

TITLE 327 WATER POLLUTION CONTROL DIVISION

Rule Information Sheet

NPDES General Permits
LSA Document #18-238

Overview

This rulemaking changes the process by which three categories of dischargers receive general permit coverage, which is transitioning from the existing permit by rule process to the administratively issued general permit coverage that is issued by the commissioner of the Indiana Department of Environmental Management (IDEM). The United States Environmental Protection Agency (U.S. EPA) sent a letter dated March 9, 2010, to IDEM objecting to two aspects of the permit by rule process of providing general permit coverage to dischargers eligible for coverage under a general permit. One objection to the permit by rule process relates to the make-up of the (former) Water Pollution Control Board, the activities of which are now conducted by the Environmental Rules Board. Each of these boards was or is required by Indiana Code to have a voting member who represents an industry that has a National Pollutant Discharge Elimination System (NPDES) permit. U.S. EPA contends that this establishes a conflict of interest because the board that adopts the rules that allow for permit by rule general permit coverage has a voting member who represents a discharger affected by the rules. The other objection to the permit by rule process of general permit coverage is that the rules that establish the permit by rule process contain no expiration date for the authorization of the general permit (negotiated between U.S. EPA and IDEM) or the discharger's general permit coverage. A general permit is a type of NPDES permit, which is required under the Clean Water Act to expire in five years after issuance. In response to this objection, general permits for each of the categories for which a general permit is available will expire five years after its authorization. The change to administratively issued general permit coverage will include the provision that the general permit coverage expires five years after issuance and the discharger will need to reapply for renewed coverage under the reauthorized general permit. In addition to the changes to address U.S. EPA's objections, the proposed rule for consideration of final adoption contains administrative changes for clarification and consistency with the state's rulewriting requirements.

Affected Persons

The three categories of dischargers for whom general permit coverage is transitioning under this rulemaking from the existing permit by rule process to the administratively issued general permit coverage that is issued by the commissioner of IDEM include those discharging stormwater associated with construction activity, stormwater associated with municipal separate storm sewer system conveyances, and on-site residential sewage discharging disposal systems within the Allen County On-Site Waste Management District.

Reasons for the Rule

This rulemaking is being done in response to the U.S. EPA requirement that Indiana must meet to maintain its delegation to conduct the NPDES program in Indiana.

Economic Impact of the Rule

There are no costs to any entity beyond the cost, if any, needed to meet the federal requirements of transitioning the three categories of general permits from permit by rule to administratively issued general permit coverage. This rulemaking is changing the process by which these dischargers receive the permit coverage they must have in order to discharge. The requirements of the general permit for each of the three categories is not being changed by this rulemaking so the effect on the dischargers is negligible since they need permit coverage no matter what is the process by which it is issued.

Scheduled Board Action and Hearings

First Public Hearing: August 14, 2019, at the Indiana Government Center South, 10 North Senate Avenue, Conference Center Room A, Indianapolis, Indiana.

Second Public Hearing: September 9, 2020, held remotely through Zoom.

Join Zoom Meeting

<https://zoom.us/j/98588137995?pwd=SEpGdm9GVlVTclR1Zm5iZHpSV3NlZz09>

By phone:

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Meeting ID: 985 8813 7995

Password: 063903

IDEM Contact

Additional information regarding this rulemaking action can be obtained from MaryAnn Stevens, Rules Development Branch, Office of Legal Counsel, (317) 232-8635, (800) 451-6027 (in Indiana), or mstevens@idem.in.gov.