

Section 1. References to Federal Regulations.

Portions of this rule refer to federal regulations of the United States Environmental Protection Agency (EPA). Unless otherwise specified, the federal regulations referenced are those regulations effective as of July 1, 2006, as they appear in volume 40 of the Code of Federal Regulations (CFR), U.S. Government Printing Office, 732 N Capitol St. NW, Washington, D.C.

Section 2. Issuance of general permits. [see 40 CFR 122.28]

(a) Coverage. The Department may issue a general permit in accordance with the following:

(1) Area. The general permit shall be written to cover one or more categories or subcategories of discharges or facilities described in the permit under paragraph (a)(2)(ii) of this section, except those covered by individual permits, within a geographic area. The area should correspond to existing geographic or political boundaries, such as:

(i) Designated planning areas under sections 208 and 303 of CWA;

(ii) Sewer districts or sewer authorities;

(iii) City, county, or State political boundaries;

(iv) State highway systems;

(v) Standard metropolitan statistical areas as defined by the Office of Management and Budget;

(vi) Urbanized areas as designated by the Bureau of the Census according to criteria in 30 FR 15202 (May 1, 1974); or

(vii) Any other appropriate division or combination of boundaries.

(2) Sources. The general permit may be written to regulate one or more categories or subcategories of discharges or facilities, within the area described in paragraph (a)(1) of this section, where the sources within a covered subcategory of discharges are either:

(i) Storm water point sources; or

(ii) One or more categories or subcategories of point sources other than storm water point sources, or a category of "treatment works treating domestic sewage," if the sources or "treatment works treating domestic sewage" within each category or subcategory all:

(A) Involve the same or substantially similar types of operations;

(B) Discharge the same types of wastes;

(C) Require the same effluent limitations or operating conditions;

(D) Require the same or similar monitoring; and

(E) In the opinion of the Department, are more appropriately controlled under a general permit than under individual permits.

(3) Where sources within a specific category or subcategory of dischargers are subject to water quality-based limits imposed pursuant to Chapter 523(5), the sources in that specific category or subcategory shall be subject to the same water quality-based effluent limitations.

(4) The general permit must clearly identify the applicable conditions for each category or subcategory of dischargers or treatment works treating domestic sewage covered by the permit.

(5) The general permit may exclude specified sources or areas from coverage.

(b) Administration

(1) In general. General permits may be issued, modified, revoked and reissued, or terminated in accordance with applicable requirements of Chapter 522. The Department may make proposals for initial or modified general permits where it finds a need compatible with the intent of this rule. Other persons may petition the Department to adopt or modify a general permit.

(2) Authorization to discharge

(i) Except as provided in paragraphs (b)(2)(v) and (b)(2)(vi) of this section, dischargers (or treatment works treating domestic sewage) seeking coverage under a general permit shall submit to the Department a written notice of intent to be covered by the general permit. A discharger (or treatment works treating domestic sewage) who fails to submit a notice of intent in accordance with the terms of the permit is not authorized to discharge, under the terms of the general permit unless the general permit, in accordance with paragraph (b)(2)(v) of this section, contains a provision that a notice of intent is not required or the Department notifies a discharger (or treatment works treating domestic sewage) that it is covered by a general permit in accordance with paragraph (b)(2)(vi) of this section. A complete and timely notice of intent (NOI), to be covered in accordance with general permit requirements, fulfills the requirements for permit applications for purposes Chapter 521.

(ii) The contents of the notice of intent shall be specified in the general permit and shall require the submission of information necessary for adequate program implementation, including at a minimum, the legal name and address of the owner or operator, the facility name and address, type of

facility or discharges, and the receiving stream(s). General permits for storm water discharges associated with industrial activity from inactive mining, inactive oil and gas operations, or inactive landfills occurring on Federal lands where an operator cannot be identified may contain alternative notice of intent requirements. All notices of intent shall be signed in accordance with Chapter 521. Notices of intent for coverage under a general permit for concentrated animal feeding operations must include the information specified in Chapter 521(4)(i)(1), including a topographic map.

(iii) General permits shall specify the deadlines for submitting notices of intent to be covered and the date(s) when a discharger is authorized to discharge under the permit;

(iv) General permits shall specify whether a discharger (or treatment works treating domestic sewage) that has submitted a completed and timely notice of intent to be covered in accordance with the general permit and that is eligible for coverage under the permit, is authorized to discharge, in accordance with the permit either upon receipt of the notice of intent by the Department, after a waiting period specified in the general permit, on a date specified in the general permit, or upon receipt of notification of inclusion by the Department. Coverage may be terminated or revoked in accordance with paragraph (b)(3) of this section.

(v) Discharges other than discharges from publicly owned treatment works, combined sewer overflows, municipal separate storm sewer systems, primary industrial facilities, and storm water discharges associated with industrial activity, may, at the discretion of the Department, be authorized to discharge under a general permit without submitting a notice of intent where the Department finds that a notice of intent requirement would be inappropriate. In such cases, the Department may require some other form of notification. In making such a finding, the Department shall consider: the type of discharge; the expected nature of the discharge; the potential for toxic and conventional pollutants in the discharges; the expected volume of the discharges; other means of identifying discharges covered by the permit; and the estimated number of discharges to be covered by the permit. The Department shall provide in the public notice of the general permit the reasons for not requiring a notice of intent.

(vi) The Department may notify a discharger (or treatment works treating domestic sewage) that it is covered by a general permit, even if the discharger (or treatment works treating domestic sewage) has not submitted a notice of intent to be covered. A discharger (or treatment works treating domestic sewage) so notified may request an individual permit under paragraph (b)(3)(iii) of this section.

(3) Requiring an individual permit

(i) The Department may require any discharger authorized by a general permit to apply for and obtain an alternative general permit or an individual permit. Any interested person may petition the Department to take action under this paragraph. A discharger must file an application for an individual permit within 30 days of receiving a notice from the Department, unless another time is specified by the Department. Coverage under the general permit is terminated upon final action by the Department on an application for an alternative general permit or an individual permit, or if no application is filed within the time specified by the Department. Cases where an individual permit may be required include the following:

(A) The discharger or "treatment works treating domestic sewage" is not in compliance with the conditions of the general permit;

(B) A change has occurred in the availability of demonstrated technology or practices for the control or abatement of pollutants applicable to the point source or treatment works treating domestic sewage;

(C) Effluent limitation guidelines are promulgated for point sources covered by the general permit;

(D) A Water Quality Management plan containing requirements applicable to such point sources is approved;

(E) Circumstances have changed since the time of the request to be covered so that the discharger is no longer appropriately controlled under the general permit, or either a temporary or permanent reduction or elimination of the authorized discharge is necessary;

(F) [reserved]; or

(G) The discharge(s) is a significant contributor of pollutants. In making this determination, the Department may consider the following factors:

(1) The location of the discharge with respect to waters of the State;

(2) The size of the discharge;

(3) The quantity and nature of the pollutants discharged to waters of the State; and

(4) Other relevant factors;

(ii) [reserved]

(iii) Any owner or operator eligible for coverage under a general permit may request to be excluded from the coverage of the general permit by applying for an individual permit. The owner or operator shall submit an application under Chapter 521, with reasons supporting the request, to the Department no later than 90 days after issuance of the general permit. The request shall be processed under Chapter 522. The request shall be granted by issuing of any individual permit if the reasons cited by the owner or operator are adequate to support the request.

(iv) When an individual permit is issued to an owner or operator otherwise subject to a general permit, the applicability of the general permit to the individual permittee is automatically terminated on the effective date of the individual permit.

(v) A source excluded from a general permit solely because it already has an individual permit may request that the individual permit be revoked, and that it be covered by the general permit. Upon revocation of the individual permit, the general permit shall apply to the source.

Section 3. Terms and conditions applicable to all general permits

(a) Notice Required. Prior to discharging under the terms of a general permit, a person must file with the Department an initial Notice of Intent (NOI) for coverage on a form provided by the Department for the specific discharge category. A copy of the initial NOI form shall be provided by the applicant to the municipal office of the town or city, or the county commissioners in the case of an unorganized territory, in which the discharge will occur at the time it is submitted to the Department. A check for the appropriate fee amount must accompany each NOI in order for the application for coverage under the general permit to be considered to be complete.

Public notice. The Department may specify in a general permit a procedure for providing public notice of the notice of intent or other coverage filings submitted to the Department. Whether such notice will be required, the type of notice and the timing of notice will be determined with consideration to the nature of the discharge, the anticipated level of public interest in the activity and the substance of the filing required by the general permit. Means of providing public notice may include but are not limited to publication in a newspaper, notifying abutters, filing a notice with the municipal office and/or county commissioners or posting on an internet web site maintained by the Department.

(b) Effective date of coverage. The Department must notify an applicant for coverage under a general permit within a time period specified in the general permit as to whether or not coverage for the specific discharge is accepted. If the Department does not notify the applicant within the specified time, the NOI is deemed to be accepted and coverage is granted. In the event coverage is not granted, the Department shall notify the applicant of the reasons for not granting coverage. Discharges not acceptable for general permit coverage may apply for issuance of an individual discharge permit.

(c) Continuing Coverage. Coverage under an existing general permit will be continued upon payment of an applicable fee(s), provided there are no significant or material changes in the discharge as described in the NOI. If significant or material changes occur or are proposed, the person having filed the NOI must notify the Department, as specified in the general permit. Prior to expiration of a general permit, the Department shall make a determination if it is to be renewed, and, if so, will commence renewal proceedings. If the general permit is to be renewed, it shall remain in force until the Department takes final action on the renewal. Upon reissuance of a new General Permit, persons wishing to continue coverage must so notify the Department as specified in the new general permit.

(d) Transfers of ownership. In the event that the ownership of a discharge is transferred to a new owner, the new owner may obtain coverage under the general permit as specified in the general permit. The new owner may be required to either file a new NOI or to notify the Department in writing to transfer the NOI. If changes in the discharge are proposed, a new NOI must be filed. The prior owner may be required to file a notice of termination or cosign an application for transfer.

(e) Sampling and test procedures. Where a general permit requires sampling and testing of an effluent or other waste stream, all samples and measurements shall be representative of the volume and nature of the activity being monitored. The sampling, preservation, handling and analytical methods used must conform with Standard Methods for the Examination of Water and Waste Water, American Public Health Association, 1015 Fifteenth Street, NW Washington, D.C., 20th edition or methods referenced in 40 CFR Part 136. However, different but equivalent methods are allowable if they receive prior written approval from the Department.

(f) Monitoring requirements. In addition to monitoring required by the conditions of specific general permit, the Department may require additional monitoring of an individual discharge as may be reasonably necessary in order to characterize the nature, volume or other attributes of that discharge or its sources.

(g) Removed substances. Solids, sludges, filter backwash or other pollutants removed or resulting from the treatment of wastewaters shall be disposed of in a manner approved by the Department.

(h) Other applicable conditions. The following conditions also apply to discharges pursuant to any general permit and are incorporated herein as if fully set forth.

(1) Chapter 523, Section 2 (applicable to all discharges)

(2) Chapter 523, Section 3 (applicable to certain categories of discharges)

STATUTORY AUTHORITY: 38 MRSA §341-D

EFFECTIVE DATE: This rule became effective upon the approval of the U.S. Environmental Protection Agency of related parts of the State's application to administer the National Pollutant Discharge Elimination System program of the Federal Clean Water Act, pursuant to 40 CFR part 123. This approval was granted through a January 12, 2001 (the presumed effective date) letter from Mindy S. Lubber of the United States Environmental Protection

Agency to Governor Angus S. King, Jr. The APA Office was notified of this action through a memo, which included a copy of the Lubber letter, from Dennis Merrill of the Department of Environmental Protection dated January 23, 2001.

APA EFFECTIVE DATE:

April 5, 1999

AMENDED:

June 27, 2007 - filing 2007-261