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# Chapter 3

## Overview of the NPDES Permitting Process

This chapter presents an overview of the different types of NPDES permits, permit components, the permitting development and issuance process, and the roles and responsibilities of the Federal and State governments. The intent of this chapter is to give the permit writer an introduction to the elements of a NPDES permit and to provide a brief overview of the process of writing a permit. The process is illustrated by the use of flow charts. The tasks identified within the flow charts are described in detail in subsequent chapters.

### 3.1 Types of Permits

A permit is typically a license for a facility to discharge a specified amount of a pollutant into a receiving water under certain conditions; however, permits may also authorize facilities to process, incinerate, landfill, or beneficially use sewage sludge. The two basic types of NPDES permits that can be issued are individual and general permits.

An **individual permit** is a permit specifically tailored for an individual facility. Upon submitting the appropriate application(s), the permitting authority develops a permit for that particular facility based on the information contained in the permit

application (e.g., type of activity, nature of discharge, receiving water quality). The permit is then issued to the facility for a specific time period (not to exceed 5 years) with a requirement to reapply prior to the expiration date.

A **general permit** is developed and issued by a permitting authority to cover multiple facilities within a specific category. General permits may offer a cost-effective option for agencies because of the large number of facilities that can be covered under a single permit. According to 40 CFR §122.28, general permits may be written to cover categories of point sources having common elements, such as:

- Storm water point sources
- Facilities that involve the same or substantially similar types of operations
- Facilities that discharge the same types of wastes or engage in the same types of sludge use or disposal
- Facilities that require the same effluent limitations or operating conditions, or standards for sewage sludge use or disposal
- Facilities that require the same monitoring where tiered conditions may be used for minor differences within class (e.g., size or seasonal activity)
- Facilities that are more appropriately regulated by a general permit.

General permits, however, may only be issued to dischargers within a specific geographical area such as the following:

- Designated planning area
- Sewer district
- City, county, or State boundary
- State highway system
- Standard metropolitan statistical area
- Urbanized area.

The use of general permits allows the permitting authority to allocate resources in a more efficient manner and to provide more timely permit coverage. For example, a large number of facilities that have certain elements in common may be covered under a general permit without expending the time and money necessary to issue an individual permit to each of these facilities. In addition, the use of a general permit ensures consistency of permit conditions for similar facilities.

## 3.2 Major Components of a Permit

All NPDES permits, at a minimum, consist of five general sections:

- **Cover Page**—Typically contains the name and location of the permittee, a statement authorizing the discharge, and a listing of the specific locations for which a discharge is authorized.
- **Effluent Limitations**—The primary mechanism for controlling discharges of pollutants to receiving waters. The majority of the permit writer's time is spent deriving appropriate effluent limitations based on applicable technology and water quality standards.
- **Monitoring and Reporting Requirements**—Used to characterize wastestreams and receiving waters, evaluate wastewater treatment efficiency, and determine compliance with permit conditions.
- **Special Conditions**—Conditions developed to supplement effluent limitations guidelines. Examples include best management practices (BMPs), additional monitoring activities, ambient stream surveys, toxicity reduction evaluations (TREs), etc.
- **Standard Conditions**—Pre-established conditions that apply to all NPDES permits and that delineate the legal, administrative, and procedural requirements of the NPDES permit.

Although these sections compose all permits, the contents of some of these sections will vary depending on whether the permit is to be issued to a municipal or industrial facility, and whether the permit will be issued to an individual facility or to multiple dischargers (i.e., a general permit). **Exhibit 3-1** shows the components of a permit and highlights some of the distinctions between the contents of NPDES permits for industrial and municipal permits.

## 3.3 Overview of the Development/Issuance Process for NPDES Individual Permits

While the limits and conditions in an individual NPDES permit are unique to the permittee, the process used to develop the limits and conditions, and issue the permit, generally follows a common set of steps. **Exhibit 3-2** illustrates the major steps involved in developing and issuing an individual NPDES permit. Exhibit 3-2 also serves as an index for the subsequent chapters of this manual by identifying the chapters where more detailed information for each step is presented.

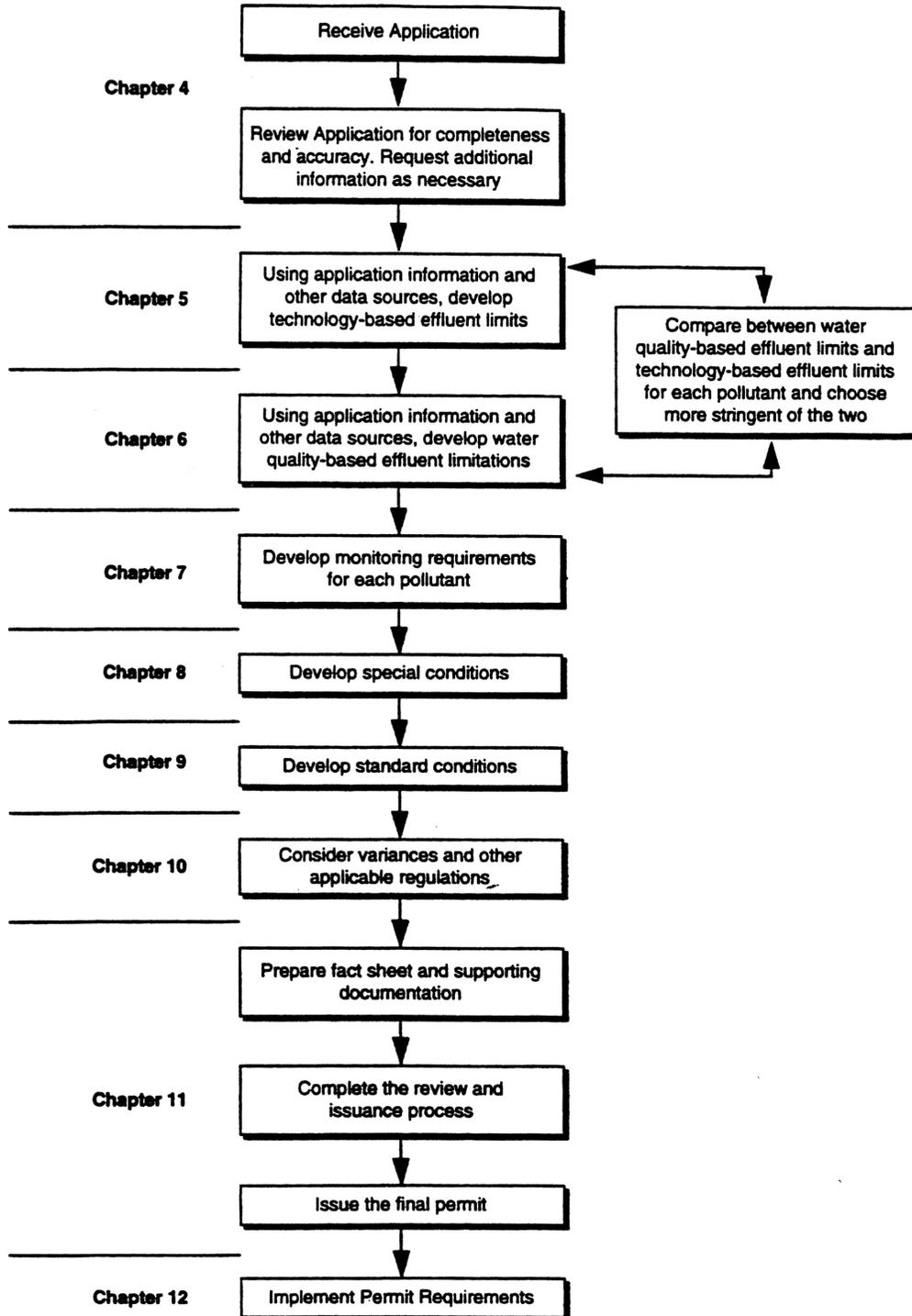
**EXHIBIT 3-1**  
**NPDES Permit Components**

<b>Industry-Specific Components</b>	<b>Components of All NPDES Permits</b>	<b>Municipal-Specific Components</b>
	<b>Cover Page</b>	
Technology-Based: <ul style="list-style-type: none"> <li>• Effluent Guidelines</li> <li>• Best Professional Judgment (BPJ).</li> </ul>	<b>Effluent Limitations:</b> <ul style="list-style-type: none"> <li>– Technology-Based</li> <li>– Water Quality-Based</li> </ul>	Technology Based: <ul style="list-style-type: none"> <li>• Secondary Treatment</li> <li>• Equivalent to Secondary Treatment.</li> </ul>
	<b>Monitoring and Reporting Requirements</b>	
Other Requirements: <ul style="list-style-type: none"> <li>• Best Management Practices (BMP).</li> </ul>	<b>Special Conditions:</b> <ul style="list-style-type: none"> <li>– Compliance Schedules</li> <li>– Storm Water</li> <li>– Special Studies, Evaluation, and Other Requirements</li> </ul>	Other Requirements: <ul style="list-style-type: none"> <li>• Pretreatment Program</li> <li>• Combined Sewer Overflow</li> <li>• Municipal Sewage Sludge.</li> </ul>
	<b>Standard Conditions</b>	

The permitting process begins when an application is submitted by the operator of a facility. After receiving the application and making a decision to proceed with the permit, the permit writer reviews the application for completeness and accuracy. When the application is determined to be complete, the permit writer begins to develop the draft permit and the justification for the permit conditions (referred to as the fact sheet or statement of basis) based, in part, on the application data.

The first major step in the permit development process is the derivation of technology-based effluent limits. Following this step, the permit writer derives effluent limits that are protective of State water quality standards (i.e., water quality-based effluent limits (WQBEL)). The permit writer then compares the technology-based limits with the WQBELs and applies the more stringent limits in the NPDES permit. The

### EXHIBIT 3-2 Major Steps Involved in Developing and Issuing an Individual NPDES Permit



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decision-making process for deriving limits is documented in the permit fact sheet. It is quite possible that a permit may have limitations that are technology-based for some parameters and water quality-based for others. For example, a permit may contain an effluent limit for TSS based on national effluent limitations guidelines (technology-based), a limit for ammonia based on prevention of aquatic toxicity (water quality-based), and a BOD<sub>5</sub> limit based for part of the year on effluent limitations guidelines (technology-based) and for the remainder of the year on water quality considerations.

Following the development of effluent limits, the permit writer develops appropriate monitoring and reporting conditions, facility-specific special conditions, and includes standard conditions that are the same for all permits.

The next step is to provide an opportunity for public participation in the permit process. A public notice is issued announcing the permit and interested parties may submit comments regarding the draft permit. Based on the comments, the permitting authority then finalizes the permit, with careful attention to documenting the process and decisions for the administrative record, and issues the final permit to the facility.

### **3.4 Overview of the Development/Issuance Process for NPDES General Permits**

The process for developing and issuing general NPDES permits is similar to the process for individual permits, however, there are certain differences. In the general permit development/issuance process, the permitting authority first identifies the need for a general permit, and collects data that demonstrate that a group or category of dischargers have similarities that warrant a general permit. In deciding whether to develop a general permit, permitting authorities should consider the following:

- Are there a large number of facilities to be covered?
- Do the facilities have similar production processes or activities?
- Do the facilities generate similar pollutants?
- Do only a small percentage of the facilities have the potential for water quality standards violations?

The remaining steps of the permit process are the same as the individual permits. A draft permit and fact sheet are developed, a public notice is issued and public comments are addressed, the issues are documented for the administrative record, and the final permit is issued. After the general permit has been issued, facilities that wish to be covered under the general permit then generally submit a Notice of Intent (NOI) to the permitting authority. The permitting authority may then either request additional information describing the facility, notify the facility that it is covered by the general permit, or require the facility to apply for an individual permit.

### **3.5 Roles and Responsibilities of the Federal and State Authorities**

EPA is authorized under the CWA to directly implement the NPDES Program. EPA, however, may authorize States, Territories, or Tribes to implement all or parts of the national program. States, Territories, or Tribes applying for authorization may seek the authority to implement the base program (i.e., issue individual NPDES permits for industrial and municipal sources), and may seek authorization to implement other parts of the national program including, Federal facilities, the national pretreatment program, general permits, and/or the municipal sewage sludge program. If the State has only partial authority (e.g., only the base NPDES permits program), EPA will implement the other program activities (e.g., pretreatment program, Federal facilities, and sewage sludge program). For example, where a State has an approved NPDES Program but has not received EPA approval of its State sludge management program, the EPA Region is responsible for including conditions to implement the Part 503 Standards for the Use or Disposal of Sewage Sludge in NPDES permits issued to treatment works in that State. EPA may issue a separate NPDES permit with the applicable sewage sludge standards and requirements, or negotiate with the State on joint issuance of NPDES permits containing the Part 503 sewage sludge standards. The same process also applies where a State has not received approval of its pretreatment program or Federal facilities. One exception to this process is where a NPDES-authorized State, Territory, or Tribe is not approved to implement the general permit program. In these cases, EPA may not issue a general permit in that State, Territory, or Tribe.

In general, once a State, Territory, or Tribe is authorized to issue permits, EPA is prohibited from conducting these activities. However, EPA must be provided with

an opportunity to review each permit issued by the State, Territory, or Tribe and may formally object to elements that conflict with Federal requirements. If the permitting agency does not address the objection points, EPA will issue the permit directly. Once a permit is issued through a government agency, it is enforceable by the approved State, Territorial, and Federal agencies (including EPA) with legal authority to implement and enforce the permit, and by private citizens (in Federal court).