

10.1.1 Finalizing the Permit/Documentation for the Draft Permit/Documenting the File

Applicability:

Supporting information and data that is to be included in the facility's permit file in order to create an acceptable and thorough record of the development of the permit.

Content:

The file, or administrative record, for a draft permit consists of:

- The permit application and information and materials submitted by the applicant to support it;
- The draft permit;
- The permit Fact Sheet, or statement of basis if developed instead of the Fact Sheet (see 10.1.2 Fact Sheets);
- All items cited in the Fact Sheet including calculations used to derive alternative and proposed permit limits;
- All other items needed to support the decisions made to develop limits, monitoring requirements, conditions, special conditions, special studies, etc.; and
- For new sources, any environmental assessment, environmental impact statement or other such background information (e.g., FONSI).

As permit development progresses from draft to final, the file materials increase to document the various steps and stages. The file for a final permit consists of:

- All items listed above for the draft permit file;
- All correspondence (including e-mail) and reports of meetings and telephone conversations with the applicant or others related to permit development;
- Copies of public notices for the permit and records of all comments received during the comment period;
- Copies of hearing notices if different from the public notice;
- The tape or transcript of any hearing;
- Records of any comments or materials submitted at or following the hearing;
- Agency responses to the comments;
- For new source permits, the draft or final EIS; and
- The final permit.

Materials that are readily available through the permitting office or available through the Internet do not need to be physically included in the permit file as long as they are specifically referenced in the various records. Such materials include statutes, regulations and commonly used technical guidance documents.

All information and data, including that submitted by the applicant, used to develop permit limits, conditions and requirements must be in the permit file and is available for public review (see 4.4 Confidential Information). The permit file, as it develops through the application, draft permit, public comment and final permit stages, is the record that allows the agency to reconstruct the rationale for permit decisions and justify the permit in the event of public commentary or applicant challenge or appeal.

Legal References:

Code of Federal Regulations

- [40 CFR 124.9](#) Procedures for Decision Making - Administrative record for draft permits when EPA is the permitting authority.
- [40 CFR 124.18](#) Procedures for Decision Making - Administrative record for final permit when EPA is the permitting authority.

Other Links:

[U.S. EPA, NPDES Permit Writers' Manual](#), Office of Water, EPA-833-B-96-003, December 1996, especially pages 193-194

[4.4 Confidential Information](#)

[10.1.2 Fact Sheets](#)

Key Words:

Documenting, documentation, record, administrative record, file, permit file, file contents

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Revised By: Jim Penfold

Modification Date: February 22, 2006