

Agenda

Environmental Protection Commission

Tuesday, July 21, 2020

Teleconference: (216) 505-9946 and PIN: 208540651#

Video Conference: <https://meet.google.com/rqw-nksu-aak>

Tuesday, July 21, 2020

10:30 AM – EPC Business Meeting

If you are unable to attend the business meeting, comments may be submitted to Jerah Sheets at Jerah.Sheets@dnr.iowa.gov or 502 East 9th St, Des Moines IA 50319 up to one day prior to the business meeting for the public record.

1	Approval of Agenda	
2	Approval of the Minutes	
3	Monthly Reports	Ed Tormey (Information)
4	Director's Remarks	Kayla Lyon (Information)
5	Contract with Iowa Department of Agriculture and Land Stewardship (Protect Rathbun Lake Project)	Steve Hopkins (Decision)
6	Notice of Intended Action – Chapter 64: “Wastewater Construction and Operation Permits”, to include Mining and Processing Facility Discharges	David Schelling (Decision)
7	Notice of Intended Action – Chapter 64: “Wastewater Construction and Operation Permits”, to include Pesticide Discharges	Wendy Hieb (Decision)
8	Notice of Intended Action – Chapter 61 – Water Quality Standards (Section 401 Water Quality Certification)	Roger Bruner (Decision)
9	Contract with Sherry Carrick	Brian Hutchins (Decision)
10	General Discussion	
11	Items for Next Month's Meeting	
	<ul style="list-style-type: none">• Tuesday, August 18, 2020 at 10:30 AM – EPC Business Meeting – TBD• Monday, September 14, 2020 – EPC Educational Tour – TBD• Tuesday, September 15 2020 at 10:30 AM – EPC Business Meeting – TBD	

For details on the EPC meeting schedule, visit <http://www.iowadnr.gov/About-DNR/Boards-Commissions>

¹Comments during the public participation period regarding proposed rules or notices of intended action are not included in the official comments for that rule package unless they are submitted as required in the Notice of Intended Action.

Any person attending the public meeting and has special requirements such as those related to mobility or hearing impairments should contact the DNR or ADA Coordinator at 515-725-8200, Relay Iowa TTY Service 800-735-7942, or Webmaster@dnr.iowa.gov, and advise of specific needs.

**MINUTES OF THE
ENVIRONMENTAL PROTECTION COMMISSION
MEETING**

June 16, 2020

Video and Teleconference

Approved by the Commission **TBD**

DRAFT

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Meeting Minutes

CALL TO ORDER

The meeting of the Environmental Protection Commission was called to order by Chairperson Ralph Lents at 10:30 a.m. on June 16, 2020 via video and teleconference. A verbal roll call was conducted for Commissioners, DNR staff, and members of the public. Board Administrator, Jerah Sheets, provided a tutorial of the Google Meet features and reminded attendees of the vacant seat on the Commission and explained how one can apply for this vacant position through the Iowa Talent Bank website.

COMMISSIONERS PRESENT

- Stephanie Dykshorn
- Amy Echard
- Lisa Gochenour
- Howard Hill
- Harold Hommes
- Ralph Lents
- Bob Sinclair

COMMISSIONERS ABSENT

- Rebecca Guinn
- Vacant – Elector of State

Tamara McIntosh, DNR General Counsel, stated the Commission is hosting this meeting via teleconference consistent with Iowa Code section 21.8, which authorizes electronic meetings when meeting in person is impossible or impractical. The impractical standard was satisfied due to COVID-19-based medical directives to physically distance.

OFFICIAL MEETINGS OPEN TO PUBLIC (OPEN MEETINGS), § 21.8

Electronic meetings. 1. A governmental body may conduct a meeting by electronic means only in circumstances where such a meeting in person is impossible or impractical and only if the governmental body complies with all of the following: a. The governmental body provides public access to the conversation of the meeting to the extent reasonably possible. b. The governmental body complies with section 21.4. For the purpose of this paragraph, the place of the meeting is the place from which the communication originates or where public access is provided to the conversation. c. Minutes are kept of the meeting. The minutes shall include a statement explaining why a meeting in person was impossible or impractical. 2. A meeting conducted in compliance with this section shall not be considered in violation of this chapter. 3. A meeting by electronic means may be conducted without complying with paragraph "a" of subsection 1 if conducted in accordance with all of the requirements for a closed session contained in section 21.5.

Chairperson Lents announced if the Chairperson’s connection to the virtual meeting is lost, the Vice-Chair would continue facilitating the meeting. If the Vice-Chair was unavailable, the Secretary would facilitate the meeting. The Chairperson also requested all attendees be patient, polite, and respectful. If attendees are not displaying these attributes, the Chairperson will provide them a warning and if necessary mute their line or remove them from the meeting.

APPROVAL OF AGENDA

*Motion was made by Stephanie Dykshorn to approve the agenda as presented. Seconded by Harold Hommes. Bob Sinclair-aye, Lisa Gochenour-aye, Howard Hill-aye, Rebecca Guinn-absent, Stephanie Dykshorn-aye, Amy Echard-aye, Harold Hommes-aye, and Ralph Lents-aye.
Motion passes.*

AGENDA APPROVED AS PRESENTED

APPROVAL OF MINUTES

*Motion was made by Harold Hommes to approve the May 19, 2020 EPC minutes as presented. Seconded by Amy Echard. Bob Sinclair-aye, Lisa Gochenour-aye, Howard Hill-aye, Rebecca Guinn-absent, Stephanie Dykshorn-aye, Amy Echard-aye, Harold Hommes-aye, and Ralph Lents-no vote recorded due to connection lost.
Motion passes.*

APPROVED AS PRESENTED

MONTHLY REPORTS

- Division Administrator Ed Tormey shared with the Commission the Environmental Services Division continues to have about 95% of its team members teleworking. The Department is working on a return to the office plan and anticipates having more details for the July meeting.
- The Department has been working with pork producers facing supply and demand challenges from processing plants being either shutdown or operating at reduced capacity due to the COVID-19 pandemic. The Department is issuing variances to pork producers to allow for alternative disposal processes.
- The June EPC meeting has many contracts due to the state fiscal year ending June 30th.
- The monthly reports have been posted on the DNR’s website under the appropriate meeting month: <http://www.iowadnr.gov/About-DNR/Boards-Commissions>

INFORMATION

DIRECTOR’S REMARKS

- Director Kayla Lyon shared with the Commission the legislative session wrapped up last week. There were not many bills impacting the Department, except for appropriations. General Fund and Environment First continued as status quo appropriations while the RIIF appropriations has some reductions for the lakes, river, and parks programs. REAP’s sunset in 2021 was extended to 2023.
- The Iowa State Fair has been postponed. The Department is planning to provide virtual fair experiences during the normally scheduled Iowa State Fair time period.

INFORMATION

MANURE APPLICATION CERTIFICATION TRAINING PROGRAM OVERVIEW

Dr. Daniel Andersen provided an overview of the training program, the history of the program, and the continued increase in engaging with applicators with the university and associated research and science.

INFORMATION

CONTRACT WITH IOWA STATE UNIVERSITY FOR MANURE APPLICATOR CERTIFICATION (MAC) TRAINING

Jeff Prier presented a contract with Iowa State University. Dr. Andersen summarized the research support from Iowa Pork Producers for the curriculum.

Public Comments – None

Written Comments – None

*Motion was made by Howard Hill to approve the agenda item as presented. Seconded by Lisa Gochenour. Bob Sinclair-aye, Lisa Gochenour-aye, Howard Hill-aye, Rebecca Guinn-absent, Stephanie Dykshorn-aye, Amy Echard-aye, Harold Hommes-aye, and Ralph Lents-aye.
Motion passes.*

APPROVED AS PRESENTED

REFERRAL TO THE ATTORNEY GENERAL

David Scott, Legal Services, represented the Department, supported by Malia Schepers, Field Services. Justin Pollard represented himself.

The Department requested referring JDog Junk Removal and Mr. Justin Pollard, the franchise owner, to the Iowa Attorney General for violations of Iowa solid waste disposal laws and open burning laws at a property in Cambridge, Iowa. The referral process is not an adjudication of guilt or innocence, it is simply a determination by the Commission as to which entity is best suited to take enforcement action in this matter. If the matter is referred, the company and Mr. Pollard retain all their rights to due process, they would just be working with the Attorney General’s office instead of the Department.

Dan and Kara Jones hired JDog Junk Removal and Hauling to demolish and clean up an old house and other outbuildings on their property. Mr. Jones provided detailed written comments prior to the meeting.

According to the Jones, Mr. Pollard was initially contracted for \$16,000.00 to demolish, haul away, and properly dispose of an old house and several outbuildings at the Jones’ property. Instead, Mr. Pollard burned or buried almost all the resulting demolition solid waste on-site. Mr. Pollard’s receipts that were provided to DNR indicated that he only spent approximately \$850.00 on landfill disposal costs.

Eventually, the Jones’ barred Mr. Pollard from their property and the Jones’ were forced to hire a second contractor to find all of the buried solid waste on site, remove it, and properly dispose of it in accordance with state law. The initial contract with this second party was for \$80,000.00. That amount was increased as more burial sites were discovered and when asbestos-containing material was unearthed, too.

The Department believes its administrative enforcement authority is insufficient to address the egregious nature of the violations, and the culpability of the party involved. Mr. Pollard avoided significant costs, and therefore reaped a significant economic benefit, for illegally disposing the solid waste on the Jones’ property instead of removing it and properly disposing of it as he was hired to do, and as is required by state law. Therefore, the Department requests that the matter be referred to the Attorney General’s office.

Justin Pollard shared with the Commission the materials submitted are accurate. He has closed the JDog Junk Removal franchise. The corporate office has paid the Jones about \$80,000, his insurance paid about \$20,000, and he has paid about \$20,000. He is on a payment plan to pay back the corporate office the \$80,000. He feels the Jones have been reimbursed for their expenses. He is now bankrupt and additional fines upon him from the EPC, DNR, or Attorney General would not help him. He recognizes mistakes were made and he wishes to move forward.

During the question and answer portion of the discussion with Commissioners, additional topics were further clarified. At the start of the initial site investigation, six burn/burial sites were documented. However, during the second contractor’s actual cleanup of the site, a total of 22 sites were discovered. In addition to an economic benefit, factors like gravity and culpability are also considerations for referral. Malia Schepers provided a summary and timeline of her site visits. All parties discussed various opinions about alleged damage to a septic tank field in the Jones’ letter to the Commission.

Public Comments – None

Written Comments – Dan Jones

*Motion was made by Howard Hill to approve the agenda item as presented. Seconded by Lisa Gochenour. Bob Sinclair-aye, Lisa Gochenour-aye, Howard Hill-nay, Rebecca Guinn-absent, Stephanie Dykshorn-aye, Amy Echard-aye, Harold Hommes-aye, and Ralph Lents-aye.
Motion passes.*

APPROVED AS PRESENTED

GRANT AGREEMENT AMENDMENT # 2 TO THE ORIGINAL GRANT AGREEMENT WITH REGION XII COUNCIL OF GOVERNMENTS

Bill Blum presented an amendment to a contract for the Iowa Waste Exchange. Board Administrator, Jerah Sheets, noted the handout for item #7 was attached to item #8.

Public Comments – None

Written Comments – None

*Motion was made by Howard Hill to approve the agenda item as presented. Seconded by Bob Sinclair. Bob Sinclair-aye, Lisa Gochenour-aye, Howard Hill-aye, Rebecca Guinn-absent, Stephanie Dykshorn-aye, Amy Echard-aye, Harold Hommes-aye, and Ralph Lents-aye.
Motion passes.*

APPROVED AS PRESENTED

CONTRACT WITH THE UNIVERSITY OF NORTHERN IOWA, IOWA WASTE REDUCTION CENTER (IWRC)

Bill Blum presented a contract with the University of Northern Iowa.

Public Comments – None

Written Comments – None

*Motion was made by Bob Sinclair to approve the agenda item as presented. Seconded by Amy Echard. Bob Sinclair-aye, Lisa Gochenour-aye, Howard Hill-aye, Rebecca Guinn-absent, Stephanie Dykshorn-aye, Amy Echard-aye, Harold Hommes-aye, and Ralph Lents-aye.
Motion passes.*

APPROVED AS PRESENTED

CONTRACT WITH THE UNIVERSITY OF IOWA FOR LABORATORY CERTIFICATION

Kathy Lee presented a contract for laboratory certification.

Public Comments – None

Written Comments – None

Motion was made by Harold Hommes to approve the agenda item as presented. Seconded by Bob Sinclair.

*Bob Sinclair-aye, Lisa Gochenour-aye, Howard Hill-aye, Rebecca Guinn-absent, Stephanie Dykshorn-aye, Amy Echard-aye, Harold Hommes-aye, and Ralph Lents-aye.
Motion passes.*

APPROVED AS PRESENTED

**SFY 2021 CONTRACT WITH UNIVERSITY OF NORTHERN IOWA – IOWA AIR EMISSIONS ASSISTANCE PROGRAM (IAEAP):
SMALL BUSINESS ASSISTANCE PROGRAM**

Christine Paulson presented a contract with the University of Northern Iowa.

Public Comments – None

Written Comments – None

*Motion was made by Bob Sinclair to approve the agenda item as presented. Seconded by Harold Hommes.
Bob Sinclair-aye, Lisa Gochenour-aye, Howard Hill-aye, Rebecca Guinn-absent, Stephanie Dykshorn-aye, Amy Echard-aye, Harold Hommes-aye, and Ralph Lents-aye.
Motion passes.*

APPROVED AS PRESENTED

SFY2021 CONTRACT WITH LINN COUNTY AIR QUALITY DIVISION: AIR POLLUTION CONTROL IN LINN COUNTY

Christine Paulson presented a contract with Linn County.

Public Comments – None

Written Comments – None

*Motion was made by Amy Echard to approve the agenda item as presented. Seconded by Howard Hill.
Bob Sinclair-aye, Lisa Gochenour-aye, Howard Hill-aye, Rebecca Guinn-absent, Stephanie Dykshorn-aye, Amy Echard-aye, Harold Hommes-aye, and Ralph Lents-aye.
Motion passes.*

APPROVED AS PRESENTED

SFY2021 CONTRACT WITH POLK COUNTY AIR QUALITY DIVISION: AIR POLLUTION CONTROL IN POLK COUNTY

Christine Paulson presented a contract with Polk County.

Public Comments – None

Written Comments – None

*Motion was made by Bob Sinclair to approve the agenda item as presented. Seconded by Stephanie Dykshorn.
Bob Sinclair-aye, Lisa Gochenour-aye, Howard Hill-aye, Rebecca Guinn-absent, Stephanie Dykshorn-aye, Amy Echard-aye, Harold Hommes-aye, and Ralph Lents-aye.
Motion passes.*

APPROVED AS PRESENTED

ENVIRONMENTAL MANAGEMENT SYSTEMS GRANT AWARD RECOMMENDATION

Laurie Rasmus presented grant recommendations to the Commission. Grant applicants are to provide a 25% cost share. Chairperson Lents reflected on a tour in Marshall County where it was noted that there are over 50 different languages spoken in the county and he believes that this educational signage will be helpful.

Public Comments – None

Written Comments – None

Motion was made by Bob Sinclair to approve the report as presented. Seconded by Amy Echard. Bob Sinclair-aye, Lisa Gochenour-aye, Howard Hill-aye, Rebecca Guinn-absent, Stephanie Dykshorn-aye, Amy Echard-aye, Harold Hommes-aye, and Ralph Lents-aye. Motion passes.

APPROVED AS PRESENTED

CONTRACT WITH UNIVERSITY OF IOWA ON BEHALF OF THE STATE HYGIENIC LABORATORY: 2021 SHL SERVICES IN SUPPORT OF THE DNR AIR QUALITY BUREAU

Sean Fitzsimmons presented a contract with the State Hygienic Laboratory.

Public Comments – None

Written Comments – None

Motion was made by Lisa Gochenour to approve the report as presented. Seconded by Howard Hill. Bob Sinclair-aye, Lisa Gochenour-aye, Howard Hill-aye, Rebecca Guinn-absent, Stephanie Dykshorn-aye, Amy Echard-aye, Harold Hommes-aye, and Ralph Lents-aye. Motion passes.

APPROVED AS PRESENTED

CONTRACT WITH THE UNIVERSITY OF IOWA STATE HYGIENIC LABORATORY

Roger Burner presented a contract with the State Hygienic Laboratory. During discussion he shared that it is rare to detect pharmaceuticals and pesticides in the water and when they do, they are below the human impact levels.

Public Comments – None

Written Comments – None

Motion was made by Howard Hill to approve the report as presented. Seconded by Stephanie Dykshorn. Bob Sinclair-aye, Lisa Gochenour-aye, Howard Hill-aye, Rebecca Guinn-absent, Stephanie Dykshorn-aye, Amy Echard-aye, Harold Hommes-no vote recorded due to connection lost, and Ralph Lents-aye. Motion passes.

APPROVED AS PRESENTED

CONTRACT WITH IOWA DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP (IDALS) – EASTER LAKE WATERSHED PROJECT

Kyle Ament presented a contract with IDALS. He referenced there are multiple active contracts involving Easter Lake and each covers different watershed practices.

Public Comments – None

Written Comments – None

Motion was made by Harold Hommes to approve the report as presented. Seconded by Amy Echard. Bob Sinclair-aye, Lisa Gochenour-aye, Howard Hill-aye, Rebecca Guinn-absent, Stephanie Dykshorn-aye, Amy Echard-aye, Harold Hommes-aye, and Ralph Lents-aye. Motion passes.

APPROVED AS PRESENTED

CLEAN WATER AND DRINKING WATER STATE REVOLVING LOAN FUND (SRF) – FY 2021 INTENDED USE PLAN (IUP)

Theresa Enright presented the SRF FY 2021 IUP. There was a public meeting on this IUP and no comments were received.

Public Comments – None

Written Comments – None

Motion was made by Stephanie Dykshorn to approve the report as presented. Seconded by Amy Echard. Bob Sinclair-aye, Lisa Gochenour-aye, Howard Hill-aye, Rebecca Guinn-absent, Stephanie Dykshorn-aye, Amy Echard-aye, Harold Hommes-aye, and Ralph Lents-aye. Motion passes.

APPROVED AS PRESENTED

GENERAL DISCUSSION

- Jerah Sheets, Board Administrator, discussed the potential for meeting virtually for upcoming meetings and that we are waiting for Capitol Complex guidance regarding when physical meetings will resume again.

ADJOURN

Chairperson Lents thanked the Commissioners and DNR staff for their efforts. He adjourned the Environmental Protection Commission video and teleconference meeting at 12:45 p.m. on June 16, 2020.

ADJOURNED

DRAFT

**Monthly Variance Report
June 2020**

Item #	DNR Reviewer	Facility/City	Program	Subject	Decision	Date	Agency
1	Matt Phoenix	Dubuque Water Works	Water Supply Construction	A variance from requirements to construct conflicting storm sewers of water main material where horizontal and crossing separations cannot be obtained by instead constructing the water main of DIP w/ nitrile gaskets.	approved	6/1/20	20wcv117
2	Karen Kohn	Monogram Food Solutions	Air Quality Construction Permits	Waiver of Initial Stack Test Requirement.	approved	6/2/20	20aqv118
3	Bob Campell	City of Princeton	Water Supply Construction	Variance request from the requirement that a deep well site to be no less than 100 feet from above ground chemical storage.	approved	6/2/20	20wcv119
4	Karen Kohn	Schildberg Construction Co	Air Quality Construction Permits	Waiver of Initial Stack Test Requirement.	approved	6/4/20	20aqv120
5	Karen Kohn	3M Company Ames	Air Quality Construction Permits	Waiver of Initial Stack Test Requirement.	approved	6/5/20	20aqv121
6	Julie Duke	Homeland Energy Solutions	Air Quality	Requesting to begin construction of GRAIN BIN 6 that includes a bin fill conveyor, corn storage bin, and two unload conveyors.	approved	6/4/20	20aqv122
7	Marty Jacobs	City of Cedar Rapids	Wastewater	The City of Cedar Rapids is requesting variance from the Iowa Wastewater Facilities Design Standards Chapter 12 –12.5.4 (Alignment) for the installation of a 14-inch gravity sewer with a horizontal curve and vertical grade change.	approved	6/9/20	20cpv123
8	Marty Jacobs	City of Cedar Rapids	Wastewater	The City of Cedar Rapids is requesting variance from the Iowa Wastewater Facilities Design Standards Chapter 12 – 12.6 (Details of Construction) for the use of a 15-inch RCP pipe as a casing for a 14-inch HDPE sanitary sewer.	approved	6/9/20	20cpv124
9	Marty Jacobs	City of Cedar Rapids	Wastewater	The City of Cedar Rapids is requesting variance from the Iowa Wastewater Facilities Design Standards Chapter 12 – 12.5.7.1 (Manhole Location) for the installation of a manhole spacing of 815 feet on a 14-inch sanitary sewer.	approved	6/9/20	20cpv125

10	Marty Jacobs	City of Cedar Rapids	Wastewater	The City of Cedar Rapids is requesting variance from the Iowa Wastewater Facilities Design Standards Chapter 12 – Iowa Standards for Sewer Systems – 12.4 (Materials) for the installation of an HDPE gravity sewer.	variance not needed	6/9/20	20cpv126
12	AJ Montefusco	City of Cherokee	Wastewater	The City of Cherokee is requesting variance from the Iowa Wastewater Facilities Design Standards Chapter 12 – Iowa Standards for Sewer Systems – 12.6 (Details of Construction) for the installation of PVC gravity sewer by directional drilling.	approved	5/11/20	20cpv127
13	John Curtin	Grain Processing Corporation	Air Quality Construction Permits	Waiver of Initial Stack Test Requirement for two truck receiving pits.	approved	6/9/20	20aqv128
14	Matt Phoenix	West Des Moines Water Works	Water Supply Construction (WC)	A variance from requirements to construct conflicting storm sewers of water main material where sewer/water main separations can't be obtained by constructing the water main of DIP w/ nitrile gaskets or placing water main in a sealed casing pipe.	approved	6/10/20	20wcv129
15	Matt Phoenix	West Des Moines Water Works	Water Supply Construction (WC)	A variance from requirements to construct conflicting storm sewers of water main material where separations cannot be obtained by instead constructing storm sewers of corrugated HDPE with ASTM D3212 (10.8 psi) gaskets.	approved	6/10/20	20wcv130
16	Matt Phoenix	Guthrie Center Muni Water Works	Water Supply Construction (WC)	Instead of constructing clearwell with floor above flood elevation and >50% of water above grade, clearwell is constructed below grade with a waterproof membrane and granular drainage layer around and beneath it.	approved	6/15/20	20wcv131
17	Nate Tatar	Mahaska Rural Water System	Air Quality Construction Permits	Waiver of Initial Stack Test Requirement.	approved	6/15/20	20wcv132
18	Karen Kohn	Western Engineering Co	Air Quality Construction Permits	Waiver of Initial Stack Test Requirement.	approved	6/15/20	20wcv133

19	Cindy Martens	Joe Joyce Farm Field Composting	Animal Feeding Operation	Composting of euthanized hogs from multiple facilities at one location. Euthanized would happen at animal feeding facility ID#61683, located next to the composting field.	approved	6/18/20	20cpv134
20	Danjin Zulic	Green Plains Shenandoah	Air Quality Construction Permits	Waiver of Initial Stack Test Requirement.	approved	6/23/20	20aqv135

**Iowa Department of Natural Resources
Environmental Protection Commission**

5

Decision Item

Contract with Iowa Department of Agriculture and Land Stewardship (Protect Rathbun Lake Project)

Commission approval is requested for a contract with Iowa Department of Agriculture and Land Stewardship, of Des Moines, IA.

Contract Terms:

Amount: Not to exceed \$140,874

Dates: July 21, 2020 to June 30, 2022.

DNR shall have the option to extend this Contract for up to six years from the beginning date of the original contract by executing a signed amendment prior to the expiration of this Contract.

Funding Source(s): U. S. Environmental Protection Agency (EPA) Clean Water Act (CWA) Section 319 funds.

Statutory Authority: EPA Section 319 through DNR Watershed Improvement: 11 IAC 118.4

Contract Background: This contract will continue to support an ongoing water quality and watershed improvement project, the Protect Rathbun Lake Project, administered by IDALS and carried out by the Wayne SWCD.

Contract Purpose: The overall goal of the Protect Rathbun Lake Project is to reduce sediment and phosphorus delivery to Rathbun Lake and the lake's tributaries. The original project objective in pursuit of this goal is the application of conservation BMPs to treat 30,000 acres of priority agricultural land in the Rathbun Lake watershed. Priority land is identified based on an estimated annual rate of sediment delivery of at least one ton per acre. Accomplishment of this objective will reduce annual sediment and phosphorus delivery to the lake by an estimated 90,000 tons and an estimated 360,000 pounds. Protect Rathbun Lake Project activities are currently underway in 53 targeted subwatersheds. Project activities to date have resulted in BMPs being applied for 30,000 total acres, including more than 15,000 acres of priority land (50% of the project's original objective), which will reduce the annual delivery of sediment and phosphorus to Rathbun Lake by 57,300 tons and 248,800 pounds respectively (64% and 69% of the project's original objectives).

The proposed activities of this phase of the project will result in the installation of best management practices (BMPs) to treat 1,390 acres. At least 700 acres addressed with BMPs will be priority land with the remaining acres considered associate priority land. These BMPs will reduce the annual delivery of sediment and phosphorus to Rathbun Lake by an estimated 3,060 tons and 4,170 pounds, respectively. Proposed activities will include the application of BMPs in the 53 targeted subwatersheds in which Protect Rathbun Lake efforts are currently underway as well as the installation of practices with landowners in one additional targeted subwatershed, the Middle Jackson Creek subwatershed.

This contract will provide funding for project coordinators' salaries, watershed outreach, and for BMPs implemented through the Protect Rathbun Lake Project. The BMPs to be implemented through this project include: 40,000 feet of terraces, 5 grade stabilization structures, and 24 water and sediment control basins.

Statement of Work/Task:

Task 1: Provide Project Coordinator

Task 2: Submit to DNR the Annual Work Plan and Budget

Task 3: Carry Out Project Activities in the Project Workplan

Task 4: Provide Quarterly Financial Report

Task 5: Provide Quarterly Progress Report

Task 6: Submit Annual Report

Task 7: Submit Final Project Report

Selection Process Summary:

- INTERGOVERNMENTAL: Intergovernmental contracting with IDALS is authorized under 11 IAC 118.4. Contracts with state universities and other public agencies for laboratory work, scientific field measurement and environmental quality evaluation services necessary to implement Iowa Code Chapter 455B are authorized under Iowa Code section 455B.103(3).
- STATUTE OR FEDERAL GRANT REQUIRED: Statute or federal grant contracting with IDALS is authorized by 11 IAC 117.5(5) and 118.7, which allows for agreements with entities without competition when the law or federal grant requires them.

Contract History:

The DNR has contracted with IDALS to administer Section 319-funded watershed projects since the early 1990s. The purpose of the contracts with IDALS is to provide funds and project management support to IDALS, which then enters into subsequent agreements with soil and water conservation districts to implement the specific watershed implementation project activities.

Contracts for watershed projects overlap to enable project work to continue without interruption, as new contracts are executed with each new Section 319 grant award. In this manner, project coordinators who work with farmers and landowners to implement conservation practices within watersheds can do so continuously between contracts. Projects typically spend their oldest contract dollars first before utilizing new contract funds.

Below is a list of contracts with IDALS over the previous five years that support the Protect Rathbun Lake Project:

Contract #1: Timeframe: August 15, 2015 to June 30, 2018; Amount \$833,044

Contract #2: Timeframe: July 1, 2017 to June 30, 2019; Amount \$256,508

Contract #3: Timeframe: July 1, 2018 to June 30, 2021; Amount \$250,000

Contract #4: Timeframe: July 16, 2019 to June 30, 2022; Amount \$407,706

Steve Hopkins, Nonpoint Source Coordinator, Water Quality Bureau
Environmental Services Division
July 21, 2020

**Iowa Department of Natural Resources
Environmental Protection Commission**

ITEM

6

DECISION

TOPIC

Notice of Intended Action – Chapter 64: “Wastewater Construction and Operation Permits”, to include Mining and Processing Facility Discharges

The Commission is asked to approve the Notice of Intended Action to initiate rulemaking to amend Chapter 64, “Wastewater Construction and Operation Permits.” These proposed rules will renew NPDES General Permit 5 (GP5), which authorizes discharges of pollutants from mining and processing facilities to waters of the United States. The current general permit was issued July 20, 2016, and expires July 19, 2021.

Most facilities authorized under GP5 are quarries producing crushed limestone or construction sand and gravel. Waste streams authorized include materials wash water, materials transport water, and mine or quarry dewatering. Through numeric effluent limits, the renewed GP5 will continue to require compliance with federal effluent limitation guidelines. Eligibility criteria in the permit continues to require compliance with both general and numeric water quality standards. Fees for GP5 coverage are \$125 for a single year or \$100 per year for multiple years.

Proposed formatting and other non-substantive changes to the GP5 will simplify existing language, improve clarity, and minimize unnecessary duplication. The following is a summary of other proposed changes:

- Add hazardous condition documentation and reporting requirements;
- Add definitions for “hazardous condition” and “representative sample”; and
- Revise the definition for “Waters of the United States” to reference the June 22, 2020 federal definition.

The proposed amendment to Chapter 64 establishes effective and expiration dates for GP5.

Stakeholders participated in the development of this proposed rule. The department also plans to hold a public hearing to obtain additional public comment.

David Schelling
Water Quality Bureau
Environmental Services Division
June 25, 2020

ENVIRONMENTAL PROTECTION COMMISSION[567]

Notice of Intended Action

**Proposing rule making related to NPDES general permit no. 5
and providing an opportunity for public comment**

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

Legal Authority for Rule Making

This rule making is proposed 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 proposed rule making is to renew National Pollutant Discharge Elimination System (NPDES) General Permit No. 5 (GP5), which authorizes the discharge of wastewater associated with mining and processing facilities. The permit requires the implementation of best management practices and requires monitoring of the wastewater effluent to determine compliance with the state’s water quality standards.

The rulemaking includes changes to GP5 in order to increase clarity, add definitions, revise the definition for “Water of the United States” to reference the federal definition as of June 22, 2020 (effective date of the final *Navigable Waters Protection Rule* published by the United States Environmental Protection Agency), and to comply with existing state rules. Annual fees are required with GP5. Fees are specified in Iowa Code 455B.197 and are not impacted by this rulemaking.

A copy of the proposed permit is available online at [www.iowadnr.gov/Environmental-Protection/Water-Quality/NPDES-Wastewater-Permitting/NPDES-General-Permits/ GP5-Mining-Processing](http://www.iowadnr.gov/Environmental-Protection/Water-Quality/NPDES-Wastewater-Permitting/NPDES-General-Permits/GP5-Mining-Processing).

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 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.

Public Comment

Any interested person may submit comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on September 4, 2020. Comments should be directed to:

David Schelling
Iowa Department of Natural Resources
Wallace State Office Building
502 East Ninth Street
Des Moines, Iowa 50319
Fax: 515.725.8207
Email: david.schelling@dnr.iowa.gov

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held via conference call as follows:

Persons who wish to attend the conference call should contact David Schelling via email at david.schelling@dnr.iowa.gov. A conference call number will be provided prior to the hearing. Persons who wish to make oral comments at the conference call public hearing must submit a request to David Schelling prior to the hearing to facilitate an orderly hearing.

September 2, 2020
2 to 3 p.m.

Conference Call
Wallace State Office Building

Persons who wish to make oral comments at the public hearing will be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

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).

The following rule making action is proposed:

Amend subrule 64.15(5) as follows:

64.15(5) "Discharge from Mining and Processing Facilities," NPDES General Permit No. 5, effective

July 20, ~~2016~~ 2021, to July 19, ~~2021~~ 2026.

Date

Kayla Lyon, Director

Administrative Rules
GOVERNOR'S OFFICE PRECLEARANCE FORM

Agency:	Environmental Protection Commission/Department of Natural Resources (Department)	
IAC Citation:	567 IAC Chapter 64, "Wastewater Construction and Operation Permits"	
Agency Contact:	David Schelling (515) 725-8407	
Statutory Authority:	Iowa Code section 455B.173(11)	
Preclearance Requested Review Deadline:	November 22, 2019	
Purpose of Proposed Rule:		
<p>The purpose of the proposed rule is to renew the National Pollutant Discharge Elimination System (NPDES) General Permit known as General Permit No. 5 (GP5), which expires on July 19, 2021. GP5 authorizes wastewater discharges from mines and quarries to waters of the United States throughout Iowa. This general permit defines the conditions for discharges resulting from mining and quarrying. GP5 became effective on July 20, 2016 and expires on July 19, 2021. GP5 must be renewed prior to July 20, 2021 to avoid a gap in coverage.</p>		
Need for Proposed Rule:		
<p>If GP5 is not renewed, the Department will be required to issue individual discharge permits for each mine or quarry site that creates discharges that reach waters of the United States. Compared to general permits, individual permits have more complicated application requirements, have higher fees, and take longer to issue. It is much more efficient for the Department and for permittees to renew GP5.</p> <p>Mines and quarries use water to transport materials, wash materials, suppress dust, cool equipment, and for air pollution control. Mines and quarries periodically need to be dewatered. GP5 is the instrument that defines the responsibilities and sets the conditions for allowing the discharges of this type of wastewater into waters of the United States. As of June 14, 2019, 346 mines and quarries were authorized to discharge under GP5. It is essential that adequate wastewater treatment take place before the wastewater enters the waterway. Not only does this help maintain the quality of the surface water for the health of flora and fauna that depend on the state's streams and rivers, it also preserves the resource for citizens who use the water for recreation and enjoyment.</p> <p>Therefore, the Department is proposing to renew GP5 with minor changes. The changes are intended to make the permit more user-friendly. The changes include updated formatting, improved clarity, additional definitions, and the inclusion of applicable existing state rules.</p>		
Summary of Informal Rulemaking Activities related to the Proposed Rule (e.g., stakeholder input):		
<p>One stakeholder meeting was held on June 17, 2019, to obtain input on the reissuance of GP5. Information regarding the meeting was published on the state's public meeting website, as well as on the Department's events calendar and wastewater permitting website. Meeting information was also published in a Department press release and emailed to more than 100 stakeholders and stakeholder organizations. At the meeting, the Department reviewed the proposed changes to 567 IAC Chapter 64 and the general permit, as well as the fiscal and jobs impact statements. Eight individuals attended the meeting. Attendees included representatives from Iowa Limestone Producers Association, Douds Stone, OMG Midwest, Wendling Quarries, Iowa Association of Business and Industry, Bard Materials, and Schildberg Construction Company.</p> <p>Two concerns were voiced during the meeting. The first concern was regarding the inclusion of the hazardous condition reporting requirements from IAC 567-131. These rules apply if included in the permit or not. With this explanation, parties were no longer concerned with the inclusion. The second concern voiced was in regards to the change of the definition of "Waters of the United States". Based on these voiced concerns, the proposed permit has been updated to provide the definition as specified in the code of federal regulations in effect as of January 1, 2015.</p> <p>Two comments were received via email or written correspondence during the 24 day comment period. Both comments voiced concern on the proposed definition of "Waters of the United States". Both comments requested the definition be that specified in federal administrative code in effect as of January 1, 2015. The proposed permit has been updated to reflect these requests.</p>		

The Department further contacted the Iowa Limestone Producers Association and the Iowa Farm Bureau Federation. No concerns were raised by these stakeholders.

As part of the reissuance of GP5, the Department plans to hold at least one public hearing to document any new concerns regarding the permit reissuance and determine if any additional changes to the permit are required.

The Department is prepared to seek Environmental Protection Commission approval to start formal rule making.

Administrative Rules
JOBS IMPACT STATEMENT

1. BACKGROUND INFORMATION

Agency:	Environmental Protection Commission/ Department of Natural Resources (Department)
IAC Citation:	567 IAC Chapter 64, "Wastewater Construction and Operation Permits"
Agency Contact:	David Schelling (515) 725-8407
Statutory Authority:	Iowa Code section 455B.173(11)
Objective:	The Department is proposing to reissue National Pollutant Discharge Elimination System (NPDES) general permit known as General Permit No. 5 (GP5), which authorizes wastewater discharges from mines and quarries to waters of the United States throughout Iowa. GP5 became effective on July 20, 2016 and expires on July 19, 2021.
Summary:	<p>The Department must either reissue GP5 or issue individual NPDES permits for each mine or quarry discharge to a water of the United States. Compared to general permits, individual NPDES permits have more complicated application requirements, have higher fees, and take longer to issue. Permittees will benefit from the Department's reissuance of GP5 compared to having to apply for an individual NPDES permit.</p> <p>Mines and quarries use water to transport materials, wash materials, suppress dust, cool equipment, and control air pollution. Mines and quarries all need to be periodically dewatered. GP5 sets the conditions for allowing discharges of this type to waters of the United States. As of June 14, 2019, 346 mines and quarries in Iowa were authorized to discharge under GP5. It is essential that adequate wastewater treatment takes place before the wastewater enters a waterway. This helps maintain the quality of the water for the health of flora and fauna that depend on the state's streams and rivers and also helps preserve the resource for citizens who use the water for recreation.</p>

2. JOB IMPACT ANALYSIS

<input checked="" type="checkbox"/> <i>Fill in this box if impact meets these criteria:</i>
<input checked="" type="checkbox"/> No Job Impact on private sector jobs and employment opportunities in the State. <i>(If you make this determination, you must include the following statement in the preamble to the rule: "After analysis and review of this rulemaking, no impact on jobs has been found.")</i>
Explanation: The Department has determined that the reissuance of GP5 will not impact private sector jobs and employment opportunities in the State. The annual fees associated with GP5 have been in place since 2006, see Iowa Code section 455B.197(1). No additional costs are expected to result from the proposed changes to GP5. Failure to renew GP5 would have a far reaching negative impact on entities currently authorized under the general permit. If the general permit is not available, these entities will need to apply for individual NPDES permits, which can take six months or more to obtain and which require higher annual fees.
<input type="checkbox"/> <i>Fill in this box if impact meets either of these criteria:</i>
<input type="checkbox"/> Positive Job Impact on private sector jobs and employment opportunities in the State.
<input type="checkbox"/> Negative Job Impact on private sector jobs and employment opportunities in the State.
<i>Description and quantification of the nature of the impact the proposed rule will have on private sector jobs and employment opportunities:</i>
<i>Categories of jobs and employment opportunities that are affected by the proposed rule:</i>
<i>Number of jobs or potential job opportunities:</i>
<i>Regions of the state affected:</i>

Additional costs to the employer per employee due to the proposed rule: (if not possible to determine, write "Not Possible to Determine.")

3. COST-BENEFIT ANALYSIS

The Agency has taken steps to minimize the adverse impact on jobs and the development of new employment opportunities before proposing a rule. See the following Cost-Benefit Analysis:

The Department worked closely with stakeholders to ensure that GP5 contained only the requirements necessary to protect the state's surface water resources.

The benefits of reissuing GP5 include:

1. Maintaining a permit that works well for the regulated public and the Department.
2. Maintaining defined limits for wastewater discharges from mines and quarries and clear expectations for operators.
3. Preserving the surface water quality so that the citizens who access the water for recreation and entertainment do not have their experiences diminished.
4. Preserving the surface water quality for the flora and fauna that depend on the water to sustain life.

4. FISCAL IMPACT

Please see the Fiscal Impact Statement for an identification and description of costs the Department anticipates state agencies, local governments, the public, and the regulated entities, including regulated businesses and self-employed individuals, will incur from implementing and complying with the proposed rule.

5. PREAMBLE

The information collected and included in this Jobs Impact Statement must be included in the preamble of the proposed rule, written in paragraph form. For rules that have no impact on jobs (see the first box in number 2 above), the following statement must be included in the preamble: "After analysis and review of this rulemaking, no impact on jobs has been found."

Administrative Rule Fiscal Impact Statement

Date:

Agency: Environmental Protection Commission/ Department of Natural Resources (Department)**IAC Citation:** 567 IAC Chapter 64, "Wastewater Construction and Operation Permits"**Agency Contact:** David Schelling (515) 725-8407**Summary of the Rule:**

The Department is proposing to reissue National Pollutant Discharge Elimination System (NPDES) general permit known as General Permit No. 5 (GP5), which authorizes wastewater discharges from mines and quarries to waters of the United States throughout Iowa. GP5 became effective on July 20, 2016 and expires on July 19, 2021.

The Department is proposing to reissue GP5 with minor revisions. These revisions include updated formatting, improved clarity, additional definitions, and the inclusion of applicable existing state rules.

The Department must either reissue GP5 or issue individual NPDES permits for each mine or quarry discharge. Compared to general permits, individual NPDES permits have more complicated application requirements, have higher fees, and take longer to issue. Permittees will benefit from the Department's issuance of GP5 compared to having to apply for an individual NPDES permit.

Because the management methods and costs related to GP5 are already part of the Department's wastewater program, any additional cost to the Department based on the reissuance of the general permit will be minimal and will not adversely impact the Department.

 Fill in this box if impact meets these criteria:
 No Fiscal Impact to the State.

 Fiscal Impact of less than \$100,000 annually or \$500,000 over 5 years.

 Fiscal Impact cannot be determined.
Brief Explanation:

The Department will use existing budget and resources to implement the rule.

Assumptions:

Describe how estimates were derived:

Estimated Impact to the State by Fiscal Year

	Year 1 (FY)	Year 2 (FY)
Revenue by Each Source:		
GENERAL FUND	\$0	\$0
FEDERAL FUNDS	\$0	\$0
Other (specify)	\$0	\$0
TOTAL REVENUE	\$0	\$0
Expenditures:		
GENERAL FUND	\$0	\$0
FEDERAL FUNDS	\$0	\$0
Other (specify) Air Contaminant Fee	\$0	\$0
TOTAL EXPENDITURES	\$0	\$0
NET IMPACT		

 This rule is required by State law or Federal mandate.

Please identify the state or federal law:

Funding has been provided for the rule change.

Please identify the amount provided and the funding source:

Funding has not been provided for the rule.

Please explain how the agency will pay for the rule change:

The Department will use existing budget and resources to implement the rule.

Fiscal impact to persons affected by the rule:

Mine and Quarry Operators: Operators discharging under GP5 will have the same compliance costs under the reissued permit as they do under the active permit.

Fiscal impact to Counties or other Local Governments (required by Iowa Code 25B.6):

Local Governmental Agencies: The Department expects no new impact to counties or other local governments due to the reissuance of GP5. A few facilities are owned or operated by counties, but compliance costs will be the same under the reissued permit as under the active permit.

**ENVIRONMENTAL PROTECTION COMMISSION[567]
Notice of Intended Action**

**Proposing rule making related to NPDES general permit no. 5
and providing an opportunity for public comment**

The Environmental Protection Commission (Commission) hereby proposes to amend Chapter 64, "Wastewater Construction and Operation Permits," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed 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 proposed rule making is to renew National Pollutant Discharge Elimination System (NPDES) General Permit No. 5 (GP5), which authorizes the discharge of wastewater associated with mining and processing facilities. The permit requires the implementation of best management practices and requires monitoring of the wastewater effluent to determine compliance with applicable limits.

The rule making includes changes to GP5 in order to increase clarity, add definitions, and to comply with existing state rules. Annual fees are required with GP5. Fees are specified in Iowa Code 455B.197 and are not impacted by this rule making.

A copy of the proposed permit is available online at www.iowadnr.gov/Environmental-Protection/Water-Quality/NPDES-Wastewater-Permitting/NPDES-General-Permits/GP5-Mining-Processing.

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 of Natural Resources (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.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on {deadline for public comments (**not less than 20 days** after publication)}.

Comments should be directed to:

David Schelling
Iowa Department of Natural Resources
Wallace State Office Building
502 East Ninth Street
Des Moines, Iowa 50319
Fax: 515.725.8202
Email: david.schelling@dnr.iowa.gov

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows. Upon arrival, attendees should proceed to the fourth floor to check in at the Department

reception desk to sign in and be directed to the appropriate hearing location.

{date/time/location of public hearing (**not less than 20 days** after Notice pub. date)}

Persons who wish to make oral comments at the public hearing will be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

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).

The following rule making action is proposed:

Amend subrule 64.15(5) as follows:

64.15(5) "Discharge from Mining and Processing Facilities," NPDES General Permit No. 5, effective July 20, ~~2016~~ 2021, to July 19, ~~2021~~ 2026.

Date

Kayla Lyon, Director

IOWA DEPARTMENT OF NATURAL RESOURCES

**NATIONAL POLLUTANT
DISCHARGE ELIMINATION SYSTEM (NPDES)**

GENERAL PERMIT NO. 5

EFFECTIVE DATES

[Insert permit issuance date] THROUGH [insert date 5 years after permit issuance date]

FOR

**DISCHARGE FROM
MINING AND PROCESSING FACILITIES**

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Part I. Coverage Under This Permit

A. Discharges Covered Under This Permit.

This permit authorizes discharge of the following to waters of the United States within the State of Iowa:

1. ~~M~~Materials wash water;
2. ~~M~~Materials transport water;
3. ~~S~~scrubber water used for air pollution control;
4. ~~W~~water used for dust suppression;
5. ~~M~~mine or quarry dewatering; and
6. ~~N~~on-contact cooling water used for cooling of crusher bearings, drills, saws, dryers, pumps and air compressors.

From facilities primarily engaged in mining or quarrying the following materials:

1. Dimension Stone (SIC 1411, [NAICS 212311](#));
2. Crushed and Broken Limestone (SIC 1422, [NAICS 212312](#));
3. Construction Sand and Gravel (SIC 1442, [NAICS 212321](#)); or
4. Clay, Ceramic, and Refractory Minerals, NEC (SIC 1459, [NAICS 212325](#)), except bentonite and magnesite.

Storm water associated with industrial activity that is discharged into an active mine or quarry, and is mixed with one or more sources of wastewater identified in the preceding paragraph, may be discharged under this permit. Separate storm water discharges, that is, storm water that is not discharged into an active mine or quarry before being discharged to a water of the United States, must be permitted under General Permits ~~#2 or~~ #3.

B. Limitations on Coverage.

The following discharges are not authorized by this permit:

1. ~~d~~Domestic sewage whether treated or untreated;
2. ~~N~~on-storm water discharges unless specifically identified in Part I.A. of this permit;
3. ~~D~~ischarges from open dumps as defined under RCRA;
4. ~~T~~he discharge of hazardous substances or oil resulting from an on-site spill;
5. ~~W~~water used in air pollution control devices by asphalt and concrete manufacturing facilities;
6. ~~A~~ny wastewater not generated at the site of the mine or quarry;
7. ~~S~~storm water discharges associated with industrial activity defined in Part VI of this permit except those identified in Part I.A. of this permit;
8. ~~A~~ny new or expanded discharge to Outstanding Iowa Waters (OIW), or any new or expanded discharge to Outstanding National Resource Waters (ONRW);
9. ~~A~~ny discharge to a state-owned natural or artificial lake;
10. ~~A~~ny discharge with a sulfate concentration higher than 1,514 mg/L; and
11. ~~A~~ny discharge that the ~~d~~Department has shown to be or may reasonably be expected to be contributing to a violation of a water quality standard.

C. Requiring an Individual Permit.

1. The ~~D~~epartment may require any person authorized ~~to discharge under~~ by this permit to apply for and obtain an individual NPDES permit by notifying the permittee in writing that ~~an individual~~ permit application is required. This notice shall include a brief statement of the reasons for this decision, an application form, a

statement setting a deadline ~~for the operator~~ to file/submit the application, and a statement that on the effective date of the individual NPDES permit, coverage under this general permit shall automatically terminate. If a ~~n-operator/person~~ fails to submit an individual NPDES permit application required by the dDepartment under this paragraph, coverage of this general permit automatically is terminated at the end of the day specified for submittal of the individual NPDES permit application.

2. Any person authorized to discharge under this permit may apply for an individual NPDES permit. In such cases, the discharger shall submit an individual application using DNR Forms 1, Form-2, and Form-5, and the Supplement—Sulfate and Chloride data in accordance with ~~the requirements of~~ 567 IAC 64.3(4).
- ~~3. a.~~ When an individual NPDES permit is issued for a discharge authorized under this general permit, the applicability of this general permit is automatically terminated on the effective date of the individual NPDES permit.
- ~~4.3. b.~~ When an individual NPDES permit is denied for a discharge otherwise subject to this general permit, the applicability of this general permit is automatically terminated on the date of such denial, unless otherwise specified by the dDepartment.

D. Authorization~~r~~

Where a mine or quarry is owned by one person but operated by another person, it is the operator's duty to obtain coverage under this permit.

1. ~~An operator must submit a~~ Notice of Intent (NOI) must be submitted in accordance with the requirements of Part II of this permit to be authorized to discharge under this general permit.
2. Within 30 days of the receipt of a complete NOI, the Ddepartment will either:
 - a. Issue an authorization to discharge; or
 - b. Deny coverage under this general permit and require submittal of an application for an individual NPDES permit in accordance with Part I.C.1 of this permit.

If the Ddepartment does not respond within 30 days of the receipt of a completed NOI, the discharge ~~will be~~ automatically authorized ~~as of the date construction or operation is scheduled to begin as provided in the NOI.~~

- ~~3. Authorized discharges may commence on the date shown on the authorization issued under Part I.D.2 of this permit. Unless the Department determines another date is appropriate, the authorization date shall be the later of:~~
- ~~4. the date the complete NOI was received by the Department, or~~
- ~~5. the date construction or operation is scheduled to begin as provided in the NOI.~~

Part II. Notice of Intent (NOI) Requirements

A. Deadlines for Filing a Notice of Intent~~r~~

1. Existing dischargers who had coverage under the general permit that expired July 19, 20216 and who intend to obtain coverage under this general permit shall submit to the Ddepartment the NOI specified in Part II.C. of this permit no later than January 15, 201722.
2. For new dischargers the NOI specified in this Part II.C. of this permit shall be submitted to the Ddepartment at least 30 days prior to the commencement of discharge.

~~3. Existing dischargers who have coverage under an individual NPDES permit may apply for coverage under the general permit upon expiration of the individual permit and by filing a NOI in accordance with 567 IAC 64.3(4)"b".~~

~~C.B. Failure to Notify.~~

Dischargers who fail to submit ~~z~~ either an NOI to be covered by this general permit or an application for an individual permit, and nonetheless discharge pollutants to a water of the United States within the State of Iowa, are in violation of the Clean Water Act and the Code of Iowa.

~~D.C. Contents of the Notice of Intent.~~

A complete NOI shall include ~~the following:~~

~~A~~ completed Notice of Intent (NOI) form, DNR Form 542-4006, or electronic equivalent ~~provided by the Department~~, signed in accordance with Standard Condition #5 of this permit, and the applicable fee as specified in 567 IAC 64.16(455b).

~~Electronic submission may be required in accordance with rules promulgated by the Ddepartment.~~

The ~~following~~ information ~~on the form s~~ shall be provided in the NOI include; the following:

1. Name, street address, and location of the site for which this notification is submitted. The site location must must be provided as include the 1/4 section, section, township, and range, the latitude and longitude, and the county in which the discharge is located;~~;~~
2. The owner's name, address, email address, and telephone number;~~;~~
3. The name, address and telephone number of any operator (contractor);~~;~~
- ~~3.4. The name, title, email address, and telephone number of a contact person;~~
5. A description of the discharge which; includ esing:
 - a. The type of discharge (new or existing);
 - b. Whether or not the discharge is to a municipal separate storm sewer system;
 - c. The number of discharge points;
 - d. What the discharge includes (quarry dewatering, materials wash water, non-contact cooling water, or air scrubber water);
 - e. The name of the receiving stream; and
 - ~~a.f. For new discharges, the date the discharge is to commence. The type of discharge (new or existing); whether or not the discharge is to a municipal separate storm sewer system; for new discharges the date the discharge is to commence; the number of discharge points; what the discharge includes (quarry dewatering, materials wash water, non-contact cooling water, air scrubber water), and the name of the receiving waters. —~~
- ~~4.6. An indication statement of~~ whether any existing quantitative data collected within three years prior to the effective date of this permit are is available describing the concentration of pollutants in discharges;~~;~~
- ~~5.7. The results of analysis of at least one representative sample of the discharge from each outfall for sulfate. If a discharge is not occurring~~ when the NOI is being completed at the time of completing the NOI, a sample result for sulfate shall be submitted within sixty (60) days following the next discharge;~~;~~
For sites that are continuing or renewing an authorization under General Permit #5 ~~(including the permit issued July 20, 2011)~~, a sample result for sulfate collected within 10 years prior to submittal of the NOI is sufficient; ~~and;~~
- ~~6. The applicable fees specified in 567 IAC 64.16(455B).~~

~~7.8.~~ The Standard Industrial Classification (SIC) code and the North American Industry Classification System (NAICS) for the facility.

~~E.D.~~ **Where to Submit.**

Paper Notices of Intent must be submitted to the ~~D~~department at the following address:

NPDES Section
Iowa Department of Natural Resources
~~Environmental Services Division~~
502 E. 9th Street
Des Moines, IA 50319-0034

~~Electronic submission may be required in accordance with rules promulgated by the Department.~~

~~G.E.~~ **Continuing Coverage.**

Any authorization to discharge under this permit is valid only through the permit expiration date. Coverage under this permit remains in effect beyond the expiration date only if the permittee:

1. Has filed a complete Notice of Intent to be covered by a reissued ~~or renewed~~ general permit within 180 days after the expiration of this permit; or,
2. Has filed a complete application for an individual NPDES permit in accordance with 567 IAC 64.3(4).

This continuing coverage remains in effect only until the ~~D~~department takes final action on the NOI or individual permit application. If this general permit is not reissued, the ~~D~~department will notify each discharger covered by this permit to apply for an individual NPDES permit according to the procedures identified 567 IAC 64.3(4) and Part I.C.1 ~~of this permit~~.

~~H.F.~~ **Transfer of Coverage Under this Permit.**

See Standard Condition #7.

~~I.G.~~ **Notice of Discontinuation.**

1. Within 30 days prior to or after elimination of the wastewater discharge, the operator or owner of the facility shall submit a Notice of Discontinuation (DNR Form 542-8038 or electronic equivalent) to the ~~d~~Department.
2. The Notice of Discontinuation shall contain the following information:
 - a. ~~the~~The name of the owner/operator to which the permit was issued;
 - b. ~~I~~the ~~general permit number and~~ permit authorization number; ~~and~~
 - c. ~~I~~the date the discharge was, ~~or will be,~~ eliminated; ~~and~~
 - d. ~~A~~ signed certification in accordance with Standard Condition #5.

Part III. Effluent Limitations

Any discharge authorized by this permit shall not exceed a maximum concentration for any day of 45 mg/l of Total Suspended Solids (TSS) or a 30 day average concentration of 30 mg/l Total Suspended Solids (TSS), nor shall the pH of the discharge be less than 6.5 or greater than 9.0. Dischargers subject to this permit must be in compliance with these limits upon commencement of coverage and for the entire term of this permit.

Part IV. Monitoring and Reporting Requirements

A. Monitoring Requirements.

The following monitoring is required for all facilities subject to this permit. If a facility has multiple discharge points, each discharge point must be monitored.

1. For quarry dewatering and other authorized discharges (except for materials wash water), a representative sample shall be collected at least annually and shall be analyzed for total suspended solids and pH; ~~and-~~
2. For discharges of materials wash water or ~~a combination of~~ materials wash water ~~in combination with~~ and any other authorized discharge, ~~the discharge shall be sampled~~ samples shall be collected at least monthly for each month ~~the discharge occurs during which a discharge that contains wash water occurs and.~~ The discharge samples shall be analyzed for total suspended solids and pH. A discharge is considered to contain wash water whenever there is a wash plant operating at the facility and for one calendar month after the wash plant ceases operation.

B. Reporting.

All permittees are required to submit ~~signed copies of~~ discharge monitoring results on the Annual Discharge Monitoring form, DNR Form 542-8035 or the electronic equivalent, by January 15th each year for the previous calendar year. ~~The Annual Discharge Monitoring form/report~~ must contain all monitoring as required in Part IV.A and must be signed in accordance with Standard Condition #5 of this permit. Paper Annual Discharge Monitoring forms must be submitted to Iowa DNR, NPDES Section, Iowa Department of Natural Resources, 502 East 9th Street, Des Moines, IA 50319-0034. .

~~Electronic submission may be required in accordance with rules promulgated by the Department.~~

C. Notification.

Facilities with at least one discharge through a large or medium municipal separate storm sewer system ~~(systems serving a population of 100,000 or more)~~ must submit signed copies of discharge monitoring reports or results to the operator of the municipal separate storm sewer system upon request.

D. Hazardous Condition Documentation and Reporting.

1. Six (6) Hour Hazardous Condition Notification

If you observe or are otherwise made aware of a hazardous condition, as defined in Part VI, which may have resulted from a discharge authorized under this permit, you must immediately notify the Department. As required at 567 IAC Chapter 131.2, this notification must be made by telephone within six (6) hours of you becoming aware of the hazardous condition. Notification shall be made by calling the department's Environmental Emergency Reporting Hotline at (515)725-8694. At a minimum, notifications must include at least the following information the following:

- a. The caller's name and telephone number;
- b. Operator name and mailing address;
- c. The name and telephone number of a contact person, if different than the person providing the 6-hour notice;
- d. How and when you became aware of the hazardous condition;

- e. [The exact location of the hazardous condition;](#)
- f. [Name of any waterbody affected by the hazardous condition;](#)
- g. [Description of the hazardous condition; and](#)
- h. [Description of any steps you have taken or will take to contain any hazardous effects.](#)

2. [Thirty \(30\) Day Hazardous Condition Written Report](#)

[Within thirty \(30\) days of becoming aware of the hazardous condition reported pursuant to Part IV.D.1, you must postmark a written report of the hazardous condition to the appropriate regional department Field Office. The Field Office addresses are available at <http://www.iowadnr.gov>. Your hazardous condition report must include the information required in 567 IAC Chapter 131.2, Report of Hazardous Conditions. Contact the appropriate department Field Office for more information. A copy of the hazardous condition report submitted to the ~~d~~Department must be retained in accordance with **Standard Condition #4** of this permit.](#)

~~Note that if the d provides future notification to dischargers that other reporting options are available (e.g., electronic submission), operators may take advantage of those options to satisfy the reporting requirements of this permit.~~

~~F.E. Retention of Records.~~

See Standard Condition #4.

Part V. Best Management Practices for New and Expanded Dischargers

All new and expanded dischargers must provide settling and pH adjustment sufficient to comply with the numeric effluent limitations in Part III of this permit and, in addition, shall use best management practices which will reduce the discharge of pollutants including the following:

1. ~~use~~[Use](#) settled wash water and/or quarry water for dust suppression when dust suppression is necessary; ~~and-~~
2. ~~locate~~[Locate](#), design and operate quarry sumps, settling ponds and pumping equipment to maximize the settling of suspended solids prior to discharge.

New and expanded dischargers shall also implement other best management practices ~~determined to be~~[which are](#) practical, cost effective and economically efficient including but not limited to the following:

1. ~~implement~~[Implement](#) recycling of water used for materials washing and classifying whenever it is practical; ~~and-~~
2. ~~use~~[Use](#) hydraulic dredging whenever practical and affordable (applicable only to sand and gravel facilities).

Part VI. Definitions

~~“CWA” or “Clean Water Act”~~ [-](#) means the Federal Water Pollution Control Act.

~~“Department”~~ [-](#) means the Iowa Department of Natural Resources.

~~“Existing discharge”~~ [-](#) means a discharge from a mine or quarry that commenced prior to July 20, 2011.

“Expanded discharge” - means a discharge from a mine or quarry from which: (i) any material was extracted prior to July 20, 2011; and, (ii) new activities will be conducted that will result in a new or increased discharge of pollutants; or, the point of discharge is moved to an upstream location on the same stream. For example, a wash plant is set-up on the site for the first time. An increase in the areal extent of a mine or quarry at an existing site as a result of normal mining does not constitute an expanded discharge for purposes of this permit.

“Facility or activity” - means any NPDES point source or any other facility or activity (including land or appurtenances thereto) that is subject to regulation under the NPDES program.

“Hazardous condition” - [any situation involving the actual, imminent, or probable spillage, leakage, or release of a hazardous substance onto the land, into a water of the state or into the atmosphere which, because of the quantity, strength and toxicity of the hazardous substance, its mobility in the environment and its persistence, creates an immediate or potential danger to the public health or safety or to the environment. \[567 IAC Chapter 131\]](#)

“Hazardous substance” - means any substance or mixture of substances that presents a danger to the public health or safety and includes but is not limited to a substance that is toxic, corrosive, or flammable, or that is an irritant or that generates pressure through decomposition, heat, or other means. "Hazardous substances" may include any hazardous waste identified or listed by the administrator of the United States Environmental Protection Agency under the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976, or any toxic pollutant listed under section 307 of the federal Water Pollution Control Act as amended to January 1, 1977, or any hazardous substance designated under section 311 of the federal Water Pollution Control Act as amended to January 1, 1977, or any hazardous material designated by the secretary of transportation under the Hazardous Materials Transportation Act. 455B.381(5),-2019 Code of Iowa.

“Large and Medium municipal separate storm sewer system” - means all municipal separate storm sewers that are either:

- (i) located in an incorporated place with a population of 100,000 or more as determined by the latest Decennial Census by the Bureau of Census; or
- (ii) located in the counties with unincorporated urbanized populations of 100,000 or more, except municipal separate storm sewers that are located in the incorporated places, townships or towns within such counties; or
- (iii) owned or operated by a municipality other than those described in paragraph (i) or (ii) and that are designated by the Department as part of the large or medium municipal separate storm sewer system.

“Municipality” - means a city, town, borough, county, parish, district, association, or other public body created by or under State law.

“New discharge” - means a mine or quarry the construction of which is commenced after July 20, 2011 and from which there is or will be a new, altered or increased discharge of pollutants. A new discharge also includes a mine or quarry the construction of which commenced prior to July 20, 2011 where there will be a discharge into a stream or a stream segment not previously affected by a discharge from the mine or quarry. Construction will be deemed to have commenced beginning with the start of removing overburden.

“Owner or operator” - means the owner or operator of any “facility or activity” subject to regulation under the NPDES program.

“Representative sample” - [means a sample which can be expected to exhibit the average properties of the discharge.](#)

“Storm water” - means storm water runoff, snow melt runoff, and surface runoff and drainage.

“Storm water discharge associated with industrial activity” means the discharge from any conveyance which is used for collecting and conveying storm water and which is directly related to manufacturing, processing or raw materials storage areas at an industrial plant. The term does not include discharges from facilities or activities excluded from the NPDES program under 40 CFR Part 122. The term includes, but is not limited to, storm water discharges from industrial plant yards; immediate access roads and rail lines used or traveled by carriers of raw materials, manufactured products, waste material, or by-products used or created by the facility; material handling sites; refuse sites; sites used for the application or disposal of process waste waters (as defined at 40 CFR part 401); sites used for the storage and maintenance of material handling equipment; sites used for residual treatment, storage, or disposal; shipping and receiving areas; manufacturing buildings; storage areas (including tank farms) for raw materials, and intermediate and finished products; and areas where industrial activity has taken place in the past and significant materials remain and are exposed to storm water. Material handling activities include the storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, finished product, by-product, or waste product. The term excludes areas located on plant lands separate from the plant's industrial activities, such as office buildings and accompanying parking lots as long as the drainage from the excluded areas is not mixed with storm water drained from the above described areas. Industrial facilities (including industrial facilities that are Federally, State, or municipally owned or operated that meet the description of the facilities listed in the following paragraphs (i)-(xi) of this definition) include those facilities designated under 40 CFR 122.26(a)(1)(v). The following categories of facilities are considered to be engaging in "industrial activity" for purposes of this definition;

- (i) Facilities subject to storm water effluent limitations guidelines, new source performance standards, or toxic pollutant effluent standards under 40 CFR Subchapter N (except facilities with toxic pollutant effluent standards which are exempted under category (xi) of this definition);
- (ii) Facilities classified as Standard Industrial Classifications 24 (except 2434), 26 (except 265 and 267), 28 (except 283 and 285), 29, 311, 32 (except 323), 33, 3441, 373;
- (iii) Facilities classified as Standard Industrial Classifications 10 through 14 (mineral industry) including active or inactive mining operations (except for areas of coal mining operations no longer meeting the definition of a reclamation area under 40 CFR 434.11(1) because the performance bond issued to the facility by the appropriate SMCRA authority has been released, or except for areas of non-coal mining operations which have been released from applicable State or Federal reclamation requirements after December 17, 1990) and oil and gas exploration, production, processing, or treatment operations, or transmission facilities that discharge storm water contaminated by contact with or that has come into contact with, any overburden, raw material, intermediate products, finished products, byproducts or waste products located on the site of such operations; (inactive mining operations are mining sites that are not being actively mined, but which have an identifiable owner/operator; inactive mining sites do not include sites where mining claims are being maintained prior to disturbances associated with the extraction, beneficiation, or processing of mined materials, nor sites where minimal activities are undertaken for the sole purpose of maintaining a mining claim);
- (iv) Hazardous waste treatment, storage, or disposal facilities, including those that are operating under interim status or a permit under Subtitle C of RCRA;
- (v) Landfills, land application sites, and open dumps that receive or have received any industrial wastes (waste that is received from any of the facilities described under this subsection) including those that are subject to regulation under Subtitle D of RCRA;
- (vi) Facilities involved in the recycling of materials, including metal scrap yards, battery reclaimers, salvage yards, and automobile junkyards, including but limited to those classified as Standard Industrial Classification 5015 and 5093;
- (vii) Steam electric power generating facilities, including coal handling sites;

- (viii) Transportation facilities classified as Standard Industrial Classifications 40, 41, 42 (except 4221-4225), 43, 44, 45 and 5171 which have vehicle maintenance shops, equipment cleaning operations, or airport deicing operations. Only those portions of the facility that are either involved in vehicle maintenance (including vehicle rehabilitation, mechanical repairs, painting, fueling, and lubrication), equipment cleaning operations, airport deicing operations, or which are otherwise identified under paragraphs (i)-(vii) or (ix)-(xi) of this definition are associated with industrial activity;
- (ix) Treatment works treating domestic sewage or any other sewage sludge or wastewater treatment device or system, used in the storage treatment, recycling, and reclamation of municipal or domestic sewage, including land dedicated to the disposal of sewage sludge that are located within the confines of the facility, with a design flow of 1.0 mgd or more, or required to have an approved pretreatment program under 40 CFR 403. Not included are farm lands, domestic gardens or lands used for sludge management where sludge is beneficially reused and which are not physically located in the confines of the facility, or areas that are in compliance with 40 CFR 503;
- (x) Construction activity including clearing, grading and excavation activities except operations that result in the disturbance of less than one acre of total land. Construction activity also includes the disturbance of less than one acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb one acre or more;
- (xi) Facilities under Standard Industrial Classifications 20, 21, 22, 23, 2434, 25, 265, 267, 27, 283, 285, 30, 31 (except 311), 323, 34 (except 3441), 35, 36, 37 (except 373), 38, 39 and 4221-4225.

“Water of the United States or Waters of the U.S.” -- means those waters defined at 40 CFR §122.2 adopted by the United States as of (January 1, 2015 June 22, 2020).

“Water quality standard” - means water quality standards established by 567 IAC 61, including the general water quality criteria (narrative standards) in 567 IAC 61.3(2) and the specific water quality criteria (numeric standards) in 567 IAC 61.3(3).

Part VII. Standard Conditions

1. Administrative Rules

Rules of this Department that govern the operation of your facility in connection with this permit are published in Part 567 of the Iowa Administrative Code (IAC) in Chapters 60-65, 67 and 121. Reference to the term “rule” in this permit means the designated provision of Part 567 of the IAC. Reference to the term “CFR” means the Code of Federal Regulations.

2. Definitions

- (a) 30 day average means the sum of the total daily discharges by concentration during a calendar month, divided by the total number of days during the month that measurements were made.
- (b) ~~daily~~Daily maximum means the total discharge by concentration during a twenty-four hour period.

3. Duty to Provide Information

You must furnish to the Director, within a reasonable time, any information the Director may request to determine compliance with this permit or determine whether cause exists for terminating coverage under this permit, in accordance with 567 IAC 64.3(11)“c”. You must also furnish to the Director, upon request, copies of any records required to be kept by this permit.

4. Monitoring and Records of Operation

- (a) Maintenance of records. You shall retain for a minimum of three years all paper and electronic records of monitoring activities and results including all original strip chart recordings for continuous monitoring instrumentation and calibration and maintenance records. **{See 567 IAC 63.2(3)}**
- (b) Any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$10,000 or by imprisonment for not more than two years, or both. **{See 40 CFR 122.41(j)(5)}**

5. Signatory Requirements

Applications, reports or other information submitted to the ~~D~~department in connection with this permit must be signed and certified as required by 567 IAC 64.3(8).

6. Other Information

Where you become aware that you failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application, you must promptly submit such facts or information. Where you become aware that you failed to submit any relevant facts in the submission of in any report to the Director, including records of operation, you shall promptly submit such facts or information. **{See 567 IAC 60.4(2)“a” and 567 IAC 63.7}**

7. Transfer of Coverage Under the Permit

Where the owner and/or operator of the facility changes, the ~~D~~department must be notified of the transfer within 30 days. If a discharge is covered by this general permit, the operator of record shall be subject to all terms and conditions of this general permit. The Director shall be notified in writing within 30 days of the transfer. No transfer of the authorization to discharge from the facility represented by the permit shall take place prior to notifying the ~~D~~department of the transfer. Whenever the address of the operator is changed, the ~~D~~department shall be notified in writing within 30 days of the address change. ~~Electronic notification is not sufficient; all transfers or address changes must be reported to the Department by mail. {See 567 IAC 64.14}~~

8. Proper Operation and Maintenance

All facilities and control systems shall be operated as efficiently as possible and maintained in good working order. A sufficient number of staff, adequately trained and knowledgeable in the operation of your facility shall be retained at all times and adequate laboratory controls and appropriate quality assurance procedures shall be provided to maintain compliance with the conditions of this permit. **{See 40 CFR 122.41(e) and 567 IAC 64.7(7)“f”}**

9. Permit Modification, Suspension or Revocation

- (a) Coverage under this permit may be revoked for cause including but not limited to those specified in 567 IAC 64.3(11) and 567 IAC 64.6(3).
- (b) This permit may be modified due to conditions or information on which this permit is based, including any new standard the ~~D~~department may adopt that would change the required effluent limits. **{See 40 CFR 122.62(a)(2) and 567 IAC 64.3(11)}**

The filing of a request for permit modification, revocation or suspension, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

10. Duty to Comply

You must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and is grounds for enforcement action; termination of coverage under this permit; or denial of coverage under a reissued general permit. Authorization to discharge under this permit does not relieve you of the

responsibility to comply with all local, state and federal laws, ordinances, regulations or other legal requirements applying to the operation of your facility. *{See 40 CFR 122.41(a) and 567 IAC 64.7(4)“e”}*

11. Duty to Mitigate

You shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment. *{See 40 CFR 122.41(d) and 567 IAC 64.7(5)“i”}*

12. Twenty-four Hour Reporting

You shall report any noncompliance that may endanger human health or the environment, including, but not limited to, violations of maximum daily limits for any toxic pollutant (listed as toxic under 307(a)(1) of the Clean Water Act) or hazardous substance (as designated in 40 CFR Part 116 pursuant to 311 of the Clean Water Act). Information shall be provided orally within 24 hours from the time you become aware of the circumstances. A written submission that includes a description of noncompliance and its cause; the period of noncompliance including exact dates and times, whether the noncompliance has been corrected or the anticipated time it is expected to continue; and the steps taken or planned to reduce, eliminate, and prevent a reoccurrence of the noncompliance must be provided within 5 days of the occurrence. *{See 567 IAC 63.12}*

13. ~~Other~~ Noncompliance

You shall report all instances of noncompliance not reported under [the Hazardous Condition reporting requirements contained in Part IV Condition #12](#) at the time monitoring reports are submitted. You shall give advance notice to the appropriate regional field office of the ~~D~~ department of any planned activity which may result in noncompliance with permit requirements. *{See 567 IAC 63.14}*

14. Inspection of Premises, Records, Equipment, Methods and Discharges

You are required to permit authorized personnel to:

- (a) Enter upon the premises where a regulated facility or activity is located or conducted or where records are kept under conditions of this permit.
- (b) Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit.
- (c) Inspect, at reasonable times, any facilities, equipment, practices or operations regulated or required under this permit.
- (d) Sample or monitor, at reasonable times, to assure compliance or as otherwise authorized by the Clean Water Act.

15. Failure to Submit Fees

Authorization to discharge under this permit may be revoked, if the required permit fees are not submitted within thirty (30) days of the date of notification that such fees are due. *{See 567 IAC 64.16(1)}*

16. Need to Halt or Reduce Activity

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

{See 40 CFR 122.41(c) and 567 IAC 64.7(7)“j”}

17. Notice of Changed Conditions

You are required to notify the director of any changes in existing conditions or information on which this permit is based. This includes, but is not limited to, the following:

- (a) As soon as you know or have reason to believe that any activity has occurred or will occur which would result in the discharge of any toxic pollutant which is not limited in this permit. *{See 40 CFR 122.42(a)}*

- (b) If you have begun or will begin to use or manufacture as an intermediate or final product or byproduct any toxic pollutant which was not reported in the permit application.
- (c) No construction activity that will result in disturbance of one acre or more shall be initiated without first obtaining coverage under NPDES General Permit No. 2 for “Storm water discharge associated with construction activity”.

18. Use of Certified Laboratories

Analyses of wastewater that are required to be submitted to the ~~D~~department as a result of this permit must be performed by a laboratory certified by the State of Iowa. Routine, on-site monitoring for pH, temperature, dissolved oxygen, total residual chlorine and other pollutants that must be analyzed immediately upon sample collection, settleable solids, physical measurements, and operational monitoring tests specified in 567 IAC 63.3(4) are excluded from this requirement.

19. Bypasses

- (a) Definition – “Bypass” means the diversion of waste streams from any portion of a treatment facility or collection system. A bypass does not include internal operational waste stream diversions that are part of the design of the treatment facility, maintenance diversions where redundancy is provided, diversions of wastewater from one point in a collection system to another point in a collection system, or wastewater backups into buildings that are caused in the building lateral or private sewer line.
- (b) Prohibitions
 - i. Bypasses from any portion of a treatment facility or from a sanitary sewer collection system designed to carry only sewage are prohibited.
 - ii. Bypass is prohibited and the ~~D~~department may not assess a civil penalty against a permittee for bypass if the permittee has complied with all of the following:
 - (1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage; and
 - (2) There were no feasible alternatives to the bypass such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
 - (3) The permittee submitted notices as required by paragraph “d” of this section.
- (c) The Director may approve an anticipated bypass after considering its adverse effects if the Director determines that it will meet the three conditions listed above and a request for bypass has been submitted to the ~~d~~Department in accordance with 567 IAC 63.6(2).
- (d) Reporting bypasses. Bypasses shall be reported in accordance with 567 IAC 63.6.

20. Upset Provision

- (a) Definition - “Upset” means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
- (b) Effect of an upset. An upset constitutes an affirmative defense in an action brought for noncompliance with such technology based permit effluent limitations if the requirements of paragraph “c” of this condition are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

- (c) Conditions necessary for demonstration of an upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate through properly signed operating logs or other relevant evidence that;
- (i) An upset occurred and that the permittee can identify the cause(s) of the upset;
 - (ii) The permitted facility was at the time being properly operated;
 - (iii) The permittee submitted notice of the upset to the dDepartment in accordance with 567 IAC 63.6(3); and
 - (iv) The permittee complied with any remedial measures required in accordance with 567 IAC 63.6(6).
- (d) Burden of Proof. In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

21. Property Rights

This permit does not convey any property rights of any sort or any exclusive privilege. *{See 567 IAC 64.4(3)"b"}*

22. Effect of a Permit

Compliance with a permit during its term constitutes compliance, for purposes of enforcement, with sections 301, 302, 306, 307, 318, 403 and 405(a)-(b) of the Clean Water Act, and equivalent limitations and standards set out in 567 IAC Chapters 61 and 62. *{See 567 IAC 64.4(3)"a"}*

23. Severability

The provisions of this permit are severable and if any provision or application of any provision to any circumstance is found to be invalid by this dDepartment or a court of law, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected by such finding.

24. Responsible Person

An operator authorized to discharge under this general permit is responsible for compliance with all terms and conditions of this permit including but not limited to all discharges caused by or resulting from activities by leaseholders, contractors and subcontractors.

**Iowa Department of Natural Resources
Environmental Protection Commission**

ITEM

7

DECISION**TOPIC**

Notice of Intended Action – Chapter 64: “Wastewater Construction and Operation Permits”, to include Pesticide Discharges

The Commission is asked to approve the Notice of Intended Action to initiate rulemaking to amend Chapter 64, “Wastewater Construction and Operation Permits.” The proposed rule will renew General Permit No. 7, which authorizes the discharge from a point source to waters of the United States of biological pesticides and chemical pesticides that leave a residue.

The renewed General Permit will continue to require compliance with general water quality criteria through the use of best management practices (BMPs) and visual monitoring of the application site for adverse impacts caused by the application of pesticides. The BMPs include evaluating alternative pest management tools, following pesticide product label instructions, and conducting regular equipment maintenance.

Proposed formatting and other non-substantive changes to General Permit No. 7, will simplify existing language, improve clarity, and minimize unnecessary duplication. The following is a summary of other proposed changes to General Permit No. 7:

- Add coverage for discharges from the ground application of a pesticide to a forest canopy,
- Require that the exact location of a hazardous condition and the name of any affected waterbody be reported to the Department,
- Remove unnecessary language allowing the Department to impose additional, enforceable permit conditions in a written notice,
- Remove the requirement for operators to keep a copy of the General Permit, and
- Revise the definition for “Waters of the United States” to reference the June 22, 2020 federal definition.

The proposed amendment to Chapter 64 establishes an updated effective and expiration date for General Permit No. 7.

Stakeholders participated in the development of these proposed rules. The Department also plans to hold one public hearing to obtain additional public comment.

Wendy Hieb
Water Quality Bureau
Environmental Services Division
June 5, 2020

**ENVIRONMENTAL PROTECTION COMMISSION[567]
Notice of Intended Action**

**Proposing rule making related to NPDES general permit no. 7
and providing an opportunity for public comment**

The Environmental Protection Commission (Commission) hereby proposes to amend Chapter 64, "Wastewater Construction and Operation Permits," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed 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 proposed rule making is to renew National Pollutant Discharge Elimination System (NPDES) General Permit No. 7 (GP7), which authorizes the discharge of biological pesticides and chemical pesticides that leave a 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 as 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.

The rule making includes formatting and other non-substantive changes to GP7 to simplify existing language, improve clarity, and minimize unnecessary duplication. The 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. 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 waterbody 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 requirement 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 “Waters 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.

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.

Public Comment

Any interested person may submit comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on September 4, 2020. Comments should be directed to:

Melinda McCoy
Iowa Department of Natural Resources
Wallace State Office Building
502 East Ninth Street
Des Moines, Iowa 50319
Fax: 515.725.8202
Email: melinda.mccoy@dnr.iowa.gov

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held via conference call as follows. Persons who wish to attend the conference call should contact Melinda McCoy via email at melinda.mccoy@dnr.iowa.gov. A conference call number will be provided prior to the hearing. Persons who wish to make oral comments at the conference call public hearing must submit a request to Melinda McCoy prior to the hearing to facilitate an orderly hearing.

September 1, 2020
2 to 3 p.m.

Video/conference call
Wallace State Office Building

Persons who wish to make oral comments at the public hearing will be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

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).

The following rule making action is proposed:

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.

Date

Kayla Lyon, Director

Administrative Rules
GOVERNOR'S OFFICE PRECLEARANCE FORM

Agency:	Environmental Protection Commission/Department of Natural Resources (Department)	
IAC Citation:	567 IAC Chapter 64, "Wastewater Construction and Operation Permits"	
Agency Contact:	Melinda McCoy (515) 725-8402	
Statutory Authority:	Iowa Code section 455B.173(11)	
Preclearance Requested Review Deadline:	November 22, 2019	
Purpose of Proposed Rule:		
<p>The purpose of the proposed rule is to renew the National Pollutant Discharge Elimination System (NPDES) General Permit known as General Permit No. 7 (GP7), which expires on May 17, 2021. GP7 allows for the discharge of biological pesticides and chemical pesticide residuals 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 as they are excluded from the Clean Water Act (CWA). No fees are associated with GP7.</p>		
Need for Proposed Rule:		
<p>In a January 7, 2009 decision, the U.S. Sixth Circuit Court of Appeals ruled that the application of pesticides to, or over, waters of the United States¹ is not exempt from the CWA's permitting requirements. As a result, states and the U.S. EPA were required to issue general NPDES permits for point source discharges of biological pesticides and chemical pesticide residuals to waters of the United States. The Department originally issued GP7 on March 30, 2011. The permit was re-issued on May 18, 2016, and will expire on May 17, 2021.</p> <p>GP7 must be renewed by May 18, 2021, to avoid a gap in general permit coverage. Failure to renew GP7 would have a far reaching negative impact on entities currently applying pesticides under GP7, including cities, private contractors, and government agencies. If GP7 is not available, these entities will need to apply for individual NPDES permits, which can take six months or more to obtain and require a fee payment. Individual permits could not be issued in a timely manner to satisfy most pesticide application needs, such as those for mosquito and aquatic weed control.</p> <p>Therefore, the Department is proposing to renew GP7. The majority of the changes proposed for GP7 are non-substantive in nature and are intended to make the permit more user-friendly. These include formatting changes and revisions to simplify existing language, improve clarity, and minimize unnecessary duplication. Additionally, the Department is proposing four substantive changes to the permit.</p> <ol style="list-style-type: none"> 1. Add coverage for discharges resulting from "ground application" of a pesticide to a forest canopy. This is a method used to control pests such as the gypsy moth and new pests like the walnut twig beetle. 2. Revise the 6-hr hazardous condition notification requirements to require reporting of the exact location of the hazardous condition and the name of any affected waterbody as this information is important for Department response efforts. 3. Remove Part 5.4 "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 the part does not affect the Department's authority to enforce permit conditions. 4. Remove the requirement for operators to keep a copy of GP7 since this requirement is not included in other general permits issued by the Department. 		
Summary of Informal Rulemaking Activities related to the Proposed Rule (e.g., stakeholder input):		
<p>One stakeholder meeting was held on May 21, 2019, to obtain input on the reissuance of GP7. Information regarding the meeting was published on the state's public meeting website, as well as on the Department's events calendar and wastewater permitting website. Meeting information was also published in a Department press release, sent through</p>		

¹ "Waters of the United States" as defined in the code of federal regulations in effect as of January 1, 2015.

Department listserves to over 15,000 subscribers, and emailed to 123 specific stakeholders and stakeholder organizations. At the meeting, the Department reviewed the proposed changes to 567 IAC Chapter 64 and the general permit, as well as the fiscal and jobs impact statements. Seven individuals attended the meeting. Attendees included representatives from Iowa Soybean Association, Iowa Agricultural Aviation Association, Brown Winick Attorneys at Law, Iowa Weed Commissioner's Association, and Iowa Department of Transportation. No concerns were received at the meeting and no comments were received via email or written correspondence during the 21-day comment period.

The Department also contacted the Iowa Farm Bureau Federation and the Iowa Department of Transportation in October 2019. No concerns were raised about the reissuance of the permit as proposed.

As part of the reissuance of GP7, the Department plans to hold at least one public hearing to document any new concerns regarding the permit reissuance and determine if any additional changes to the permit are required.

The Department is prepared to seek Environmental Protection Commission approval to start formal rulemaking.

Administrative Rules
JOBS IMPACT STATEMENT

1. BACKGROUND INFORMATION

Agency:	Environmental Protection Commission/ Department of Natural Resources (Department)
IAC Citation:	567 IAC Chapter 64, "Wastewater Construction and Operation Permits"
Agency Contact:	Melinda McCoy (515) 725-8402
Statutory Authority:	Iowa Code section 455B.173(11)
Objective:	The objective of the proposed rule is to renew the National Pollutant Discharge Elimination System (NPDES) General Permit known as General Permit No. 7 (GP7), which expires on May 17, 2021. GP7 allows for the discharge of biological pesticides and chemical pesticide residuals 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 as they are excluded from the Clean Water Act (CWA).
Summary:	<p>In a January 7, 2009 decision, the U.S. Sixth Circuit Court of Appeals ruled that the application of pesticides to, or over, waters of the United States is not exempt from the CWA's permitting requirements. As a result, states and the U.S. EPA were required to issue NPDES permits for point source discharges of biological pesticides and chemical pesticide residuals to waters of the United States. The Department originally issued GP7 on March 30, 2011. The permit was re-issued on May 18, 2016, and will expire on May 17, 2021.</p> <p>GP7 must be renewed by May 18, 2021, to avoid a gap in general permit coverage. Therefore, the Department is proposing to renew GP7. The majority of the changes proposed for GP7 are non-substantive in nature and are intended to make the permit more user-friendly. These include formatting changes and revisions to simplify existing language, improve clarity, and minimize unnecessary duplication. Additionally, the Department is proposing four substantive changes.</p> <ol style="list-style-type: none"> 1. Add coverage for discharges resulting from "ground application" of a pesticide to a forest canopy. This is a method used to control pests such as the gypsy moth and new pests like the walnut twig beetle. 2. Revise the 6-hr hazardous condition notification requirements to require reporting of the exact location of the hazardous condition and the name of any affected waterbody as this information is important for Department response efforts. 3. Remove Part 5.4 "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 the part does not affect the Department's authority to enforce permit conditions. 4. Remove the requirement for operators to keep a copy of GP7 since this requirement is not included in other general permits issued by the Department.

2. JOB IMPACT ANALYSIS

<input checked="" type="checkbox"/> <i>Fill in this box if impact meets these criteria:</i>
<input checked="" type="checkbox"/> No Job Impact on private sector jobs and employment opportunities in the State. <i>(If you make this determination, you must include the following statement in the preamble to the rule: "After analysis and review of this rulemaking, no impact on jobs has been found.")</i>
Explanation: The Department has determined that the reissuance of GP7 will not impact private sector jobs and employment opportunities in the State. No fees are associated with GP7, which has been in place for more than 8 years and is accepted by pesticide applicators as a necessary tool to allow for the discharge of biological pesticides and chemical pesticide residuals to waters of the United States. No additional costs are expected to result from the proposed changes

to GP7. Failure to renew GP7 would have a far reaching negative impact on entities currently applying pesticides under the general permit, including cities, private contractors, and government agencies. If GP7 is not available, these entities will need to apply for individual NPDES permits, which can take six months or more to obtain and which require fee payment. Individual permits could not be issued in time to satisfy most pesticide application needs, such as those for mosquito and aquatic weed control.

Fill in this box if impact meets either of these criteria:

Positive Job Impact on private sector jobs and employment opportunities in the State.

Negative Job Impact on private sector jobs and employment opportunities in the State.

Description and quantification of the nature of the impact the proposed rule will have on private sector jobs and employment opportunities:

Categories of jobs and employment opportunities that are affected by the proposed rule:

Number of jobs or potential job opportunities:

Regions of the state affected:

Additional costs to the employer per employee due to the proposed rule: (if not possible to determine, write "Not Possible to Determine.")

3. COST-BENEFIT ANALYSIS

The Agency has taken steps to minimize the adverse impact on jobs and the development of new employment opportunities before proposing a rule. See the following Cost-Benefit Analysis:

The Department worked closely with stakeholders to ensure that GP7 contained only the requirements necessary to protect the state's surface water resources. The proposed permit continues to require the same three basic best management practices: evaluating alternative pest management tools, following pesticide product label instructions, and performing regular maintenance of containers and application equipment. It also continues to require notification to the Department for a hazardous condition resulting from pesticide application.

The benefits of reissuing GP7 include:

1. Maintaining a permit that is easily manageable for the regulated public and the Department.
2. Providing regulatory certainty for pesticide applicators through a consistent set of state-wide requirements.
3. Offering immediate coverage for eligible discharges when pesticides need to be applied on short notice.
4. Continuing a review procedure for pesticide applications to designated drinking water sources.
5. Preserving surface water quality for recreation and for aquatic life.

4. FISCAL IMPACT

Please see the Fiscal Impact Statement for an identification and description of costs the Department anticipates state agencies, local governments, the public, and the regulated entities, including regulated businesses and self-employed individuals, will incur from implementing and complying with the proposed rule.

5. PREAMBLE

The information collected and included in this Jobs Impact Statement must be included in the preamble of the proposed rule, written in paragraph form. For rules that have no impact on jobs (see the first box in number 2 above), the following statement must be included in the preamble: "After analysis and review of this rulemaking, no impact on jobs has been found."

Administrative Rule Fiscal Impact Statement

Date: October 21, 2019

Agency: Environmental Protection Commission/ Department of Natural Resources (Department)**IAC Citation:** 567 IAC Chapter 64, "Wastewater Construction and Operation Permits"**Agency Contact:** Melinda McCoy (515) 725-8402**Summary of the Rule:**

The Department is proposing to renew the National Pollutant Discharge Elimination System (NPDES) General Permit known as General Permit No. 7 (GP7), which expires on May 17, 2021. GP7 allows for the discharge of biological pesticides and chemical pesticide residuals 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 as they are excluded from the Clean Water Act (CWA).

The majority of the changes proposed for GP7 are non-substantive in nature and are intended to make the permit more user-friendly. These include formatting changes and revisions to simplify existing language, improve clarity, and minimize unnecessary duplication. Additionally, the Department is proposing four substantive changes.

1. Add coverage for discharges resulting from "ground application" of a pesticide to a forest canopy. This is a method used to control pests such as the gypsy moth and new pests like the walnut twig beetle.
2. Revise the 6-hr hazardous condition notification requirements to require reporting of the exact location of the hazardous condition and the name of any affected waterbody as this information is important for Department response efforts.
3. Remove Part 5.4 "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 the part does not affect the Department's authority to enforce permit conditions.
4. Remove the requirement for operators to keep a copy of GP7 since this requirement is not included in other general permits issued by the Department.

 Fill in this box if impact meets these criteria:
 No Fiscal Impact to the State.

 Fiscal Impact of less than \$100,000 annually or \$500,000 over 5 years.

 Fiscal Impact cannot be determined.
Brief Explanation:

The Department will use existing budget and resources to implement the rule.

Assumptions:*Describe how estimates were derived:***Estimated Impact to the State by Fiscal Year**

	Year 1 (FY)	Year 2 (FY)
Revenue by Each Source:		
GENERAL FUND	\$0	\$0
FEDERAL FUNDS	\$0	\$0
Other (specify)	\$0	\$0
TOTAL REVENUE	\$0	\$0
Expenditures:		
GENERAL FUND	\$0	\$0

FEDERAL FUNDS	\$0	\$0
Other (specify) Air Contaminant Fee	\$0	\$0
TOTAL EXPENDITURES	\$0	\$0

NET IMPACT

This rule is required by State law or Federal mandate.

Please identify the state or federal law:

In a January 7, 2009 decision, the U.S. Sixth Circuit Court of Appeals ruled that the application of pesticides to, or over, waters of the United States is not exempt from the CWA's permitting requirements. As a result, states and the U.S. EPA were required to issue NPDES permits for point source discharges of biological pesticides and chemical pesticide residuals to waters of the United States. The Department originally issued GP7 on March 30, 2011. The permit was re-issued on May 18, 2016, and will expire on May 17, 2021, unless it is renewed.

Funding has been provided for the rule change.

Please identify the amount provided and the funding source:

Funding has not been provided for the rule.

Please explain how the agency will pay for the rule change:

The Department will use existing budget and resources to implement the rule.

Fiscal impact to persons affected by the rule:

Private Land Owners and Pesticide Application Contractors: No fees are associated with GP7, which has been in place for more than eight years and is accepted by pesticide applicators as a necessary tool to allow for the discharge of biological pesticides and chemical pesticide residuals to waters of the United States. And, no additional costs are expected to result from the proposed changes to GP7. Therefore, there should be no negative fiscal impact to land owners or private contractors.

Note that failure to renew GP7 would have a far reaching negative impact on entities currently applying pesticides under the general permit, including private land owners and private pesticide application contractors. If GP7 is not available, these entities will need to apply for individual NPDES permits, which can take six months or more to obtain and require a fee payment. Individual permits could not be issued in a timely manner to satisfy most pesticide application needs, such as those for mosquito and aquatic weed control.

Fiscal impact to Counties or other Local Governments (required by Iowa Code 25B.6):

Local Governmental Agencies: The Department expects no negative impact to municipalities, drainage districts, counties or other local governments because of the reissuance of GP7. In fact, failure to renew GP7 would have the same type of negative impacts on local governments as those described above for private land owners and private pesticide application contractors.

**ENVIRONMENTAL PROTECTION COMMISSION[567]
Notice of Intended Action**

**Proposing rule making related to NPDES general permit no. 7
and providing an opportunity for public comment**

The Environmental Protection Commission (Commission) hereby proposes to amend Chapter 64, "Wastewater Construction and Operation Permits," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed 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 proposed 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 as 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.

The rule making includes formatting and other non-substantive changes to GP7 to simplify existing language, improve clarity, and minimize unnecessary duplication. The rule making also includes four substantive changes to GP7 as described below.

- Add coverage for discharges resulting from ground application of a pesticide to a forest canopy. 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 waterbody as part of the six-hour hazardous condition notification requirements since this information is important for Department of Natural Resources (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 requirement for operators to keep a copy of GP7 since this requirement is not included in other general permits issued by the Department.

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.

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.

Public Comment

Any interested person may submit comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on {deadline for public comments (**not less than 20 days** after publication)}. Comments should be directed to:

Melinda McCoy
Iowa Department of Natural Resources
Wallace State Office Building
502 East Ninth Street
Des Moines, Iowa 50319
Fax: 515.725.8202
Email: melinda.mccoy@dnr.iowa.gov

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows. Upon arrival, attendees should proceed to the fourth floor of the Wallace State Office Building to check in at the Department reception desk and be directed to the appropriate hearing location.

{date/time/location of public hearing (**not less than 20 days** after Notice pub. date)}

Persons who wish to make oral comments at the public hearing will be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as

those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

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).

The following rule making action is proposed:

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.

Date

Kayla Lyon, Director

IOWA DEPARTMENT OF NATURAL RESOURCES ~~(IDNR)~~

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)

GENERAL PERMIT ~~#7~~NO. 7

EFFECTIVE DATES
XXXXXXXXX THROUGH XXXXXXXXX

PESTICIDE GENERAL PERMIT (PGP) FOR
POINT SOURCE DISCHARGES TO WATERS OF THE UNITED STATES
FROM THE APPLICATION OF PESTICIDES

~~AUTHORIZATION TO DISCHARGE UNDER THE
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM~~

~~In compliance with the provisions of the Clean Water Act (CWA), as amended (33 U.S.C. 1251 *et seq.*), any operator of a point source discharge of pollutants associated with the application of pesticides who is eligible for permit coverage under Part 1 is authorized to discharge in accordance with the requirements of this permit.~~

~~This permit becomes effective on May 18, 2016.~~

~~This permit and the authorization to discharge expire at midnight, May 17, 2021.~~

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PART I. COVERAGE UNDER THIS PERMIT

A. PERMIT AREA

This permit covers all areas of the State of Iowa.

B. ELIGIBILITY

1. ACTIVITIES COVERED/COVERAGE

~~Except as described under Part I.B.2, This-this~~ permit ~~is available to operators~~ ~~for~~ ~~authorizes discharges that result from~~ the application of 1) biological pesticides and 2) chemical pesticides ~~which that~~ leave a residue ~~(hereinafter collectively “pesticides”) that result in a discharge from point sources to waters-Waters~~ of the United States (U.S.) ~~(hereinafter referred to “pesticide discharges”)~~. This permit covers the following pesticide use patterns:

- a) **Mosquito and Other Flying or Aquatic Nuisance Insect Control** - management of all public health/nuisance pests which develop or are present during a portion of their life cycle in standing or flowing water, when applying pesticides in or over standing or flowing water. Public health/nuisance pests in this use category include but are not limited to mosquitoes and black flies.
- b) **Weed, Algae, Bacteria, Fungi, or Fish Parasite Control** - management of weeds, algae, bacteria, fungi, and fish parasites in water and at water's edge including but not limited to lakes, rivers, streams, irrigation canals, and drainage systems.
- c) **Aquatic Nuisance Animal Control** - management of invasive or other nuisance species in water and at water's edge. Aquatic nuisance animals in this use category include but are not limited to fish, lampreys, and mollusks.
- d) **Forest Canopy Pest Control** - aerial and ground application of a pesticide to a forest canopy to control the population of a pest species (e.g., insect or pathogen) where a portion of the pesticide unavoidably will be applied over and deposited to water to target the pests effectively.

2. LIMITATIONS ON COVERAGE

You are required to apply for and/or obtain authorization to discharge under an individual NPDES permit in accordance with the Iowa Administrative Code (IAC) at 567 IAC Chapter 64 if you have a discharge covered by Parts ~~1-1-2-1~~1.B.2.a to ~~1-1-2-5~~1.B.2.e. Refer to Part ~~1-3-1~~D for a further description of ~~alternative individual NPDES~~ permits.

a) Discharges to ~~Water Quality~~ Impaired Waters

You are not eligible for coverage under this permit for any pesticide discharges ~~from a pesticide application to waters of the U.S. if the water is to waters~~ identified as impaired by that pesticide or its degradates. Impaired waters are those which have been identified by ~~IDNR~~the department pursuant to Section 303(d) of the Clean Water Act (CWA) as not meeting applicable ~~State-Iowa~~ water quality standards. Impaired waters include both waters with established Total Maximum Daily Loads (TMDLs) and those for which a TMDL has not yet been established.

b) Discharges to Waters Designated as OIW or ONRW

You are not eligible for coverage under this permit for pesticide discharges to waters designated by ~~IDNR the department~~ as Outstanding Iowa Waters (OIW) or Outstanding National Resource Waters (ONRW) ~~for antidegradation purposes under 567 IAC Chapter 61.2(2). The list of OIW and ONRW waters is available in Appendices B and C of the Iowa Antidegradation Implementation Procedure, February 17, 2010(See Attachment 1).~~

c) Endangered and Threatened Species and Critical Habitat Protection

You are not eligible for coverage under this permit for pesticide discharges to waters that are published critical habitat for federally listed species.

d) Discharges ~~Currently or Previously~~ Covered by another Individual or General NPDES Permit

You are not eligible for coverage under this permit for the following types of pesticide discharges:

- Discharges currently covered under another NPDES permit ~~(individual or general)~~. For example, controlled discharge lagoons with individual NPDES permits must request ana permit amendment ~~to their permit~~ to discharge algaecide residuals.
- Discharges covered within five years prior to the effective date of this permit by ~~an individual permit or alternative general~~ another NPDES permit ~~where~~ that ~~permit~~ established site-specific numeric water quality-based limitations.
- Discharges covered by ~~an~~ another NPDES permit which has been or is in the process of being denied, terminated, or revoked by ~~IDNR the department~~. ~~(this This~~ does not apply to the routine reissuance of permits every five years).

e) Any Discharge Resulting From the Use of a Pesticide Contrary to Its Labeling

You are not eligible for coverage under this permit for a discharge that occurs when using a pesticide contrary to its labeling. This permit only covers ~~the application of pesticides discharges that occur when a pesticide is applied~~ in accordance with the pesticide product label.

f) Discharges near Shallow Wells and Waters Designated as Drinking Water Supply (Class C)

~~If you plan an aquatic pesticide application or anticipate such an application within 50 feet of a shallow well, as defined in Appendix B, you must obtain prior authorization from the IDNR as described in Part 1.1.2.7. Contact the IDNR Water Allocation and Use Program for further guidance.~~

~~1.1.2.7 Discharges to Waters Designated as Drinking Water Supply (Class C)~~

~~If you plan or anticipate an aquatic pesticide application either~~

You are not eligible for coverage under this permit for any pesticide discharges to waters located in any of the following areas, unless you obtain prior authorization from the department:

- Within 50 feet of a shallow well as defined in Part VII;
- Within one-half-one-half mile above-or-below-upstream to one-half mile downstream of a river or stream segment designated as a drinking water supply (Class C) in 567 IAC Chapter 61.3(5); or,
- ~~on~~To any lake, reservoir or wetland designated as Class C in 567 IAC Chapter 61.3(5). ~~(drinking water intakes), or~~
- ~~near shallow wells (as described in Part 1.1.2.3),~~

~~you must obtain prior authorization from IDNR.~~ In order to request authorization, you ~~are required to~~must submit the ~~General Permit #7~~ Class C Waters Form to the department at least ninety (90) days before the anticipated pesticide application/~~discharge, in addition to complying with all applicable requirements of this permit. The General Permit #7 Class C Waters Form~~This form and a list of Class C designated waters is-are available at <http://www.iowadnr.gov>.

For pesticide discharges to Class C waters, authorization shall only be granted to certified applicators who possess a current certification in Category 5 – Aquatic Pest Control, as licensed by the Iowa Department of Agriculture and Land Stewardship (IDALS).

Authorization will ~~be denied~~not be granted for ~~an anticipated~~ pesticide application/~~discharges to a~~ Class C ~~water waters~~ if any of the following conditions apply:

- If the active or ~~inactive~~inert ingredients in the pesticide ~~proposed for application~~ are regulated under the Safe Drinking Water Act (SDWA);
- If the ~~requested area for~~ pesticide application ~~is~~will be applied within 2,000 feet upstream ~~or~~to 100 feet downstream ~~from of~~ a public or private water supply intake in a river or stream; or
- If the ~~requested area for~~ pesticide application ~~is~~will be applied within 2,000 feet of a public or private water supply intake in a lake, reservoir, or wetland.

~~However, pesticide application/discharge under conditions 1, 2, and/or 3 could be authorized if requested by~~ Notwithstanding the above conditions, authorization may be granted to the impacted water purveyor for discharges from a pesticide application intended to correct or control water quality problems within the water supply or system.

~~Application of pesticides to Class C waters shall be restricted to certified pesticide applicators licensed by the Iowa Department of Agriculture and Land Stewardship and who possess a current certification in Category 5 – Aquatic Pest Control.~~

~~Refer to the General Permit #7 Class C Waters Form at <http://www.iowadnr.gov> for more information.~~

C. AUTHORIZATION TO DISCHARGE UNDER THIS PERMIT

1. HOW TO ~~OBTAIN~~ QUALIFY FOR AUTHORIZATION

To ~~obtain~~ qualify for authorization under this permit, an operator must meet the eligibility requirements as identified in Part ~~1.1.B~~. For the purposes of this permit, an operator is defined as any entity person involved in the application of a pesticide that results in a discharge to a Water of the U.S. that meets either of the following two criteria:

- The entity person has operational control over the financing for or the decision to perform pesticide applications that result in discharges, including the ability to modify those decisions; ~~and/or,~~
- The entity person has day-to-day operational control of activities which are necessary to ensure compliance with the permit (e.g., they are authorized to direct workers to carry out activities required by the permit).

2. DISCHARGE AUTHORIZATION

~~On March 30, 2011 and thereafter, you must be covered under an NPDES permit for discharges resulting from the application of a pesticide. Operators who anticipate a discharge of pesticides to a Class C water must obtain prior approval from IDNR consistent with part 1.1.2.7. All other operators are authorized to discharge immediately under this permit. No Notice of Intent is required when applying pesticides consistent with the requirements of this permit. Except as described under Part I.B.2, pesticide discharges are immediately authorized under this permit as long as the conditions of this permit are satisfied.~~

3. CONTINUATION OF THIS PERMIT

If this permit is not reissued or replaced prior to the expiration date, it will be administratively continued in accordance with 567 IAC Chapter 64 and will remain in force and effect. If you were authorized to discharge under this permit prior to the expiration date, any pesticide discharges authorized under this permit will automatically remain covered by this permit until the earliest of:

- The issuance or denial of an individual permit for ~~a discharge resulting from application of a pesticide~~ discharges that would otherwise be covered under this permit; or
- A ~~formal permit~~ decision by ~~IDNR~~ the department to revoke or not ~~to~~ reissue this general permit because the supporting law no longer requires it, at which time ~~IDNR~~ the department will identify a reasonable time period for covered dischargers to seek coverage under an alternative general permit or an individual permit, if required by federal or state law. ~~Coverage under this permit will cease when coverage under another permit is granted/authorized.~~

4. DISCONTINUATION OF COVERAGE

~~Operators covered~~Coverage under this permit ~~are~~is terminated ~~from permit coverage~~ when ~~they~~an operator no longer ~~have~~has ~~a discharge from the application of pesticides~~pesticide discharges or ~~their~~the discharges are covered under an NPDES individual permit.

D. ALTERNATIVE PERMIT INFORMATION REQUIRING AN INDIVIDUAL NPDES PERMIT

1. ~~IDNR THE DEPARTMENT~~ REQUIRING COVERAGE UNDER AN ALTERNATIVE INDIVIDUAL PERMIT

~~IDNR~~The department may require you to apply for and/or obtain authorization to discharge under an individual NPDES permit in accordance with 567 IAC Chapter 64.3(4) "a". If ~~IDNR requires~~ you are required to apply for an individual NPDES permit, you will be notified in writing that ~~a an individual~~ permit application ~~is required~~must be submitted. This notification will include a brief statement of the reasons for this decision and will provide application information. In addition, if you are an operator whose discharges are authorized under this general permit, the notification will set a deadline, ~~not longer than one year, to file for submitting~~ the individual permit application. The deadline shall be no longer than one year from the date of the written notification, and the notification will include a statement that on the effective date of the individual NPDES permit, state that coverage under this general permit will terminate on the effective date of the individual NPDES permit.

~~IDNR~~The department may grant additional time to submit the individual permit application if you submit a request setting forth reasonable grounds for additional time. If you are covered under this general permit and fail to submit an individual NPDES permit application (~~as if~~ required by ~~IDNR~~the department), then the applicability of your coverage under this general permit to you is terminated at the end of the day on the date the department specified ~~by IDNR~~ as the deadline for application submittal. ~~IDNR~~The department may take appropriate enforcement action for any unpermitted discharge.

2. OPERATOR REQUESTING COVERAGE UNDER AN ALTERNATIVE INDIVIDUAL PERMIT

You may request to be excluded from coverage under this general permit by applying for an individual NPDES permit. In such a case, you must submit the reason for the request and an individual permit application in accordance with the requirements of 567 IAC Chapter 64, ~~with reasons supporting the request, to IDNR at the Wallace Building office listed in Part 7.0 of this permit~~ the Iowa Department of Natural Resources, NPDES Section at 502 East 9th Street, Des Moines, IA 50319. ~~The request may be granted by issuance of an individual permit if~~ your reasons are warranted, the department may grant your request by issuing. ~~When~~ an individual NPDES permit for pesticide discharges is issued ~~to you to discharge a pollutant to a Water of the U.S. as a result of a pesticide application,~~ your authorization to discharge under this general permit is terminated on the effective issuance date of the individual permit.

E. SEVERABILITY OF THIS PERMIT

Invalidation of a portion of this permit does not necessarily render the whole permit invalid. ~~DNR's~~ The department's intent is that the permit is to remain in effect to the extent possible; ~~in~~ in the event that any part of this permit is invalidated, ~~DNR~~ the department will advise the regulated community as to the effect of such invalidation.

F. OTHER FEDERAL AND STATE LAWS

You must comply with all other applicable federal and state laws ~~and regulations~~ that pertain to your application of pesticides. This includes but is not limited to: ~~Section 206 of the~~ Iowa Code Chapter 206; 21 ~~Iowa Administrative Code~~ IAC Chapter 45; 567 ~~Iowa Administrative Code~~ IAC Chapter 131; 571 IAC Chapter 54; and the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and its implementing regulations.

PART II. TECHNOLOGY-BASED EFFLUENT LIMITATIONS**A. REQUIREMENTS**

All operators must implement the control measures in this Part to minimize ~~pollutant discharge resulting from the residue of an application of pesticides~~ pesticide discharges. The term “minimize” means to reduce and/or eliminate discharges ~~to the extent achievable~~ using control measures (e.g., best management practices) and that are to the extent technologically available and economically practicable and achievable. ~~To minimize discharges resulting from an application of pesticides, all operators must do each of the following:~~

2.1.1 — Pesticide Application Rate

~~In order to use the lowest effective amount of pesticide product per application, follow the pesticide product label instructions and apply pesticides at no more than the recommended application rate.~~

2.1.2 — Regular Maintenance Activities

~~Perform regular maintenance activities to minimize potential for leaks, spills, and unintended release of pesticides from pesticide containers to waters of the U.S. Maintain application equipment in proper operating condition by calibrating, cleaning, and repairing such equipment on a regular basis to ensure effective pesticide application and pest control. Properly calibrate equipment (i.e. nozzle choice, droplet size, etc.) to deliver no more than the recommended application rate as noted on the pesticide product label.~~

2.1.3 — Pest Management Tools**1. PEST MANAGEMENT TOOLS**

Prior to a pesticide ~~application covered under discharge pursuant to~~ this permit ~~that will result in a discharge~~, you must evaluate alternative pest management tools while

considering pest resistance, feasibility, cost effectiveness, and the impact to water quality and non-target organisms. Alternative management tools include:

- No action
- Prevention of the situation requiring pest management
- Mechanical/physical methods of pest management
- Cultural methods of pest management
- Biological control agents (e.g. predators)
- Available pesticides appropriate for the target pest.

The pest management tools chosen must be efficient and effective means of pest management and must successfully minimize discharges resulting from the application of pesticides.

2. PESTICIDE APPLICATION RATE

In order to use the lowest effective amount of pesticide product per application, follow the pesticide product label instructions and apply pesticides at no more than the recommended application rate.

3. REGULAR MAINTENANCE ACTIVITIES

Perform regular container maintenance activities to minimize potential for leaks, spills, and unintended or accidental release of pesticides from pesticide containers to Waters of the U.S. Maintain application equipment in proper operating condition by adhering to any manufacturer conditions and industry practices and by calibrating, cleaning, and repairing equipment on a regular basis to ensure effective pesticide application and pest control. Properly calibrate equipment to deliver no more than the recommended application rate as noted on the pesticide product label. Proper calibration includes but is not limited to the following: nozzle choice, and droplet size.

PART III. WATER QUALITY-BASED EFFLUENT LIMITATIONS

~~Any discharge to a water of the U.S. resulting from an application of pesticides~~ Pesticide discharges that ~~causes~~cause or ~~contributes~~contribute to an excursion of any applicable numeric or narrative state water quality standard (WQS) as stated in 567 IAC Chapter 61 —Water Quality Standards ~~is~~are prohibited and ~~is~~are a violation of this permit. If at any time you become aware, or ~~IDNR~~the ~~department~~ determines, that your discharge causes or contributes to an excursion of applicable ~~water quality standards~~WQS, you must take corrective action as required in Part ~~5.0V~~. ~~IDNR~~The ~~department~~ may impose additional water quality-based limitations or require you to obtain coverage under an individual permit if your discharges are not controlled as necessary to meet applicable ~~water quality standards~~WQS.

PART IV. MONITORING REQUIREMENTS

A. BASIC MONITORING REQUIREMENTS

All operators must:

- Monitor the amount of pesticide applied to ensure that you apply no more than the recommended application rate as noted on the pesticide product label;
- Monitor your pesticide application activities to ensure you are performing regular maintenance activities; and
- Monitor your application equipment to ensure that it is in proper operating condition ~~by adhering to any manufacturer's conditions and industry practices and by calibrating, cleaning, and repairing equipment on a regular basis.~~

This monitoring is intended to minimize the potential for leaks, spills, and unintended or accidental ~~released~~ discharge of pesticides ~~to waters of the U.S.~~

B. VISUAL MONITORING REQUIREMENTS

All operators ~~covered under this permit, or their designees,~~ must conduct visual assessment(s) of the application site(s) as follows:

- During the application when considerations for safety and feasibility allow; and
- ~~During any post-application surveillance or efficacy check.~~
- ~~During the application when considerations for safety and feasibility allow.~~

Visual assessments will consist of spot checks in the area to and around where pesticides are applied for possible and observable adverse impacts caused by your application of pesticides. Possible and observable adverse impacts include, but are not limited to:

- The unanticipated death or distress of non-target organisms;
- Disruption of wildlife habitat; and
- Disruption of recreational or municipal water use.

PART V. CORRECTIVE ACTION

A. SITUATIONS REQUIRING REVISION OF CONTROL MEASURES

If any of the following situations occur, you must review and, as necessary, revise the selection and implementation of your control measures to ensure that the situation is eliminated and will not be repeated in the future:

- An unauthorized release or discharge (e.g., spill, leak, or discharge not authorized by this or another NPDES permit) occurs;
- You become aware, or ~~DNR~~ the department determines, that your control measures are not adequate or sufficient for the discharge to meet applicable ~~water quality standards~~ WQS;
- You become aware, or ~~DNR~~ the department determines, that you failed to perform regular container maintenance activities ~~to reduce unintended discharges of pesticides, or you~~

~~failed to calibrate, clean, and repair your~~ to maintain application equipment in proper operating condition as required in Part II.A.3;

- Your monitoring activities, as required in Part 4IV, determine that you applied more than the recommended application rate as noted on the pesticide product label or failed to properly calibrate equipment to deliver the recommended application rate;
- An inspection or evaluation of your activities by ~~IDNR~~ the department determines that modifications to the control measures are necessary to meet the non-numeric effluent limits in this permit, or
- You observe or are otherwise made aware of a hazardous condition, as defined in Appendix BPart VII.

B. CORRECTIVE ACTION DEADLINES

If you determine that changes to your control measures are necessary to eliminate any situation identified in Part 5.1V.A, such changes must be made before the next pesticide application that results in a discharge, or as soon as practicable.

C. HAZARDOUS CONDITION DOCUMENTATION AND REPORTING

1. SIX (6) HOUR HAZARDOUS CONDITION NOTIFICATION

If you observe or are otherwise made aware of a hazardous condition, as defined in Appendix BPart VII, which may have resulted from a discharge from your pesticide application, you must immediately notify ~~IDNR~~ the department. As required at 567 IAC Chapter 131.2, This notification must be made by telephone within six (6) hours of you becoming aware of the hazardous condition. Notification shall be made by contacting the appropriate regional IDNR Field Office during normal business hours (8 a.m. to 4:30 p.m.) ~~or by~~ calling the IDNR department's Environmental Emergency Reporting Hotline at (515)725-8694 ~~after normal business hours~~. Notifications must include at least the following information:

- The caller's name and telephone number;
- Operator name and mailing address;
- The name and telephone number of a contact person, if different than the person providing the 6-hour notice;
- How and when you became aware of the hazardous condition;
- Description of the ~~The exact~~ location of the hazardous condition;
- Name of any waterbody affected by the hazardous condition;
- Description of the hazardous condition identified, including the U.S. EPA pesticide registration number for each product you applied in the area of the hazardous condition; and
- Description of any steps you have taken or will take to contain any hazardous effects.

The hazardous condition notification and reporting requirements are in addition to what

the registrant is required to submit under FIFRA section 6(a)(2) and its implementing regulations at 40 CFR Part 159.

2. THIRTY (30) DAY HAZARDOUS CONDITION WRITTEN REPORT

Within thirty (30) days of becoming aware of the hazardous condition reported pursuant to Part ~~5.3.4V.C.1~~, you must postmark a written report of the ~~adverse incident~~hazardous condition to the appropriate ~~regional IDNR department Field Office~~ field office at the address listed in Part 8. The field office addresses are available at <http://www.iowadnr.gov>. Your hazardous condition report must include the information required in 567 IAC Chapter 131.2, Report of Hazardous Conditions. Contact the appropriate ~~IDNR department Field Office~~ field office for more information. You must report hazardous conditions even for those instances when the pesticide labeling states that adverse effects may occur. A copy of the hazardous condition report submitted to ~~IDNR the department~~ must be retained in accordance with Part ~~6.0VI~~ of this permit.

Note that if the department provides future notification to dischargers that other reporting options are available (e.g., electronic submission), operators may take advantage of those options to satisfy the reporting requirements of this permit.

5.4 — ~~Additional Permit Requirements~~

~~IDNR may notify you of additional discharge requirements based on a hazardous condition. Any such notice will clearly state the reasons for the additional requirements and the details of such requirements, including any monitoring, reporting, or recordkeeping requirements. IDNR may impose additional requirements when it is determined that:~~

- ~~• Your discharge contributed to a reported hazardous condition;~~
- ~~• The pesticide you are using contains an ingredient for which additional controls may be necessary;~~
- ~~• The pesticide you are using raises environmental impact concerns;~~
- ~~• More appropriate or additional effluent limitations are necessary;~~
- ~~• You are not in compliance with the conditions of this permit;~~
- ~~• A change has occurred in the availability of demonstrated technology or practices for the reduction of discharges from the application of pesticides; or if~~
- ~~• Your discharge impacts a threatened or endangered species.~~

~~Should IDNR exercise its authority to impose additional requirements, you will receive a written explanation of the additional requirements and the basis for them. The notice will include a reasonable timeframe in which to discuss these new requirements with IDNR. Unless IDNR establishes a new timeframe in writing, after that time period has passed, the written notice will state that the new requirements will become active and enforceable permit conditions. The written notice will explain that the discharger may either accept the new requirements or elect to apply for an alternative permit as described in 1.3.2.~~

PART VI. RECORDKEEPING

You must keep written records as required in this permit. These records must be accurate and complete to demonstrate your compliance with the conditions of this permit. You can rely on records and documents developed for other obligations, such as requirements under FIFRA, and state or local pesticide programs, provided all requirements of this permit are satisfied.

A. REQUIRED RECORDS

All operators are required to keep the following records:

- ~~A copy of this permit (an electronic copy is acceptable);~~
- A copy of any written Hazardous Condition Reports (See Part 5V.C.2) ~~and records of corrective actions in response to the hazardous condition;~~
- A copy of any Class C Waters Form (See Part 1.1.2.7I.B.2.f); and
- Any correspondence exchanged between you and ~~IDNR~~ the department specific to coverage under this permit.

B. MAINTENANCE AND AVAILABILITY OF RECORDS

You must retain the records outlined in Part 6.1VI.A for a period of at least three (3) years from the date that the record was generated, even if your coverage under this permit expires or is discontinued, ~~records must also be kept for a period of at least three (3) years before the end of the three year period. You must make all~~ records kept under this section must be made available upon request to an authorized representative from ~~IDNR~~ the department, U.S. EPA, or IDALS ~~upon request and provide copies of such records upon request.~~

~~7.0 — IDNR Contact Information and Mailing Addresses~~

~~All Hazardous Condition reports under Part 5.3 must be sent within thirty (30) days of you becoming aware of the hazardous condition to the appropriate regional IDNR Field Office (see Part 7.2.)~~

~~Note: If IDNR notifies dischargers of other reporting options that become available at a later date (e.g., electronic submission), operators may take advantage of those options to satisfy the reporting requirements of this permit.~~

~~7.1 — DNR Wallace Building Address~~

~~Iowa Department of Natural Resources
NPDES Section, 502 E. 9th St
Des Moines, IA 50319-0034
Phone: 515-725-8405; Fax: 515-725-8202~~

~~7.2 — DNR Regional Field Office Addresses and Counties Served~~

~~Field Office #1~~

~~909 West Main Suite #4~~

~~Manchester, IA 52057~~

~~Phone: (563) 927-2640; Fax: (563) 927-2075~~

~~Counties Served: Allamakee, Black Hawk, Bremer, Benton, Buchanan, Chickasaw, Clayton, Delaware, Dubuque, Fayette, Howard, Jackson, Jones, Linn, Winneshiek~~

~~Field Office #2~~

~~2300 15th Street SW~~

~~Mason City, IA 50401~~

~~Phone: (641) 424-4073; Fax: (641) 424-9342~~

~~Counties Served: Butler, Cerro Gordo, Floyd, Franklin, Grundy, Hamilton, Hancock, Hardin, Humboldt, Kossuth, Mitchell, Webster, Winnebago, Worth, Wright~~

~~Field Office #3~~

~~1900 North Grand Ave, Suite E17~~

~~Spencer, IA 51301~~

~~Phone: (712) 262-4177; Fax: (712) 262-2901~~

~~Counties Served: Buena Vista, Calhoun, Cherokee, Clay, Dickinson, Emmet, Ida, Lyon, O'Brien, Osceola, Palo Alto, Plymouth, Pocahontas, Sac, Sioux, Woodbury~~

~~Field Office #4~~

~~1401 Sunnyside Lane~~

~~Atlantic, IA 50022~~

~~Phone: (712) 243-1934; Fax: (712) 243-6251~~

~~Counties Served: Adair, Adams, Audubon, Carroll, Crawford, Cass, Fremont, Greene, Guthrie, Harrison, Mills, Monona, Montgomery, Page, Pottawattamie, Ringgold, Shelby, Taylor, Union~~

~~Field Office #5~~

~~7900 Hickman Rd., Suite 200~~

~~Windsor Heights, IA 50324~~

~~Phone: (515) 725-0268; Fax: (515) 725-0218~~

~~Counties Served: Appanoose, Boone, Clarke, Dallas, Decatur, Jasper, Lucas, Madison, Mahaska, Marion, Marshall, Monroe, Polk, Poweshiek, Story, Tama, Warren, Wayne~~

~~Field Office #6~~

~~1023 West Madison Street~~

~~Washington, Iowa 52353-1623~~

~~Phone: (319) 653-2135; Fax: (319) 653-2856~~

~~Counties Served: Cedar, Clinton, Davis, Des Moines, Henry, Iowa, Jefferson, Johnson, Keokuk, Lee, Louisa, Muscatine, Scott, Wapello, Washington, Van Buren~~

Appendix B—Definitions, Abbreviations, and Acronyms

PART VII. DEFINITIONS, ABBREVIATIONS, AND ACRONYMS

A. DEFINITIONS

Active Ingredient ~~means:—~~

- a) In the case of a pesticide other than a plant growth regulator, defoliant or desiccant, an ingredient which will prevent, destroy, repel, or mitigate insects, nematodes, fungi, rodents, weeds, or other pests.
- b) In the case of a plant growth regulator, an ingredient which, through physiological action, will accelerate or retard the rate of growth or rate of maturation or otherwise alter the behavior of ornamental or crop plants or the produce thereof.
- c) In the case of a defoliant, an ingredient which will cause the leaves or foliage to drop from a plant.
- d) In the case of a desiccant, an ingredient which will artificially accelerate the drying of plant tissue.

[Iowa Code Section 206.2]

Applicator (see also: Operator)

~~Certified applicator means any individual who is certified under 21 IAC Chapter 45 as authorized to use any pesticide. [Iowa Code Section 206.2]~~

~~Certified commercial applicator means a pesticide applicator or individual who applies or uses a pesticide or device on any property of another for compensation. [Iowa Code Section 206.2]~~

~~Certified private applicator means a certified applicator who uses or supervises the use of any pesticide which is classified for restricted use on property owned or rented by the applicator or the applicator's employer or, if applied without compensation other than trading of personal services between producers of agricultural commodities, on the property of another person. [Iowa Code Section 206.2]~~

~~Commercial applicator means a person, corporation, or employee of a person or corporation who enters into a contract or an agreement for the sake of monetary payment and agrees to perform a service by applying a pesticide but does not include a farmer trading work with another, a person employed by a farmer not solely as a pesticide applicator who applies pesticide as an incidental part of the person's general duties, or a person who applies pesticide as an incidental part of a custom farming operation. [Iowa Code Section 206.2]~~

~~Noncommercial applicator means any person who applies restricted use pesticides on lands or property owned, rented, or leased by the applicator or the applicator's employer. This definition shall not apply to private applicators using restricted use pesticides in the production of agricultural commodities. [21 IAC Chapter 45]~~

~~Public applicator means an individual who applies pesticides as an employee of a state agency, county, municipal corporation, or other governmental agency. This term does not include employees who work only under the direct supervision of a public applicator. [21 IAC Chapter 45]~~

Best Management Practices (BMPs) – schedules of activities, practices (and prohibitions of practices), structures, vegetation, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to ~~waters~~Waters of the U.S. BMPs also include treatment requirements, operating procedures, and practices to control spillage or leaks, or drainage from raw material storage. [40 CFR 122.2]

Biological Control Agents – organisms that can be introduced to your sites, such as herbivores, predators, parasites, and hyperparasites. [U.S. FWS IPM Guidance, 2004]

Biological pesticides (also called biopesticides) – include microbial pesticides, biochemical pesticides and plant-incorporated protectants (PIP).

Microbial pesticide means a microbial agent intended for preventing, destroying, repelling, or mitigating any pest, or intended for use as a plant regulator, defoliant, or dessicant, that

- (1) Is a eucaryotic microorganism including, but not limited to, protozoa, algae, and fungi;
- (2) Is a procaryotic microorganism, including, but not limited to, Eubacteria and Archaeobacteria;

or

- (3) Is a parasitically replicating microscopic element, including but not limited to, viruses.

[40 CFR 158.2100(a)]

Biochemical pesticide means a pesticide that

- (1) Is a naturally-occurring substance or structurally-similar and functionally identical to a naturally-occurring substance;
- (2) has a history of exposure to humans and the environment demonstrating minimal toxicity, or in the case of a synthetically-derived biochemical pesticides, is equivalent to a naturally-occurring substance that has such a history; and
- (3) Has a non-toxic mode of action to the target pest(s). [40 CFR 158.2000(a)]

Plant-incorporated protectant means a pesticidal substance that is intended to be produced and used in a living plant, or in the produce thereof, and the genetic material necessary for production of such a pesticidal substance. It also includes any inert ingredient contained in the plant, or produce thereof. [40 CFR 174.3]

Certified Applicator – any individual who is certified under 21 IAC Chapter 45 as authorized to use any pesticide. [Iowa Code Section 206.2]

Chemical pesticides – all pesticides not otherwise classified as biological pesticides.

~~CFR or~~ **Code of Federal Regulations (CFR)** -- the federal administrative rules adopted by the United States.

Control Measure – refers to any BMP or other method used to meet the effluent limitations to minimize the discharge of pollutants to ~~waters~~ Waters of the U.S.

Cultural Methods -- manipulation of the habitat to increase pest mortality by making the habitat less suitable to the pest.

Discharge – when used without qualification, means the "discharge of a pollutant."

Discharge of a pollutant – any addition of any pollutant or combination of pollutants to ~~waters~~ Waters of the U.S. or waters of the state from any point source. "Discharge of a pollutant" includes additions of pollutants into navigable waters or waters of the state from surface runoff which is collected or channeled by human activity; discharges through pipes, sewers, or other conveyances owned by a state, municipality, or other person which do not lead to a treatment works; and discharges through pipes, sewers, or other conveyances, leading into privately owned treatment works. [567 IAC Chapter 60]

Facility or Activity – any NPDES "point source" that is subject to regulation under the NPDES program.

~~Fungicide—any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any fungi. [21 IAC Chapter 45]~~

Hazardous condition -- any situation involving the actual, imminent, or probable spillage, leakage, or release of a hazardous substance onto the land, into a water of the state or into the atmosphere which, because of the quantity, strength and toxicity of the hazardous substance, its mobility in the environment and its persistence, creates an immediate or potential danger to the public health or safety or to the environment. [567 IAC Chapter 131]

Hazardous substance -- any substance or mixture of substances that presents a danger to the public health or safety and includes, but is not limited to, a substance that is toxic, corrosive, or flammable, or that is an irritant or that, in confinement, generates pressure through decomposition, heat, or other means. The following are examples of substances which, in sufficient quantity, may be hazardous: acids; alkalis; explosives; fertilizers; heavy metals such as chromium, arsenic, mercury, lead and cadmium; industrial chemicals; paint thinners; paints; pesticides; petroleum products; poisons; radioactive materials; sludges; and organic solvents. [567 IAC Chapter 131]

Impaired Water – A water is impaired for purposes of this permit if it has been identified by the ~~IDNR~~ department pursuant to Section 303(d) of the CWA as not meeting applicable ~~IDNR~~ Iowa water

quality standards (see 567 IAC Chapter 61). Impaired waters include both waters with approved or established TMDLs, and those for which a TMDL has not yet been approved or established.

Inert Ingredient — an ingredient which is not an active ingredient. [Iowa Code Section 206.2]

Insect — any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class Insecta, comprising six-legged, usually winged forms, as for example, beetles, bugs, bees, flies and to other allied classes of arthropods whose members are wingless and usually have more than six legs, as for example, spiders, mites, ticks, centipedes and wood lice. [21 IAC Chapter 45]

~~**Insecticide** — any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any insects and related forms which may be present in any environment whatsoever. [21 IAC Chapter 45]~~

Label — the written, printed, or graphic matter on, or attached to, the pesticide or device, or the immediate container thereof, and the outside container or wrapper of the retail package, if any there be, of the pesticide or device. [Iowa Code Section 206.2]

Mechanical/Physical Methods — mechanical tools or physical alterations of the environment for pest prevention or removal.

Minimize — to reduce and/or eliminate pesticide discharges to ~~waters~~ Waters of the U.S. through the use of control measures and to the extent technologically ~~available~~ and economically practicable and achievable.

Non-target Organisms — includes the plant and animal hosts of the target pest, the natural enemies of the target pest living in the community, and other plants and animals, including vertebrates, living in or near the community that are not the target of the pesticide.

Operator — For the purposes of this permit, an operator is defined as any entity-person involved in the application of a pesticide that results in a discharge to a Water of the U.S. that meets either of the following two criteria:

- The entity-person has operational control over the financing for, or the decision to perform pesticide applications that result in discharges, including the ability to modify those decisions; ~~and/or,~~
- The entity-person has day-to-day operational control of activities which are necessary to ensure compliance with the permit (e.g., they are authorized to direct workers to carry out activities required by the permit).

Person — any individual, partnership, association, corporation, or organized group of persons whether incorporated or not. [Iowa Code Section 206.2]

Pest – Any insect, rodent, nematode, fungus, weed, or any form of plant and animal life, virus, or other microorganism, except viruses or other microorganisms on or in living man or other living animals, which exists under circumstances that make it unduly injurious to plants, man, domestic animals, other useful vertebrates, useful invertebrates, or other articles or substances. [21 IAC Chapter 45]

Pesticide –

- a) any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating directly or indirectly any insects, rodents, nematodes, fungi, weeds, and other forms of plant or animal life or viruses, except viruses on or in living persons, which the secretary shall declare to be a pest, and
- b) any substances intended for use as a plant growth regulator, defoliant, or desiccant.

[Iowa Code 206.2]

Defoliant means any substance or mixture of substances intended for causing the leaves or foliage to drop from the plant with or without causing abscission. [21 IAC Chapter 45]

Desiccant means any substance or mixture of substances intended for artificially accelerating the drying of plant tissue. [21 IAC Chapter 45]

Plant growth regulator means any substance or mixture of substances intended, through physiological action, for accelerating or retarding the rate of growth or rate of maturation, or for otherwise altering the behavior of ornamental or crop plants or the produce thereof, but shall not include substances to the extent that they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants, and soil amendments. [Iowa Code 206.2]

Pesticide Discharges – means “Pesticide Discharges to Waters of the United States from Pesticide Application”

Pesticide Discharges to Waters of the United States from Pesticide Application – means the discharges that result from the application of biological pesticides, and the application of chemical pesticides that leave a residue, from point sources to Waters of the United States. In the context of this definition of pesticide discharges to Waters of the United States from pesticide application, this does not include agricultural storm water discharges and return flows from irrigated agriculture, which are excluded by law (33 U.S.C. 1342(l); 33 U.S.C. 1362(14)).

Pesticide Product – a pesticide in the particular form (including composition, packaging, and labeling) in which the pesticide is, or is intended to be, distributed or sold. The term includes any physical apparatus used to deliver or apply the pesticide if distributed or sold with the pesticide.

Pesticide Residue – includes that portion of a pesticide application that is discharged from a point source to ~~waters~~ Waters of the ~~USU.S.~~ and no longer provides pesticidal benefits. It also includes any degradates of the pesticide.

Point source – any discernible, confined, and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, or vessel or other floating craft, from which pollutants are or may be discharged. “Point source” does not include return flows from irrigated agriculture or agricultural storm water runoff. [567 IAC Chapter 60]

Pollutant – sewage, industrial waste, or other waste. [567 IAC Chapter 60]

Sewage means the water-carried waste products from residences, public buildings, institutions, or other buildings, including the bodily discharges from human beings or animals together with such groundwater infiltration and surface water as may be present.

Industrial waste means any liquid, gaseous, radioactive, or solid waste substance resulting from any process of industry, manufacturing, trade, or business, or from the development of any natural resource.

Other waste means heat, garbage, municipal refuse, lime, sand, ashes, offal, oil, tar, chemicals, and all other wastes which are not sewage or industrial waste.

~~**Responsible entity** – the person making the decision to control pests for which a discharge will occur that requires NPDES permit coverage under this permit.~~

Shallow well – means a well located and constructed in such a manner that there is not a continuous layer of low permeability soil or rock (or equivalent retarding mechanism acceptable to the department) at least 5 feet thick, the top of which is located at least 25 feet below the normal ground surface and above the aquifer from which water is to be drawn. [567 IAC Chapter 40]

Target Pest – the organism(s) toward which ~~control measures~~ pest management tools are being directed.

Total Maximum Daily Loads (TMDLs) – A TMDL is a calculation of the maximum amount of a pollutant that a water body can receive and still meet water quality standards, and an allocation of that amount to the pollutant's sources. A TMDL includes wasteload allocations for point source discharges; load allocations for nonpoint sources and/or natural background, and must include a margin of safety and account for seasonal variations.

Toxic – causing or producing a dangerous physiological, anatomic or biochemical change in a biological system. [567 IAC Chapter 131]

~~**Under the direct supervision of** – the act or process whereby the application of a pesticide is made by a competent person acting under the instructions and control of a certified applicator or a state licensed commercial applicator who is available if and when needed, even though such certified applicator is not physically present at the time and place the pesticide is applied. [Iowa Code Section 206.2]~~

Use of a pesticide contrary to its labeling – to use any registered pesticide in a manner not permitted by the labeling provided that the phrase shall not include:

1. Applying a pesticide for agricultural or horticultural purposes only at any dosage, concentration, or frequency less than that specified on the labeling.
2. Applying a pesticide for agricultural or horticultural purposes only against any target pest not specified on the labeling if the application is to the crop, animal or site specified on the labeling unless the labeling specifically states that the pesticide may be used only for the pests specified on the labeling; or
3. Employing any method of application not prohibited by the labeling for agricultural or horticultural purposes only.
4. Mixing pesticides or mixing pesticide with a fertilizer when such mixture is not prohibited by the labeling for agricultural or horticultural purposes only.

[21 IAC Chapter 45]

~~**WaterWaters of the United States or waters-Waters of the U.S.** – see means those waters defined at 40 CFR 122.2 Definitions(June 22, 2020).~~

~~**Water Quality Impaired** – See ‘Impaired Water’.~~

Water Quality Standards (WQS) – A water quality standard defines the water quality goals of a water body, or portion thereof, by designating the use or uses to be made of the water and by setting criteria necessary to protect the uses. Water quality standards also include an antidegradation policy and implementation procedures. Iowa’s Water Quality Standards are contained in 567 IAC Chapter 61.

Weed – any plant which grows where not wanted. [21 IAC Chapter 45]

Wetlands - means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

You and Your – as used in this permit are intended to refer to the operator, or the discharger as the context indicates and that party’s activities or responsibilities.

B. ABBREVIATIONS AND ACRONYMS

BMP – Best Management Practice

~~CFR – Code of Federal Regulations~~

CWA – Clean Water Act (or the Federal Water Pollution Control Act, 33 U.S.C. §1251 *et seq.*)

~~EPA – U. S. Environmental Protection Agency~~

FIFRA – Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. §§ 136 *et seq.*

~~FWS – U. S. Fish and Wildlife Service~~

~~IAC – Iowa Administrative Code~~

~~IDNR – Iowa Department of Natural Resources~~

NPDES – National Pollutant Discharge Elimination System

OIW – Outstanding Iowa Water

ONRW – Outstanding National Resource Water

SDWA – Safe Drinking Water Act

TMDL – Total Maximum Daily Load

~~U.S. – United States~~

~~U.S.C. – United States Code~~

~~U.S. EPA – United States Environmental Protection Agency~~

~~U.S. FWS – United States Fish and Wildlife Service~~

WQS – Water Quality Standard

~~Appendix A – Standard Conditions~~

PART VIII. STANDARD CONDITIONS

A. DUTY TO COMPLY

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Code of Iowa and the Clean Water Act and is grounds for enforcement action; for termination of coverage under this general permit; and/or, for denial of a request for coverage under a reissued general permit.

B. CONTINUATION OF THE EXPIRED GENERAL PERMIT

This permit expires on May 17, ~~2024~~2026. An expired general permit continues in force until replaced by adoption of a new general permit or rescinded by the department.

C. NEED TO HALT OR REDUCE ACTIVITY NOT A DEFENSE

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

D. DUTY TO MITIGATE

The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

E. DUTY TO PROVIDE INFORMATION

The permittee shall furnish to the ~~Department~~department, within a reasonable time, any information which the ~~Department~~department may request to determine compliance with this permit. The permittee shall also furnish to the ~~Department~~department upon request copies of records required to be kept by this permit.

F. OTHER INFORMATION

When the permittee becomes aware that he or she failed to submit any relevant facts or submitted incorrect information in any report to the ~~Department~~department, he or she shall promptly submit such facts or information.

G. OIL AND HAZARDOUS SUBSTANCE LIABILITY

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under Section 311 of the Clean Water Act.

H. PROPERTY RIGHTS

The issuance of this permit does not convey any property rights of any sort, nor any exclusive privileges, nor does it authorize any injury to private property nor any invasion of personal rights, nor any infringement of Federal, State or local laws ~~or regulations~~.

I. SEVERABILITY

The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit shall not be affected thereby.

J. INSPECTION AND ENTRY

The permittee shall allow the ~~Department~~department or an authorized representative of U.S. EPA, the State, or county, upon the presentation of credentials and other documents as may be required by law, to:

- Enter upon the permittee's premises where a regulated facility or activity is located or conducted or where records must be kept under the conditions of this permit;
- Have access to and copy at reasonable times, any records that must be kept under the conditions of this permit;
- Inspect at reasonable times any facilities or equipment (including monitoring and control equipment); and
- Sample any discharge of pollutants.

K. PERMIT ACTIONS

Coverage under this permit may be terminated for cause. The notification of planned changes or anticipated noncompliance does not stay any permit condition.

L. ENVIRONMENTAL LAWS

No condition of this permit shall release the permittee from any responsibility or requirements under other environmental statutes or regulations. Pertinent regulations include but are not limited to the following: 40 CFR 122.41(j)(5); 567 IAC 63.1; 567 IAC 63.2; 567 IAC 63.6; 567 IAC 63.12-15; 567 IAC 64.3(8); and 567 IAC 64.7(7)“f”.

Attachment 1: ONRW and OIW Waters in Iowa

Outstanding National Resource Waters (ONRW)

There are no waters in Iowa designated as Outstanding National Resource Waters as of the date of issuance of this permit.

Outstanding Iowa Waters (OIW)

<u>STREAM</u>	<u>DESCRIPTION</u>	<u>LENGTH (Miles)</u>
<u>Baron Springs</u>	<u>Mouth (S2, T91N, R6W, Clayton Co.) to spring source (S4, T91N, R6W, Clayton Co.)</u>	<u>1.99</u>
<u>Bear Creek</u>	<u>From road crossing in SW ¼, NW1/4, S11, T86N, R10W, Benton Co. to E line, S25, T87N, R10W, Buchanan Co.</u>	<u>5.2</u>
<u>Bloody Run</u>	<u>From (W. line of Section 22, T95N, R4W, Clayton Co.) to the confluence with Unnamed Creek (NAD83) UTM Coordinates X(Easting) 645284.89 Y(Northing) 4766657.44</u>	<u>8.59</u>
<u>Brownfield Creek</u>	<u>Mouth (Clayton Co.) to spring source (S31, T91N, R3W, Clayton Co.)</u>	<u>0.94</u>
<u>Clear Creek</u>	<u>Mouth (Allamakee Co.) to W. line of Section 25, T99N, R4W, Allamakee Co.</u>	<u>3.79</u>
<u>Deer Creek</u>	<u>Road crossing in SE¼, S35, T100N, R19W, Worth Co. to the N. line of S7, T100N, R19W, Worth Co.</u>	<u>7.29</u>
<u>Dousman Creek</u>	<u>Mouth (S33, T96N, R3W, Allamakee Co.) to Allamakee-Clayton Co. line.</u>	<u>3.44</u>
<u>Duck Creek</u>	<u>From the mouth (S14, T100N, R06W Allamakee Co.) to the Iowa-Minnesota state line.</u>	<u>1.98</u>
<u>Ensign Creek (aka Ensign Hollow)</u>	<u>Mouth (S28, T92N, R6W, Clayton Co.) to spring source (S29, T92N, R6W, Clayton Co.)</u>	<u>1.05</u>
<u>Unnamed Creek (aka Erickson Spring Branch)</u>	<u>Mouth (S23, T98N, R4W, Allamakee Co.) to W. line of S23, T98N, R4W, Allamakee Co.</u>	<u>0.91</u>
<u>French Creek</u>	<u>Mouth (Allamakee Co.) to E. line of Section 23, T99N, R5W, Allamakee Co.</u>	<u>5.58</u>
<u>Grannis Creek</u>	<u>Mouth (S30, T95N, R7W, Fayette Co.) to W. line of S36, T93N, R8W, Fayette Co.</u>	<u>3.56</u>
<u>Jones Creek</u>	<u>From the mouth (S19, T98N, R04W Allamakee Co.) to bridge crossing at Clonkitty Rd. (S14, T98N, R05W Allamakee Co.)</u>	<u>5.75</u>

<u>Kleinlein Creek</u>	<u>Mouth (Clayton Co.) to spring source (South Spring) (S10, T91N, R6W, Clayton Co.)</u>	<u>3.96</u>
<u>Lime Creek</u>	<u>From confluence with unnamed tributary in NE ¼, NW ¼, S34, T87N, R10W, Buchanan Co. to N. line of S23, T87N, R10W, Buchanan Co.</u>	<u>3.0</u>
<u>Little Paint Creek</u>	<u>Mouth to N. line of Section 30, T97N, R3W</u>	<u>1.92</u>
<u>Ludlow Creek</u>	<u>Mouth (S2, T96N, R6W, Allamakee Co.) to confluence with an unnamed tributary (S33, T97N, R6W, Allamakee Co.)</u>	<u>2.00</u>
<u>Mill Creek (aka Big Mill Creek)</u>	<u>Confluence with Little Mill Cr. to confluence with Unnamed Cr. (S1, T86N, R3E, Jackson Co.)</u>	<u>8.04</u>
<u>Mossey Glen Creek</u>	<u>Mouth (S3, T91N, R5W, Clayton Co.) to S. line of S10, T91N, R5W, Clayton Co.</u>	<u>1.96</u>
<u>North Bear Creek</u>	<u>Mouth (S25, T100N, R7W, Winneshiek Co.) to Iowa-Minnesota state line.</u>	<u>6.39</u>
<u>Pine Creek (aka South Pine Creek)</u>	<u>Mouth (S26, T99N, R7W, Winneshiek Co.) to N. line of S21, T99N, R7W, Winneshiek Co.</u>	<u>2.80</u>
<u>Smith Creek (aka Trout River)</u>	<u>Mouth (S21, T98N, R7W, Winneshiek Co.) to S. line of S33, T98N, R7W, Winneshiek Co.</u>	<u>3.42</u>
<u>South Canoe Creek</u>	<u>From the mouth (S22, T99N, R08W Winneshiek Co.) to the bridge crossing at Winn Rd. (S21, T99N, R08W Winneshiek Co.)</u>	<u>1.90</u>
<u>Spring Branch Creek</u>	<u>Mouth (S10, T88N, R5W, Delaware Co.) to spring source (S35, T89N, R5W, Delaware Co.)</u>	<u>2.83</u>
<u>Storybook Hollow</u>	<u>Mouth (S7, T86N, R4E, Jackson Co.) to S. line of S12, T86N, R3E, Jackson Co.</u>	<u>1.37</u>
<u>Trout Run</u>	<u>Mouth (S16, T98N, R4W, Allamakee Co.) through one mile reach.</u>	<u>1.0</u>
<u>Twin Springs Creek</u>	<u>Mouth (S17, T98N, R8W, Winneshiek Co.) to springs in Twin Springs Park (S20, T98N, R8W, Winneshiek Co.)</u>	<u>0.61</u>
<u>Unnamed Creek (aka Cold Water Creek)</u>	<u>Mouth (S32, T100N, R9W, Winneshiek Co.) to N. line of Section 31, T100N, R9W, Winneshiek Co.)</u>	<u>2.46</u>
<u>Unnamed Creek (aka S. Fk. Big Mill)</u>	<u>Mouth (S8, T86N, R4E, Jackson Co.) to W. line of S17, T86N, R4E, Jackson Co.</u>	<u>0.97</u>
<u>Village Creek</u>	<u>Mouth (Allamakee Co.) to W. line of S19, T98N, R4W, Allamakee Co.</u>	<u>13.32</u>
<u>Waterloo Creek</u>	<u>Mouth (S35, T100N, R6W, Allamakee Co.) to Iowa-Minnesota state line.</u>	<u>9.39</u>

<u>West Branch French Creek</u>	<u>From the mouth (S23, T99N, R05W, Allamakee Co.) to the confluence with Unnamed Creek (S26, T99N, R05W, Allamakee Co.)</u>	<u>0.67</u>
	<u>Grand Total:</u>	<u>118.08</u>
<u>LAKES</u>	<u>DESCRIPTION (Section, Township, Range)</u>	<u>SIZE (Acres)</u>
<u>Big Spirit Lake SGMA</u>	<u>S33, T100N, R36W</u>	<u>5684</u>
<u>West Okoboji Lake SGMA</u>	<u>S20, T99N, R36W</u>	<u>3,847</u>

**Iowa Department of Natural Resources
Environmental Protection Commission**

ITEM

8

DECISION**TOPIC**

Notice of Intended Action – Chapter 61 – Water Quality Standards (Section 401 Water Quality Certification)

The Department is requesting permission from the Commission to proceed with the rule making process and publish a Notice of Intended Action to amend Chapter 61, “Water Quality Standards” of the 567 Iowa Administrative Code.

Reason for Rule Making

The proposed rule making is intended to streamline the process by which the Department certifies that each United States Army Corps of Engineers (Corps) nationwide and regional Federal Water Pollution Control Act (Act) Section 404 permit (nationwide and regional permit) meets Iowa’s water quality standards.

Summary of Proposed Rule Changes

The proposed rule making removes the requirement that the Department certify through rule making that each nationwide and regional permit meets Iowa’s water quality standards. Such certification is required by Section 401 of the Act, but certification via rule making is not required. Rule making is unnecessarily burdensome and can delay the applicability of the benefits of the nationwide and regional permits to the regulated community. In addition, the proposed rule making reorganizes and clarifies the list of potential conditions that may be included by the Department in certification of individual Corps permits for state water quality certification. This reorganization places the conditions together in one portion of the rule. Despite the removal of required rule making, the procedure for certifying nationwide and regional permits will continue to provide opportunity for public comments.

Stakeholder Involvement

A stakeholder meeting was held on August 14, 2018, and 8 people attended. The attendees represented the following stakeholders: Iowa Farm Bureau Federation, Bolton and Menk, Iowa Association of Water Agencies, Iowa Association of Municipal Utilities, City of Clive, Iowa Department of Agriculture and Land Stewardship, and Sierra Club. Comments regarding the proposed rule making were received from the Iowa Farm Bureau Foundation and were considered by the Department.

Public Comments and Public Hearing

If the Commission approves the proposed rule making, the Department will hold a public hearing via video and teleconference on September 8, 2020. The Department will accept written public comments until 4:30 p.m. on September 11, 2020.

Roger Bruner, Supervisor
Water Quality Bureau
Environmental Services Division

**ENVIRONMENTAL PROTECTION COMMISSION[567]
Notice of Intended Action**

Notice of Intended Action

The Environmental Protection Commission (Commission) hereby proposes to amend Chapter 61, “Water Quality Standards,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 455B.105 and 455B.173.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 455B.105 and 455B.173.

Purpose and Summary

The proposed rule making is intended to streamline the process by which the Department of Natural Resources (Department) certifies that each United States Army Corps of Engineers (Corps) nationwide and regional Federal Water Pollution Control Act (the Act) Section 404 permit (nationwide and regional permit) meets Iowa’s water quality standards. The proposed rule making achieves this by removing the requirement that the Department certify via rule making that each nationwide and regional permit meets Iowa’s water quality standards. Such certification is required by section 401 of the Act, but certification via rule making is not required. Rule making is unnecessarily burdensome and can delay the applicability of the benefits of the nationwide and regional permits to the regulated community. In addition, the rule reorganizes and clarifies the list of potential conditions that may be included by the Department in certification of individual Corps permits for state water quality certification. This reorganization places the conditions together in one portion of the rule. Despite the removal of required rule making, the procedure for certifying nationwide and regional permits will continue to provide opportunity for public comments.

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.

Public Comment

Any interested person may submit comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on September 7, 2020.

Comments should be directed to:

Christine Schwake

Iowa Department of Natural Resources

502 East 9th Street, Des Moines, Iowa 50319

Email: christine.schwake@dnr.iowa.gov

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held via conference call as follows. Persons who wish to attend the conference call should contact Christine Schwake via email at christine.schwake@dnr.iowa.gov. A conference call number will be provided prior to the hearing.

Persons who wish to make oral comments at the conference call public hearing must submit a request to Roger Bruner prior to the hearing to facilitate an orderly hearing.

September 7, 2020

Video/conference call

3 to 4 p.m.

Wallace State Office Building

Persons who wish to make oral comments at the public hearing will be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

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).

The following rule-making action is proposed:

ITEM 1. Amend paragraph **61.2(2)“g”** as follows:

g. This policy shall be applied in conjunction with water quality certification review pursuant to Section 401 of the Act. In the event that activities are specifically exempted from flood plain development permits or any other permits issued by this department in 567—Chapters 70, 71, and 72, the activity will be considered consistent with this policy. Other activities not otherwise exempted will be subject to 567—Chapters 70, 71, and 72 and this policy. ~~United States Army Corps of Engineers (Corps) nationwide permits 3, 4, 5, 6, 7, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 25, 27, 29, 30, 31, 32, 33, 34, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 48, 49, 50, 51, and 52 as well as Corps regional permits 7, 27, 33, and 34 as revised through July 16, 2014, are certified pursuant to Section 401 of the Clean Water Act subject to the following Corps regional conditions and the state water quality conditions:~~

~~—(1) Side slopes of a newly constructed channel will be no steeper than 2:1 and planted to permanent, perennial, native vegetation if not armored.~~

~~—(2) Nationwide permits with mitigation may require recording of the nationwide permit and pertinent drawings with the registrar of deeds or other appropriate official charged with the responsibility for maintaining records of title to, or interest in, real property and may also require the permittee to provide proof of that recording to the Corps.~~

~~—(3) Mitigation shall be scheduled prior to, or concurrent with, the discharge of dredged or fill material into~~

waters of the United States.

~~—(4) For newly constructed channels through areas that are unvegetated, native grass filter strips, or a riparian buffer with native trees or shrubs a minimum of 35 feet wide from the top of the bank must be planted along both sides of the new channel. A survival rate of 80 percent of desirable species shall be achieved within three years of establishment of the buffer strip.~~

~~—(5) For single family residences authorized under nationwide permit 29, the permanent loss of waters of the United States (including jurisdictional wetlands) must not exceed 1/4 acre.~~

~~—(6) For nationwide permit 46, the discharge of dredged or fill material into ditches that would sever the jurisdiction of an upstream water of the United States from a downstream water of the United States is not allowed.~~

~~—(7) For projects that impact an outstanding national resource water, outstanding Iowa water, fens, bogs, seeps, or sedge meadows, an individual Section 401 Water Quality Certification will be required (Iowa Section 401 Water Quality Certification condition).~~

~~—(8) For nationwide permits when the Corps' district engineer has issued a waiver to allow the permittee to exceed the limits of the nationwide permit, an individual Section 401 Water Quality Certification will be required (Iowa Section 401 Water Quality Certification condition).~~

~~—(9) Heavy equipment shall not be used or operated within the stream channel. If in-stream work is unavoidable, it shall be performed in such a manner as to minimize the duration of the disturbance, turbidity increases, substrate disturbance, bank disturbance, and disturbance to riparian vegetation. This condition does not further restrict otherwise authorized drainage ditch maintenance activities (Iowa Section 401 Water Quality Certification condition).~~

~~Written verification by the Corps or 401 certification by the state is required for activities covered by these permits as required by the nationwide permits or the Corps, and the activities are allowed subject to the terms and conditions of the nationwide and regional permits. The department will maintain and periodically update a guidance document listing special waters of concern. This document will be provided to the Corps for use in determining whether preconstruction notices should be provided to the department and other interested parties prior to taking action on applications for projects that would normally be covered by a nationwide or regional permit and not require a preconstruction notice under nationwide permit conditions.~~

ITEM 2. Adopt the following **new** subrule 61.2(6):

61.2(6) State water quality certification. This subrule describes the procedures the department will follow when processing applications for state water quality certification (certification) of federally issued licenses and permits pursuant to section 401 of the Act, including but not limited to permits issued by the United States Corps of Engineers (Corps) pursuant to section 404 of the Act.

a. General. The department shall receive, consider, and process applications for certification in accordance with section 401 of the Act.

b. Applications. Applications for certification shall be made either on the Corps Section 404 Permit Application form or on the department Section 401 Water Quality Certification form. These forms are available on the department's website. Individual permits issued by the Corps require submission of an application to obtain state water quality certification. However, new or renewed nationwide or regional permits issued by the Corps pursuant to section 404 of the Act shall not require the submission of an application form.

c. Public notice. The department shall issue a public notice of an application for certification. The public notice may be a joint public notice issued by the Corps on behalf of the department. The public notice shall solicit comments from the public regarding whether the proposed project complies with state water quality standards in accordance with section 401 of the Act. The public notice shall specify the procedure and timeframe for submitting comments on the proposed project.

d. Public notice for new or renewed nationwide or regional permits. The department shall provide additional notice to the public of certification of new or renewed nationwide or regional permits issued by the Corps pursuant to section 404 of the Act. The department shall provide such notice on its website. The public notice shall solicit comments from the public regarding whether the proposed permit complies with state water quality standards in accordance with section 401 of the Act. The public notice shall specify the procedure and timeframe for submitting comments on the proposed permit.

e. Department action on application. After the close of the public comment period and consideration of comments received, the department may issue a certification letter which may include conditions necessary to

ensure compliance with state water quality standards, waive issuance of the certification, or deny certification, in accordance with section 401 of the Act.

f. Certification of federal permits or licenses may require conditions, which may include one or more of the following, to ensure water quality standards are met:

(1) During construction and upon completion of the project, actions must be taken to prevent pollution affecting public health, fish, shellfish, wildlife, and recreation due to turbidity, pH, nutrients, suspended solids, floating debris, visible oil and grease, or other pollutants entering waters of the state;

(2) Equipment used in waters of the state shall be cleaned of all hazardous materials, pesticides, fuels, lubricants, oils, hydraulic fluids, or other construction-related, potentially hazardous, substances before arriving on site. Wash water shall not be discharged into a water of the state;

(3) All cleared vegetative material shall be properly managed in such a manner that it cannot enter a water of the state and cause a violation of water quality standards;

(4) All construction debris shall be properly managed in such a manner that it cannot enter a water of the state;

(5) Erosion shall be managed so that sediment is not discharged to a water of the state in a manner that causes a violation of water quality standards;

(6) Riprap and temporary crossings shall consist of clean material free of coatings of potentially hazardous substances. No asphalt or petroleum-based material shall be used as or included in riprap material placed in any water of the state or within the high-water table;

(7) Stockpiled dredged materials on the shore shall be managed so that sediment is not discharged in a manner that causes a violation of water quality standards;

(8) Water quality monitoring will be required for Federal Energy Regulatory Commission hydropower projects at the baseline, construction and operational phases of the project;

(9) Hydropower dams shall be operated in a run-of-river mode and will release a minimum of the 7-day, 10-year low flow (7Q10) over the dam at all times during hydropower operation to maintain downstream water quality; and/or

(10) Hydraulically dredged material shall be managed to ensure the return water meets water quality standards.

The following tests shall be conducted on the material to be dredged, if required by the department in the certification:

a. Prior to commencement of hydraulic dredging, the permittee shall perform a sieve analysis and a modified elutriate test procedure to predict the effluent quality and the concentration of contaminants in the effluent. Results of the sieve analysis and elutriate test and a map indicating the sampling locations shall be forwarded to the department and to the Corps prior to the commencement of dredging; and

b. Water from the elutriate test shall be tested for the following: ammonia, oil and grease, pH, turbidity, total suspended solids, carbonaceous biochemical oxygen demand (5 day)/chemical oxygen demand, atrazine, copper, lead, zinc, mercury, cadmium, selenium, silver, chromium VI, and cyanide.

Should any of the above test results violate water quality standards, the department may amend the certification to assure that water quality standards are met.

g. Duration of certification. The department's certification shall remain in effect until the expiration date of the applicable permit or until the department issues a de-certification letter.

Date

Kayla Lyon, Director

Administrative Rules
GOVERNOR'S OFFICE PRECLEARANCE FORM

Agency:	Environmental Protection Commission (Commission) / Department of Natural Resources (Department)
IAC Citation:	567 IAC 61.2(2) "g" and new 567 IAC 61.2(6)
Agency Contact:	Christine Schwake, 515-725-8399, christine.schwake@dnr.iowa.gov
Statutory Authority:	Iowa Code sections 455B.105 and 455B.173
Preclearance Requested Review Deadline:	
<p>Purpose of Proposed Rule: The proposed rule making is intended to streamline the process by which the Department certifies that each United States Army Corps of Engineers (Corps) nationwide and regional Federal Water Pollution Control Act (Act) Section 404 permit (nationwide and regional permit) meets Iowa's water quality standards. The proposed rule making achieves this by removing the requirement that the Department certify through rule making that each nationwide and regional permit meets Iowa's water quality standards. Such certification is required by section 401 of the Act, but certification via rule making is not required. Rule making is unnecessarily burdensome and can delay the applicability of the benefits of the nationwide and regional permits to the regulated community. In addition, the proposed rule making reorganizes and clarifies the list of potential conditions that may be included by the Department in certification of individual Corps permits for state water quality certification. This reorganization places the conditions together in one portion of the rule. Despite the removal of required rule making, the procedure for certifying nationwide and regional permits will continue to provide opportunity for public comments.</p>	
<p>Need for Proposed Rule: The benefits of nationwide and regional permits have not been fully realized in Iowa because of the requirement of certification via rule making. This required rule making has caused delay in the use of those permits in Iowa. Because the proposed rule making removes this requirement, the regulated community will obtain coverage under those permits sooner. Further, the proposed rule making provides more certainty to the public by more clearly articulating potential conditions necessary to ensure compliance with Iowa's water quality standards. These conditions may be included in certification of individual Corps permits issued by the Department.</p>	
<p>Summary of Informal Rulemaking Activities related to the Proposed Rule (e.g., stakeholder input): A stakeholder meeting was held on August 14, 2018, and 8 people attended. The attendees represented the following stakeholders: Iowa Farm Bureau Federation, Bolton and Menk, Iowa Association of Water Agencies, Iowa Association of Municipal Utilities, City of Clive, Iowa Department of Agriculture and Land Stewardship, and Sierra Club. Comments regarding the proposed rule making were received from the Iowa Farm Bureau Foundation and were considered by the Department.</p>	

**Administrative Rules
JOBS IMPACT STATEMENT**

1. BACKGROUND INFORMATION

Agency:	Environmental Protection Commission (Commission)/ Department of Natural Resources (Department)
IAC Citation:	567 IAC 61.2(2) "g" and new 567 IAC 61.2(6)
Agency Contact:	Christine Schwake, 515-725-8399, christine.schwake@dnr.iowa.gov
Statutory Authority:	Iowa Code sections 455B.105 and 455B.173
Objective:	The proposed rule making is intended to streamline the process by which the Department certifies that each United States Army Corps of Engineers (Corps) general nationwide and regional Federal Water Pollution Control Act (Act) Section 404 permit (nationwide and regional permit) meets Iowa's water quality standards. The proposed rule making achieves this by removing the requirement that the Department certify through rule making that each nationwide and regional permit meets Iowa's water quality standards. Such certification is required by section 401 of the Act, but certification via rule making is not required. Rule making is unnecessarily burdensome and can delay the applicability of the benefits of the nationwide and regional permits to the regulated community. In addition, the proposed rule making reorganizes and clarifies the list of potential conditions that may be included by the Department in certification of individual Corps permits for state water quality certification. This reorganization places the conditions together in one portion of the rule. Despite the removal of required rule making, the procedure for certifying nationwide and regional permits will continue to provide opportunity for public comments.
Summary:	The proposed rule making is intended to streamline the process by which the Department certifies that each nationwide and regional permit meets Iowa's water quality standards. The proposed rule making achieves this by removing the requirement that the Department certify through rule making that each nationwide and regional permit meets Iowa's water quality standards. In addition, the rule reorganizes and clarifies the list of potential conditions that may be included by the Department in certification of individual Corps permits for state water quality certification.

2. JOB IMPACT ANALYSIS

<input type="checkbox"/> <i>Fill in this box if impact meets these criteria:</i>
<input checked="" type="checkbox"/> No Job Impact on private sector jobs and employment opportunities in the State. <i>(If you make this determination, you must include the following statement in the preamble to the rule: "After analysis and review of this rulemaking, no impact on jobs has been found.")</i>
Explanation: The proposed rule making will allow the Department to certify the nationwide and regional permits more quickly. Nationwide and regional permits benefit the regulated community by shortening approval times and reducing costs as compared to individual permits. A quicker process allows construction and completion of projects in a more timely manner thus benefiting individual landowners, businesses, government agencies, consultants and contractors.
<input type="checkbox"/> <i>Fill in this box if impact meets either of these criteria:</i>
<input type="checkbox"/> Positive Job Impact on private sector jobs and employment opportunities in the State.
<input type="checkbox"/> Negative Job Impact on private sector jobs and employment opportunities in the State.
<i>Description and quantification of the nature of the impact the proposed rule will have on private sector jobs and employment opportunities:</i>
<i>Categories of jobs and employment opportunities that are affected by the proposed rule:</i>
<i>Number of jobs or potential job opportunities:</i>

Regions of the state affected:

Additional costs to the employer per employee due to the proposed rule: (if not possible to determine, write "Not Possible to Determine.")

3. COST-BENEFIT ANALYSIS

The Agency has taken steps to minimize the adverse impact on jobs and the development of new employment opportunities before proposing a rule. See the following Cost-Benefit Analysis:

There are no expected additional costs associated with this proposed rule making. No other less intrusive or expensive method exists for achieving the purpose of the proposed rule making. And the proposed rule making speeds up the process for certification that nationwide and regional permits meet state water quality standards. If a project cannot be certified under a nationwide or regional permit, it must obtain an individual certification. Individual certifications take longer to obtain, may require additional information to be provided to the Corps and Department, have the same (and usually additional) conditions, and can result in construction delays. Delays in permitting and certification could result in the loss of funding if a project must be completed in a specific amount of time.

4. FISCAL IMPACT

The Department anticipates state agencies, local governments, the public, and the regulated entities, including regulated businesses and self-employed individuals, will not incur additional fiscal impact from implementing and complying with the proposed rule.

5. PREAMBLE

The information collected and included in this Jobs Impact Statement must be included in the preamble of the proposed rule, written in paragraph form. For rules that have no impact on jobs (see the first box in number 2 above), the following statement must be included in the preamble: "After analysis and review of this rulemaking, no impact on jobs has been found."

Administrative Rule Fiscal Impact Statement

Date: January 21, 2020

Agency: Environmental Protection Commission (Commission)/ Department of Natural Resources (Department)

IAC Citation: 567 IAC 61.2(2)"g" and new 61.2(6)

Agency Contact: Christine Schwake, 515-725-8399, christine.schwake@dnr.iowa.gov

Summary of the Rule: The proposed rule making is intended to streamline the process by which the Department certifies that each United States Army Corps of Engineers (Corps) general nationwide and regional Federal Water Pollution Control Act (Act) Section 404 permit (nationwide and regional permit) meets Iowa's water quality standards. The proposed rule making achieves this by removing the requirement that the Department certify through rule making that each nationwide and regional permit satisfy Iowa's water quality standards. Such certification is required by section 401 of the Act, but certification via rulemaking is not required. Rule making is unnecessarily burdensome and can delay the applicability of the benefits of the nationwide and regional permits to the regulated community. In addition, the proposed rule making reorganizes and clarifies the list of potential conditions that may be included by the Department in certification of individual Corps permits for state water quality certification. This reorganization places the conditions together in one portion of the rule. Despite the removal of required rule making, the procedure for certifying nationwide and regional permits will continue to provide opportunity for public comments.

Fill in this box if impact meets these criteria:

No Fiscal Impact to the State.

Fiscal Impact of less than \$100,000 annually or \$500,000 over 5 years.

Fiscal Impact cannot be determined.

Brief Explanation: The Department will use existing budget and resources to implement the rule.

Assumptions:

Describe how estimates were derived:

Estimated Impact to the State by Fiscal Year

	Year 1 (FY)	Year 2 (FY)
Revenue by Each Source:		
GENERAL FUND	\$0	\$0
FEDERAL FUNDS	\$0	\$0
Other (specify)	\$0	\$0
TOTAL REVENUE	\$0	\$0
Expenditures:		
GENERAL FUND	\$0	\$0
FEDERAL FUNDS	\$0	\$0
Other (specify) Air Contaminant Fee	\$0	\$0
TOTAL EXPENDITURES	\$0	\$0

NET IMPACT

This rule is required by State law or Federal mandate.

Please identify the state or federal law: Section 401 of the Act requires the Corps to obtain a certification from the state verifying that a proposed permit will not violate state water quality standards. 33 U.S.C. § 1341.

Funding has been provided for the rule change.

Please identify the amount provided and the funding source:

Funding has not been provided for the rule.

Please explain how the agency will pay for the rule change: The Department will utilize existing resources.

Fiscal impact to persons affected by the rule: The proposed rule making will allow permit applicants to avoid time delays for receiving nationwide and regional permits because the Department will be able to issue the certification for these permits in a more timely manner. By minimizing the time necessary for project approval, costs related to construction delays such as increased material and labor costs will be avoided.

Fiscal impact to Counties or other Local Governments (required by Iowa Code 25B.6): Nationwide and regional permits are often utilized by county or local governments for projects such as the construction, repair or replacement of roads and bridges, road crossings of streams, stabilization of stream banks, and conservation projects. The proposed rule making will minimize the regulatory burden associated with obtaining Department certification for Corps permit authorization for this work and the costs associated with construction delays. Delays in certification/permitting could result in the loss of funding if a project must be completed in a specific amount of time.

**ENVIRONMENTAL PROTECTION COMMISSION[567]
Notice of Intended Action**

Notice of Intended Action

The Environmental Protection Commission (Commission) hereby proposes to amend Chapter 61, “Water Quality Standards,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 455B.105 and 455B.173.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 455B.105 and 455B.173.

Purpose and Summary

The proposed rule making is intended to streamline the process by which the Department of Natural Resources (Department) certifies that each United States Army Corps of Engineers (Corps) nationwide and regional Federal Water Pollution Control Act (the Act) Section 404 permit (nationwide and regional permit) meets Iowa’s water quality standards. The proposed rule making achieves this by removing the requirement that the Department certify via rule making that each nationwide and regional permit meets Iowa’s water quality standards. Such certification is required by section 401 of the Act, but certification via rule making is not required. Rule making is unnecessarily burdensome and can delay the applicability of the benefits of the nationwide and regional permits to the regulated community. In addition, the rule reorganizes and clarifies the list of potential conditions that may be included by the Department in certification of individual Corps permits for state water quality certification. This reorganization places the conditions together in one portion of the rule. Despite the removal of required rule making, the procedure for certifying nationwide and regional permits will continue to provide opportunity for public comments.

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.

Public Comment

Any interested person may submit comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on September 7, 2020.

Comments should be directed to:

Christine Schwake

Iowa Department of Natural Resources

502 East 9th Street, Des Moines, Iowa 50319

Email: christine.schwake@dnr.iowa.gov

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held via conference call as follows. Persons who wish to attend the conference call should contact Christine Schwake via email at christine.schwake@dnr.iowa.gov. A conference call number will be provided prior to the hearing.

Persons who wish to make oral comments at the conference call public hearing must submit a request to Roger Bruner prior to the hearing to facilitate an orderly hearing.

September 7, 2020

Video/conference call

3 to 4 p.m.

Wallace State Office Building

Persons who wish to make oral comments at the public hearing will be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

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).

The following rule-making action is proposed:

ITEM 1. Amend paragraph **61.2(2)“g”** as follows:

g. This policy shall be applied in conjunction with water quality certification review pursuant to Section 401 of the Act. In the event that activities are specifically exempted from flood plain development permits or any other permits issued by this department in 567—Chapters 70, 71, and 72, the activity will be considered consistent with this policy. Other activities not otherwise exempted will be subject to 567—Chapters 70, 71, and 72 and this policy. ~~United States Army Corps of Engineers (Corps) nationwide permits 3, 4, 5, 6, 7, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 25, 27, 29, 30, 31, 32, 33, 34, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 48, 49, 50, 51, and 52 as well as Corps regional permits 7, 27, 33, and 34 as revised through July 16, 2014, are certified pursuant to Section 401 of the Clean Water Act subject to the following Corps regional conditions and the state water quality conditions:~~

~~—(1) Side slopes of a newly constructed channel will be no steeper than 2:1 and planted to permanent, perennial, native vegetation if not armored.~~

~~—(2) Nationwide permits with mitigation may require recording of the nationwide permit and pertinent drawings with the registrar of deeds or other appropriate official charged with the responsibility for maintaining records of title to, or interest in, real property and may also require the permittee to provide proof of that recording to the Corps.~~

~~—(3) Mitigation shall be scheduled prior to, or concurrent with, the discharge of dredged or fill material into~~

waters of the United States.

~~—(4) For newly constructed channels through areas that are unvegetated, native grass filter strips, or a riparian buffer with native trees or shrubs a minimum of 35 feet wide from the top of the bank must be planted along both sides of the new channel. A survival rate of 80 percent of desirable species shall be achieved within three years of establishment of the buffer strip.~~

~~—(5) For single family residences authorized under nationwide permit 29, the permanent loss of waters of the United States (including jurisdictional wetlands) must not exceed 1/4 acre.~~

~~—(6) For nationwide permit 46, the discharge of dredged or fill material into ditches that would sever the jurisdiction of an upstream water of the United States from a downstream water of the United States is not allowed.~~

~~—(7) For projects that impact an outstanding national resource water, outstanding Iowa water, fens, bogs, seeps, or sedge meadows, an individual Section 401 Water Quality Certification will be required (Iowa Section 401 Water Quality Certification condition).~~

~~—(8) For nationwide permits when the Corps' district engineer has issued a waiver to allow the permittee to exceed the limits of the nationwide permit, an individual Section 401 Water Quality Certification will be required (Iowa Section 401 Water Quality Certification condition).~~

~~—(9) Heavy equipment shall not be used or operated within the stream channel. If in-stream work is unavoidable, it shall be performed in such a manner as to minimize the duration of the disturbance, turbidity increases, substrate disturbance, bank disturbance, and disturbance to riparian vegetation. This condition does not further restrict otherwise authorized drainage ditch maintenance activities (Iowa Section 401 Water Quality Certification condition).~~

~~Written verification by the Corps or 401 certification by the state is required for activities covered by these permits as required by the nationwide permits or the Corps, and the activities are allowed subject to the terms and conditions of the nationwide and regional permits. The department will maintain and periodically update a guidance document listing special waters of concern. This document will be provided to the Corps for use in determining whether preconstruction notices should be provided to the department and other interested parties prior to taking action on applications for projects that would normally be covered by a nationwide or regional permit and not require a preconstruction notice under nationwide permit conditions.~~

ITEM 2. Adopt the following **new** subrule 61.2(6):

61.2(6) State water quality certification. This subrule describes the procedures the department will follow when processing applications for state water quality certification (certification) of federally issued licenses and permits pursuant to section 401 of the Act, including but not limited to permits issued by the United States Corps of Engineers (Corps) pursuant to section 404 of the Act.

a. General. The department shall receive, consider, and process applications for certification in accordance with section 401 of the Act.

b. Applications. Applications for certification shall be made either on the Corps Section 404 Permit Application form or on the department Section 401 Water Quality Certification form. These forms are available on the department's website. Individual permits issued by the Corps require submission of an application to obtain state water quality certification. However, new or renewed nationwide or regional permits issued by the Corps pursuant to section 404 of the Act shall not require the submission of an application form.

c. Public notice. The department shall issue a public notice of an application for certification. The public notice may be a joint public notice issued by the Corps on behalf of the department. The public notice shall solicit comments from the public regarding whether the proposed project complies with state water quality standards in accordance with section 401 of the Act. The public notice shall specify the procedure and timeframe for submitting comments on the proposed project.

d. Public notice for new or renewed nationwide or regional permits. The department shall provide additional notice to the public of certification of new or renewed nationwide or regional permits issued by the Corps pursuant to section 404 of the Act. The department shall provide such notice on its website. The public notice shall solicit comments from the public regarding whether the proposed permit complies with state water quality standards in accordance with section 401 of the Act. The public notice shall specify the procedure and timeframe for submitting comments on the proposed permit.

e. Department action on application. After the close of the public comment period and consideration of comments received, the department may issue a certification letter which may include conditions necessary to

ensure compliance with state water quality standards, waive issuance of the certification, or deny certification, in accordance with section 401 of the Act.

f. Certification of federal permits or licenses may require conditions, which may include one or more of the following, to ensure water quality standards are met:

(1) During construction and upon completion of the project, actions must be taken to prevent pollution affecting public health, fish, shellfish, wildlife, and recreation due to turbidity, pH, nutrients, suspended solids, floating debris, visible oil and grease, or other pollutants entering waters of the state;

(2) Equipment used in waters of the state shall be cleaned of all hazardous materials, pesticides, fuels, lubricants, oils, hydraulic fluids, or other construction-related, potentially hazardous, substances before arriving on site. Wash water shall not be discharged into a water of the state;

(3) All cleared vegetative material shall be properly managed in such a manner that it cannot enter a water of the state and cause a violation of water quality standards;

(4) All construction debris shall be properly managed in such a manner that it cannot enter a water of the state;

(5) Erosion shall be managed so that sediment is not discharged to a water of the state in a manner that causes a violation of water quality standards;

(6) Riprap and temporary crossings shall consist of clean material free of coatings of potentially hazardous substances. No asphalt or petroleum-based material shall be used as or included in riprap material placed in any water of the state or within the high-water table;

(7) Stockpiled dredged materials on the shore shall be managed so that sediment is not discharged in a manner that causes a violation of water quality standards;

(8) Water quality monitoring will be required for Federal Energy Regulatory Commission hydropower projects at the baseline, construction and operational phases of the project;

(9) Hydropower dams shall be operated in a run-of-river mode and will release a minimum of the 7-day, 10-year low flow (7Q10) over the dam at all times during hydropower operation to maintain downstream water quality; and/or

(10) Hydraulically dredged material shall be managed to ensure the return water meets water quality standards.

The following tests shall be conducted on the material to be dredged, if required by the department in the certification:

a. Prior to commencement of hydraulic dredging, the permittee shall perform a sieve analysis and a modified elutriate test procedure to predict the effluent quality and the concentration of contaminants in the effluent. Results of the sieve analysis and elutriate test and a map indicating the sampling locations shall be forwarded to the department and to the Corps prior to the commencement of dredging; and

b. Water from the elutriate test shall be tested for the following: ammonia, oil and grease, pH, turbidity, total suspended solids, carbonaceous biochemical oxygen demand (5 day)/chemical oxygen demand, atrazine, copper, lead, zinc, mercury, cadmium, selenium, silver, chromium VI, and cyanide.

Should any of the above test results violate water quality standards, the department may amend the certification to assure that water quality standards are met.

g. Duration of certification. The department's certification shall remain in effect until the expiration date of the applicable permit or until the department issues a de-certification letter.

Date

Kayla Lyon, Director

**Environmental Protection Commission
Iowa Department of Natural Resources**

ITEM

9

DECISION

TOPIC

Contract with Sherry Carrick**Recommendations:**

Commission approval is requested for a two-year contract with Sherry Carrick. The contract will begin on July 22, 2020, and terminate on June 30, 2022. The total amount of this contract shall not exceed \$33,176.00.

Funding Source:

Funding for this contract consists of Clean Air Act section 103 grant funds (\$5,308) and State "Environment First" HC2A funds (\$27,868).

Background:

Ambient air monitoring filters and samplers are in various locations throughout the state. The data collected in these filters/samplers is used by the DNR in determining the levels of air pollutants in the specific locations where the samples are collected. The DNR contracts with the State Hygienic Laboratory (SHL) to collect a majority of the filter/sampler data and to then analyze the collected data. The DNR also employs local contractors to collect filters and sampler data in areas of the state where it would be cost prohibitive to include the area as part of a routine route for filter/sampler pickup to be conducted by SHL.

In order to complete the collection and transmittal of filter/sampler data and to transmit it to SHL, the DNR requires selected Contractors to:

- Be dependable and reliable in all weather conditions;
- Have own transportation to reach the monitoring site;
- Be available at least every 3 days for sample collection at the site;
- Climb ladders, as necessary;
- Participate in field training, provided by SHL, of collection procedures to become proficient and knowledgeable in order to operate and maintain air monitoring samplers and to retrieve data using a computer, USB thumb drive, or similar device as provided by DNR/SHL;
- Read, comprehend and follow operational and quality assurance procedures as listed in the SHL standard operating procedures (SOP) for operation of the instruments and adhere to the procedures specified by SHL for timely performance of tasks; and
- Respond to requests and other communications with SHL/DNR within the timeframe requested.

Purpose:

The parties propose to enter into this contract for the purpose of retaining the Contractor to collect and transmit ambient air monitoring filters and sampler data for determination of the levels of air pollutants in/near the Council Bluffs area.

Contractor Selection Process:

The Informal Request for Proposal (RFP) process was used to solicit competitive bids from three potential contractors. DNR received two proposals for evaluation.

Contract History:

The DNR has been entering into filter collection contracts with local contractors since the late 1990s to support the ambient air monitoring network. There have been two different contractors over the last five years for the Council Bluff sites. Following the selection process Sherry Carrick was the candidate selected for this contract.

Brian Hutchins
Environmental Program Supervisor
Air Quality Bureau, Environmental Services Division
July 21, 2020

Attachment(s): Contract Statement of Work

Statement of Work. Contractor shall perform the following Tasks by the Task Milestone Dates set out in the following table:

Deliverables	Task Milestone Date
<p>Task 1: Filter and sampler data collection and transmittal of ambient air monitoring filter and sampler data</p> <p>Description: The Contractor shall collect filter and sampler data from filter based samplers in or near Council Bluffs and shall transmit the collections to the State Hygienic Laboratory (SHL), as directed by the DNR through SHL. Adherence to procedures specified by SHL for timely performance of tasks and communication with SHL and DNR is mandatory.</p> <p>In order to complete the collection and transmittal of filter and sampler data, the Contractor shall:</p> <ul style="list-style-type: none"> • Collect filter and sampler data in a dependable and reliable manner in all weather conditions; • Provide Contractor’s own transportation to reach the filter and sampler collection monitoring site(s); • Conduct sample collection at the site(s) at least every 3 days; • Climb ladders, as necessary; • Participate in field training, as directed by DNR and as available and provided by SHL, of collection procedures to become proficient and knowledgeable in order to operate and maintain air monitoring samplers and to retrieve data using a computer, USB thumb drive, or similar device as provided by DNR and SHL; • Read, comprehend and follow operational and quality assurance procedures listed in the SHL standard operating procedure (SOP) for operation of the monitoring equipment; and adhere to the procedures specified by SHL for timely performance of tasks; and • Respond to requests and other communications with SHL/DNR within the timeframe requested. 	<p>Samples shall be collected throughout the performance of this contract on a periodic basis as directed by the DNR through SHL.</p>