



# National Pollutant Discharge Elimination System (NPDES) Factsheet

## Introduction

The National Pollutant Discharge Elimination System (NPDES) is a federal program implemented by the United States Environmental Protection Agency (EPA) for the purpose of minimizing the discharge of pollutants into Waters of the United States and protecting the uses of those surface waters. Surface water uses can include the propagation of aquatic life, contact recreation, and potable water use. States, territories, and Tribes may request authorization from EPA to implement the program within their jurisdiction. Currently, 47 of the 50 states have NPDES program authorization from EPA. New Mexico is one of only three states without NPDES program authorization, which means the federal government is responsible for issuing discharge permits and carrying out compliance and enforcement activities.

## What is an NPDES Permit?

Pursuant to the Clean Water Act, the discharge of pollutants to Waters of the United States without an NPDES permit is prohibited. EPA and authorized states issue NPDES permits to entities that submit an appropriate and complete application to the permitting authority. NPDES permits include discharge limits that are:

- Protective of water quality (Water Quality-based Effluent Limits [WQBELs]), and
- Representative of what is achievable based on available treatment technologies and specific economic considerations (Technology-based Effluent Limits [TBELs]).

Limits developed to protect water quality are based on a process referred to as a reasonable potential analysis (RPA). Through an RPA, the anticipated downstream water quality from the discharge is compared to the water quality criteria applicable to the receiving water. If the discharge is anticipated to cause or contribute to an exceedance of the applicable criteria, a limit for the pollutant is required in the permit.

In addition to discharge limits, an NPDES permit contains monitoring and reporting requirements, special studies, and standard conditions as described below.

- Monitoring and reporting requirements are necessary to evaluate compliance with prescribed discharge limits.
- Special studies include additional monitoring or other studies that the permitting authority deems necessary to evaluate the impact of a discharge on a waterbody, to better control the discharge of pollutants from a facility, or to otherwise evaluate compliance with the terms of a permit. Some examples of special studies

include requiring the discharger to evaluate the extent to which their discharge is diluted by the receiving water, identifying the cause of toxicity that has been identified in the discharge, or monitoring background pollutant concentrations in the receiving water.

- Standard conditions are pre-established conditions that apply to all NPDES permits. They include legal, administrative, and procedural requirements for the permittee.

Dischargers that have received an NPDES permit and comply with the terms of the permit are deemed to be fully compliant with all applicable parts of the Clean Water Act.

## **Types of Permits**

There are two major types of NPDES permits that are used by the regulatory agencies. These include individual permits and general permits. Individual permits require the submittal of an application package. The permitting authority then develops a site-specific permit to regulate the discharge of pollutants from that one entity. General permits are developed for a type of discharge (e.g., construction stormwater), and require the submittal of a Notice of Intent (NOI), which is the application for coverage under that specific permit. Once the permitting authority reviews the NOI to ensure the facility meets the applicability requirements, the permitting authority notifies the permittee that they are now covered and may discharge pursuant to the requirements of the general permit.

Individual permits are time intensive to develop, but can include site-specific conditions that may better regulate the discharge of pollutants from that particular site. General permits typically do not include site-specific conditions, but can still require the permittee to develop site-specific plans (e.g., Best Management Practices Plan) necessary to protect water quality. Permitting authorities often develop general permits where possible to increase efficiency.

Both individual and general permits have a maximum term of 5 years, with some allowances for an administrative extension under specific conditions (e.g., the discharger has reapplied for coverage within the specified timeframe, but the permitting authority has not been able to reissue the permit).

## **What Does the Process Look Like?**

Applicants under the NPDES program must submit an appropriate application. If this is a permit renewal for the applicant, they must submit the application at least 180 days prior to the expiration of their existing permit. For new dischargers, the applicant must submit an application at least 180 days before the date on which they believe they may need to discharge. EPA application forms for individual permits under the NPDES program can be found here: <https://www.epa.gov/npdes/npdes-application-forms>

For general permits, the NOI and submittal requirements are included in the general permit. General permits may have different submittal timeframes, and applicants do not need to wait for the permitting authority to develop the permit, as the permit is already developed.

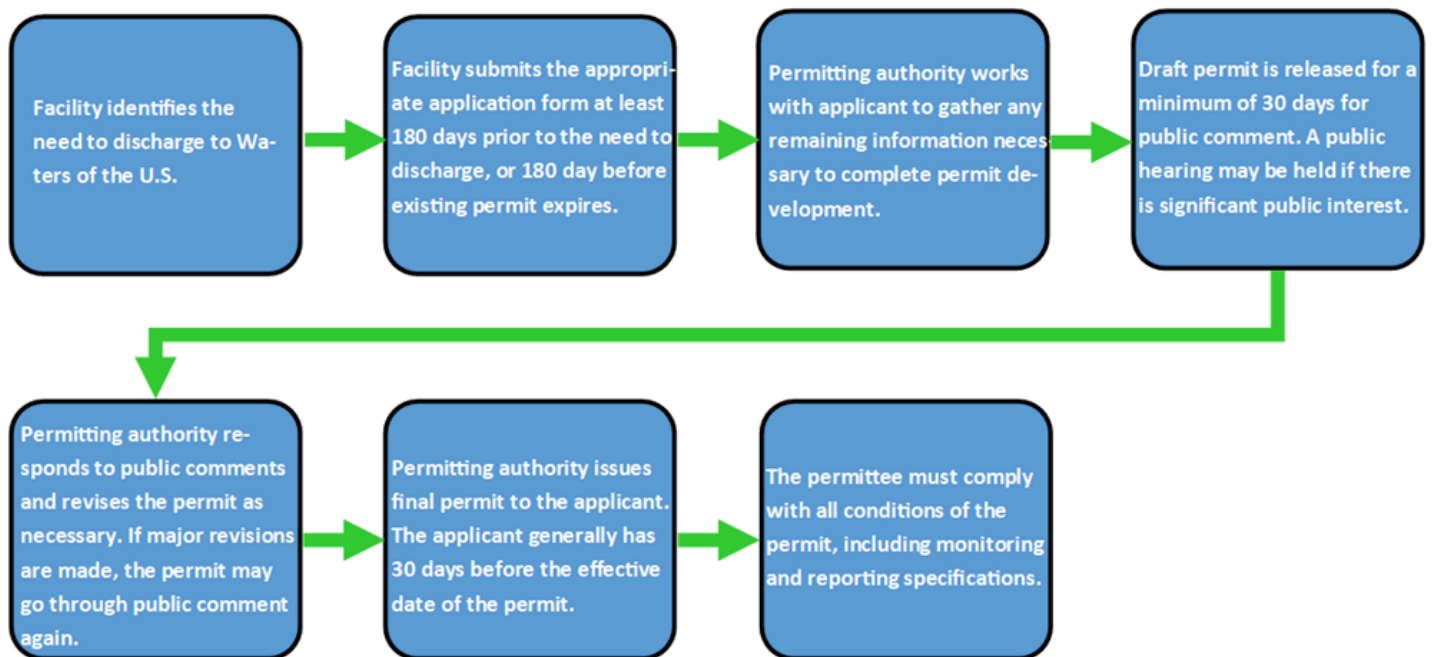
Once an application is submitted, the permitting authority may work with the applicant to gather any additional information deemed necessary to complete permit development. Once a permit is developed, the draft permit is published for a public comment period of at least 30 days. During the public comment period, the applicant and members of the public may submit comments on the proposed permit. In some cases with significant public interest, the permitting authority will hold a public hearing. This provides the opportunity

for all interested parties to speak and provide information. Following the public comment period, the permitting authority will respond to all comments, revise the permit as necessary, and finalize the permit prior to issuance to the permittee. If major revisions to the permit are necessary based on the public comments, the permitting authority may go through the public comment period again. Once the permit is finalized, the permittee must comply with all permit conditions following the effective date.

The permitting authority will review submitted monitoring reports to ensure compliance with the conditions of the permit, conduct site inspections as necessary, and carry out any necessary enforcement activities to assist or encourage compliance with conditions of the permit.

Additional information about the federal NPDES program can be found at: <https://www.epa.gov/npdes>

**Figure 1: Individual Permit Application Process**



**Figure 2: General Permit Application Process**

