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Notice of Availability of Final NPDES General Permits for Remediation Activity

Discharges in Massachusetts and New Hampshire: The Remediation General Permit

AGENCY: Environmental Protection Agency

ACTION: Notice of Availability of FINAL NPDES General Permits MAG910000 and NHG910000

SUMMARY: The Director of the Office of Ecosystem Protection, U.S. Environmental Protection Agency – Region 1 (EPA), is providing a notice of availability of final National Pollutant Discharge Elimination System (NPDES) General Permits for discharges from sites engaged in certain remediation activities to certain waters of the Commonwealth of Massachusetts and the State of New Hampshire. The final NPDES General Permits establish Notice of Intent (NOI), Notice of Change (NOC), and Notice of Termination (NOT) requirements, effluent limitations and requirements, standard and special conditions and best management practice (BMP) requirements for sites that discharge 1.0 million gallons per day or less in Massachusetts and New Hampshire. The final General Permits reflect modifications to the draft General Permits released for comment on August 18, 2016. These General Permits replace the Remediation General Permit (RGP) that expired on September 9, 2015.

DATES: The General Permits shall be effective on April 8, 2017, and will expire at midnight on April 8, 2022. In accordance with 40 CFR part 23, these permits shall be considered issued for the purpose of judicial review on March 23, 2017. Under section 509(b) of the Clean Water Act, judicial review can be had by filing a petition for review in the United States Court of Appeals within 120 days after the permits are considered issued for purposes of judicial

review. Under section 509(b)(2) of the Clean Water Act, the requirements in these permits may not be challenged later in civil or criminal proceedings to enforce these requirements. In addition, these permits may not be challenged in other agency proceedings.

FOR FURTHER INFORMATION: Shauna Little, US EPA – Region 1, Office of Ecosystem Protection, 5 Post Office Square – Suite 100, Mail Code OEP06-1, Boston, MA 02109-3912; telephone: 617-918-1989; email: little.shauna@epa.gov.

SUPPLEMENTARY INFORMATION: EPA is reissuing two General Permits for discharges from sites resulting from remediation activities in eight general categories: 1) Petroleum-related site remediation; 2) Non-petroleum-related site remediation; 3) Contaminated/formerly contaminated site dewatering; 4) Pipeline and tank dewatering; 5) Aquifer pump testing; 6) Well development/rehabilitation; 7) Dewatering/remediation of collection structures; and 8) Dredge-related dewatering. The two General Permits are:
MAG910000 for sites located in Massachusetts
NHG910000 for sites located in New Hampshire

While these are technically distinct permits, for convenience, they have been grouped into a single document and this document refers to the “permit” in the singular. The final General Permit, appendices and attachments, as well as response to comments on the draft permit are available at <http://www.epa.gov/region1/npdes/rgp.html>.

The final General Permit includes effluent limitations and requirements based on technology-based considerations, best professional judgment (BPJ), and water quality considerations. The effluent limits established in the draft general permit assure that the surface water quality standards of the receiving water(s) are attained and/or maintained. The permit also contains BMP requirements in order to ensure EPA has the information necessary to ensure compliance and to ensure discharges meet water quality standards.

EPA drafted a General Permit and took public comments on the draft from August 18, 2016 to September 19, 2016. EPA received five (5) unique written submissions on the 2016 draft General Permit. Concurrent with the release of the final General Permit, EPA will make available a Response to Comments received on the 2016 draft General Permit. The Response to Comments will be available on the EPA website listed above. Changes to the permit resulting from public comments include, but are not limited to: reduction of certain monitoring requirements, addition of specificity to certain minimum requirements, revision of certain limitation or requirements for clarity and consistency, and modification of EPA's NOI process, including specification of provisional permit coverage for emergency discharges within the permit.

Obtaining Authorization: In order to obtain authorization to discharge, operators must submit a complete and accurate NOI containing the information in Appendix IV – Part 1 of the final General Permit. Operators with existing discharges must submit a NOI within ninety (90) days of the effective date of the final General Permit. Operators with emergency discharges must submit a NOI no more than fourteen (14) days after initiating discharges and following the effective date of the final General Permit. Operators with new discharges must submit a NOI at least seven (7) days prior to initiating discharges and following the effective date of the final General Permit. Operators must meet the eligibility requirements of the general permit prior to submission of a NOI. EPA will authorize the discharge, request additional information, or require the operator to apply for an alternative permit or an individual permit. NOIs may be submitted electronically to EPA at NPDES.Generalpermits@epa.gov or sent via regular or overnight mail to: United States Environmental Protection Agency, EPA/OEP RGP Applications Coordinator, 5 Post Office Square - Suite 100 (OEP06-1), Boston, Massachusetts 02109-3912. If required to do so, an operator must also submit a copy of the NOI to the Massachusetts Department of Environmental Protection and the New Hampshire Department of Environmental Services. An

operator will be authorized to discharge under the General Permit upon the date indicated in written notice from EPA following EPA's web posting of the submitted NOI.

Other Legal Requirements: In accordance with the Endangered Species Act (ESA), EPA has updated the provisions and necessary actions and documentation related to potential impacts to endangered species from sites seeking coverage under the General Permit. EPA has obtained concurrence from the National Marine Fisheries Service in connection with this final General Permit.

In the fact sheet that accompanied the draft General Permit, EPA stated that we would seek concurrence from the U.S. Fish and Wildlife Service (USFWS) regarding our determination of effect on endangered species under their jurisdiction. Following the release of the draft General Permit, EPA had discussions with USFWS on this matter. Based on discussions with USFWS, EPA has determined that this General Permit has "no effect." The reason for this determination is because each NOI that is submitted must assess site specific endangered species impacts using USFWS' Information, Planning, and Conservation (IPaC) website, available at <https://ecos.fws.gov/ipac/>. Based on the findings using this website, the applicant can either make a determination of impacts or if there are questions, seek input from USFWS directly. Since each NOI is individually screened prior to submission, the General Permit has no effect.

National Historic Preservation Act (NHPA): In accordance with NHPA, EPA has established provisions and documentation requirements for sites seeking coverage under the General Permit to ensure that discharges or actions taken under this General Permit will not adversely affect historic properties and places.

AUTHORITY: This action is being taken under the Clean Water Act, 33 U.S.C. 1251 *et seq.*

3/13/17

Date

Deborah A. Szaro

Deborah A. Szaro, Acting Regional Administrator