

this action. However, individual permits will not be issued for sources discharging effluent from construction dewatering facility covered by this general permit unless it can be clearly demonstrated that inclusion under the general permit is inappropriate.

The Director may consider the issuance of individual permits when:

1. The discharge is a significant contributor of pollution;
2. The discharge is not in compliance with the terms and conditions of the general permit;
3. A change has occurred in the availability of demonstrated technology or practices for the control or abatement of pollutants applicable to the point source;
4. Effluent limitations guidelines are subsequently promulgated for the point sources covered by the general permit;
5. A Water Quality Management plan containing requirements applicable to such point sources is approved; or
6. Circumstances have changed since the time of the request to be covered so that the discharger is no longer appropriately controlled under the general permit, or either a temporary or permanent reduction or elimination of the authorized discharge is necessary;

In accordance with 40 CFR 122.28(b)(3)(iv), the applicability of the general permit is automatically terminated on the effective date of the individual permit.

Under this general permit, owners and operators of construction dewatering sites in Massachusetts, Maine and New Hampshire may be granted authorization to discharge groundwater and stormwater generated wastewaters into waters of the respective States. Dewatering associated with the construction of single family homes is not required to have a permit. This permit does not authorize the discharge of stormwater associated with construction sites which disturb greater than 5 acres of land. These sites are required to have a separate NPDES permit for stormwater discharges in accordance with 40 CFR 122.26s(b)(14)(x). Authorization under the permit shall require prior submittal of certain facility information. Upon receipt of all required information, the permit issuing authority may allow or disallow coverage under the general permit.

The following list shows the criteria which will be used in evaluating whether or not an individual permit may be required instead of a general permit.

1. Evaluation of wastewater samples for one whole effluent toxicity-test or

one priority pollutant scan if required by the States and EPA.

2. Preservation of high quality waters and fisheries;
3. Facilities with an effluent discharge flow of over 100gpm
4. Production of effluent at the facility other than groundwater, seepage, and stormwater run-off.
5. History of land use.

The similarity of the discharges has prompted EPA to prepare this draft general permit for public review and comment. When issued, this permit will enable facilities to maintain compliance with the Act and will extend environmental and regulatory controls to a large number of discharges and reduce some permit backlog. The issuance of this general permit for the geographic areas described below is warranted by this similarity of (a) environmental conditions. (b) State regulatory requirements applicable to the discharges and receiving waters, and (c) technology employed.

### III. Conditions of the General NPDES Permit

#### A. Geographic Areas

##### *Maine* (Permit No. MEG070000)

All of the discharges to be authorized by the general NPDES permit for the State of Maine from dischargers are limited to Class B,C,SB and SC waters of the State, except lakes. The drainage areas must be more than 10 square miles.

##### *Massachusetts* (Permit No. MAG070000)

All of the discharges to be authorized by the general NPDES permit for the Commonwealth of Massachusetts dischargers are limited to Class B, and SB waters as designated in Massachusetts Water Quality Standards, 314 CMR 4.00 *et seq.* Discharges into Class A water needs review and approval by MADEP.

##### *New Hampshire* (Permit No. NHG070000)

All of the discharges to be authorized by the general NPDES permit for the State of New Hampshire dischargers are into all waters of the State of New Hampshire unless otherwise restricted by the State Water Quality Standards, New Hampshire RSA 485-A:8. (or as revised).

#### B. Notification by Permittees

Operators of facilities whose discharge, or discharges, are described in Section II and whose facilities are located in the geographic areas described in Section III. A. above may submit to the Regional Administrator, of

New England, and each State, a notice of intent to be covered by the appropriate general permit. This written notification must include the owner's or operator's legal name and address; the facility name and address; the type of facilities to be covered, the number of discharge points including the anticipated duration, volume, and rate of discharge for each outfall; a topographic map (or other map if a topographic map is not available) indicating the facility locations; a description of any wastewater treatment; storage of petroleum and chemicals on site; history of land use of the site; and the names of the receiving waters into which discharge will occur. In addition one Whole Effluent Toxicity (WET) test result and/or one priority pollutant scan of the water to be discharged may be required, on a case by case bases by the States and/or EPA. The whole effluent toxicity test will consist of one chronic and modified acute toxicity screening test with one hundred percent sample. The Ceriodaphnia dubia for fresh water and sea-urchin for marine water shall be used as test organism. A copy of the test procedure and detailed protocol will be provided by EPA. The results of the chronic biological test (C-NOEC) or the priority pollutant scan will be forwarded to the State and EPA when required.

A determination is required as to whether or not the facility's discharge will adversely affect a listed or proposed to be listed endangered or threatened species or its critical habitat (see Part F).

The facilities authorized to discharge under a final general permit will receive written notification from EPA within 30 days with State concurrence where necessary upon receipt of the complete application including necessary sampling data. Failure to respond by the State or EPA within this period, the permit will be automatically effective after 30 days of the complete notification.

#### C. Effluent Limitations

##### 1. Statutory Requirements

The Clean Water Act (the Act) prohibits the discharge of pollutants to waters of the United States without a National Pollutant Discharge Elimination System (NPDES) permit unless such a discharge is otherwise authorized by the Act. The NPDES Permit is the mechanism used to implement technology and water quality based effluent limitations and other requirements including monitoring and reporting. The NPDES permit was developed in accordance with various