

ENVIRONMENTAL PROTECTION COMMISSION[567]

Adopted and Filed

Rule making related to NPDES general permit no. 7

The Environmental Protection Commission hereby amends Chapter 64, “Wastewater Construction and Operation Permits,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 455B.173(11).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 455B.173(11) and 455B.186.

Purpose and Summary

The purpose of this rule making is to renew National Pollutant Discharge Elimination System (NPDES) General Permit No. 7 (GP7), which authorizes discharges that result from the application of biological pesticides and chemical pesticides that leave residue from point sources to waters of the United States. The permit covers discharges resulting from the application of pesticides to control aquatic nuisance insects and animals, weeds, algae, bacteria, fungi, fish parasites, and forest canopy pests. Irrigation return flows and agricultural runoff are not covered under GP7 because they are excluded from the Clean Water Act. The permit requires the implementation of best management practices and visual monitoring of the application site for adverse impacts caused by the application of pesticides. No fees are associated with GP7.

This rule making includes formatting and other nonsubstantive changes to GP7 to simplify existing language, improve clarity, and minimize unnecessary duplication. This rule making also includes five substantive changes to GP7 as described below.

- Add coverage for discharges resulting from ground application of a pesticide to a forest canopy since this is a method used to control pests such as the gypsy moth and new pests like the walnut twig beetle.
- Require reporting of the exact location of a hazardous condition and the name of any affected water body as part of the six-hour hazardous condition notification requirements since this information is important for Department response efforts.
- Remove the part titled “Additional Permit Requirements,” which states that the Department may impose additional, enforceable permit conditions in a written notice. This part is considered unnecessary since the Department can require an individual permit where requirements beyond those included in the general permit are necessary. Removal of this part does not affect the Department’s authority to enforce permit conditions.
- Remove requirements for operators to keep a copy of GP7 since this requirement is not included in other general permits issued by the Department.
- Revise the definition for “Water of the United States” to reference the current federal definition as of June 22, 2020, which is the effective date of the final Navigable Waters Protection Rule published by the United States Environmental Protection Agency.

A copy of the proposed permit is available online at www.iowadnr.gov/Environmental-Protection/Water-Quality/NPDES-Wastewater-Permitting/NPDES-General-Permits/GP7-Pesticides.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 12, 2020, as **ARC 5136C**. A public hearing was held via conference call on September 1, 2020,

at 2 p.m. Three people attended the hearing. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Commission on October 20, 2020.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa. A copy of the fiscal impact statement is available from the Department upon request.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found. A copy of the jobs impact statement is available from the Department upon request.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 561—Chapter 10.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on May 18, 2021.

The following rule-making action is adopted:

Amend subrule 64.15(7) as follows:

64.15(7) "Pesticide General Permit (PGP) for Point Source Discharges to Waters of the United States from the Application of Pesticides," NPDES General Permit No. 7, effective May 18, ~~2016~~ 2021, to May 17, ~~2021~~ 2026.

[Filed 10/23/20, effective 5/18/21]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/18/20.