

When to Use

For facilities seeking initial permits, the permitting agency will develop a notice of decision when the Agency makes a final permit decision following the 45-day public comment period.

As part of the permit modification procedure, the permitting agency will develop a notice of decision when it makes its final decision regarding a permit modification.

- Class 3 modifications are subject to the same procedures as facilities seeking initial permits, but require a notice of decision following the 45-day public comment period for the permit modification.
- Final remedy selection for corrective action should follow the same public involvement notice of decision requirement for Class 3 permit modifications.

How to Use

The notice of decision should briefly specify EPA's final decision, the basis for the decision, and procedures for appealing the decision. The Agency should send the notice of decision to the permit applicant (facility owner/operator) and to each person who submitted written comments or requested notice of the final permit decision. The agency should also consider sending the notice of decision to other interested parties. Final permits generally become effective 30 days after distribution of the notice of decision.

Checklist for Notices of Decision

- Develop a draft notice of decision, being sure to include:
 - Decision made.
 - Basis for the decision.
 - Information on appeal procedures.
- Coordinate internal review of notice of decision.
 - Coordinate with technical staff to ensure that the notice is technically accurate.
 - Coordinate with legal staff to ensure that the notice satisfies statutory and regulatory requirements.
- Ensure that the notice provides the public with all necessary information in a clear and concise manner.
- Prepare final notice of decision.
- Notify relevant entities:
 - The facility owner/operator.
 - Anyone who submitted written comments.
 - Anyone who requested notice of the final decision.
 - Other interested parties.
- Place a copy of the notice of decision in the administrative record and information repository.