

such withdrawal in writing to the person listed under **FOR FURTHER INFORMATION CONTACT**, postmarked before October 10, 2003. This written withdrawal of the request for cancellation will apply only to the applicable FIFRA section 6(f)(1) request listed in this notice. If the product(s) have been subject to a previous cancellation action, the effective date of cancellation and all other provisions of any earlier cancellation action are controlling. The withdrawal request must also include a commitment to pay any reregistration fees due, and to fulfill any applicable unsatisfied data requirements.

V. Provisions for Disposition of Existing Stocks

The effective date of cancellation will be the date of the cancellation order. The orders effecting these requested cancellations will generally permit a registrant to sell or distribute existing stocks for 1-year after the date the cancellation order is issued. This policy is in accordance with the Agency's statement of policy as prescribed in the **Federal Register** of June 26, 1991 (56 FR 29362) (FRL-3846-4). Exceptions to this general rule will be made if a product poses a risk concern, or is in noncompliance with reregistration requirements, or is subject to a Data Call-In. In all cases, product-specific disposition dates will be given in the cancellation orders.

Existing stocks are those stocks of registered pesticide products which are currently in the United States and which have been packaged, labeled, and released for shipment prior to the effective date of the cancellation action. Unless the provisions of an earlier order apply, existing stocks already in the hands of dealers or users can be distributed, sold, or used legally until they are exhausted, provided that such further sale and use comply with the EPA-approved label and labeling of the affected product. Exception to these general rules will be made in specific cases when more stringent restrictions on sale, distribution, or use of the products or their ingredients have already been imposed, as in a Special Review action, or where the Agency has identified significant potential risk concerns associated with a particular chemical.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: August 27, 2003.

Betty Shackelford,

Acting Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 03-22937 Filed 9-9-03; 8:45 am]

BILLING CODE 6560-50-S

ENVIRONMENTAL PROTECTION AGENCY

[FRL-7552-7]

Draft National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges From Construction Activities That Are Classified as Associated With Industrial Activity

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 405 of the Water Quality Act of 1987 added section 402(p) to the Clean Water Act (CWA) which requires the EPA to develop a phased approach to regulating storm water discharges under the NPDES program. EPA published a final regulation on November 16, 1990, (55 FR 47990) establishing permit application requirements for storm water discharges associated with industrial activity and for discharges from municipal separate storm sewer systems serving a population of 100,000 or more. In the permit application regulations, EPA defined the term "storm water discharge associated with industrial activity" in a comprehensive manner to cover a wide variety of facilities. This definition greatly expanded the number of industrial facilities subject to the NPDES program.

EPA Region 4 published a final NPDES general permit for storm water discharges from construction activities that are classified as "associated with industrial activity" on March 31, 1998, (63 FR 15622) and modified the permit on April 28, 2000 (64 FR 25122). The general permit established Notice of Intent (NOI) requirements, special conditions, requirements to develop and implement storm water pollution prevention plans (SWPPPs), monitoring requirements for discharges to 303(d) listed water bodies, and requirements to conduct site inspections for facilities with discharges authorized by the permit. This notice requests comments on the draft reissuance of the above referenced general permit for discharges of storm water from construction activities "associated with industrial activity" on Indian Country lands where

EPA Region 4 is the permit issuing authority.

DATES: Comments relative to this draft permit are not required; however, if you wish to submit comments, the comments must be received by November 10, 2003.

ADDRESSES: Persons wishing to comment on or object to any aspects of this permit reissuance or wishing to request a public hearing, are invited to submit the same in writing within sixty (60) days of this notice to the Water Management Division, United States Environmental Protection Agency, Region 4, Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, GA 30303-8960, Attention: Ms. Ann Brown.

FOR FURTHER INFORMATION CONTACT: The proposed NPDES general permit, fact sheet and other relevant documents are on file and may be inspected any time between 9 a.m. and 4 p.m., Monday through Friday at the address shown below. Copies of the draft NPDES general permit, fact sheet or other relevant documents may be obtained by writing the United States Environmental Protection Agency, Region 4, Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, GA 30303-8960, Attention: Ms. Ann Brown, or calling (404) 562-9288. In addition, copies of the draft NPDES general permit, fact sheet or other relevant documents may be downloaded at www.epa.gov/region4/water/permits/stormwater.html.

Contact Mr. Floyd Wellborn, telephone number (404) 562-9296, or Mr. Michael Mitchell, telephone number (404) 562-9303, or at the following address: United States Environmental Protection Agency, Region 4, Water Management Division, NPDES and Biosolids Permits Section, Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, GA 30303-8960.

SUPPLEMENTARY INFORMATION:

I. Procedures for Reaching a Final Permit Decision

Pursuant to 40 CFR 124.13, any person who believes any condition of the permit is inappropriate must raise all reasonably ascertainable issues and submit all reasonably available arguments in full, supporting their position, by the close of the comment period. All comments on the proposed NPDES general permit received within the 60-day period will be considered in the formulation of final determinations regarding the permit reissuance.

After consideration of all written comments, the requirements and policies in the Act, and all appropriate regulations, the EPA Regional Administrator will make a

determination regarding the general permit reissuance. If the determination is substantially unchanged from those announced by this notice, the Administrator will so notify all persons submitting written comments. If the determination is substantially changed, the Administrator may issue a public notice indicating the revised determination.

A formal hearing is available to challenge any NPDES permit issued according to the regulations at 40 CFR 124.15, except for a general permit as cited by 40 CFR 124.71. Within 120 days following notice of EPA's final decision for the general permit under 40 CFR 124.15, any interested person may appeal the permit in the Federal Court of Appeals in accordance with section 509(b)(1) of the CWA. Persons affected by a general permit may not challenge the conditions of a general permit as a right in further Agency proceedings. They may instead either challenge the general permit in court, or apply for an individual permit as specified at 40 CFR 122.21, as authorized at 40 CFR 122.28, and then request a formal hearing on the issuance or denial of an individual permit.

II. Background

A. Statutory and Regulatory History

Section 405 of the Water Quality Act of 1987 added section 402(p) to the CWA, which directed the EPA to develop a phased approach to regulate the storm water discharges under the National Pollutant Discharge Elimination System (NPDES) program. EPA published a final regulation on the first phase of this program on November 16, 1990, establishing permit application requirements for "storm water discharges associated with industrial activity." Construction activities that disturb at least five acres of land or are part of a larger plan of development and have point source discharges to waters of the U.S., are defined in 40 CFR 122.26(b)(14)(x) as an "industrial activity." Upon the advent of the Phase II storm water regulations, these activities became referred to as large construction activities.

Phase II of the storm water program was published in the **Federal Register** on December 8, 1999. Phase II includes sites disturbing at least one acre of land and less than five acres, as well as sites less than one acre of land area that are part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one and less than five acres. Small construction

activity is defined at 40 CFR 122.26(b)(15)(i).

B. Significant Changes From the 1998 General Permit and the Subsequent 2000 Modification

1. The organization and numbering of the permit has been changed from the March 1998 (63 FR 15622) permit and the April 2000 (64 FR 25122) permit modification to mirror the organization and numbering of the national permit issued by various other EPA regions in the July 2003 **Federal Register** (68 FR 39087). This change also will support the use of the NOI form used to apply for coverage under the general permit. The NOI directs the applicant to certain sections of the permit. Therefore, it is imperative that the permit sections cited correspond to the topics referenced in the NOI.

2. Coverage for discharges from small construction activities has been added to the eligibility provisions.

3. The eligibility conditions were clarified regarding facilities discharging to water bodies with Total Maximum Daily Loads (TMDLs).

4. Waivers have been added for qualifying discharges from small construction activities.

5. The permit coverage area has been changed. Today's proposed reissuance no longer covers facilities on non-Indian lands in the State of Florida. It does continue to cover facilities on Indian Country lands within the States of Alabama, Florida, Mississippi and North Carolina.

6. The NOI has been changed from the previous permit. See page 78118 of the December 20, 2002, **Federal Register** (67 FR 78116) for a detailed discussion on the changes.

C. Summary of Terms and Conditions of the Proposed General Permit

1. Discharges Covered

Operators of large, five acres and greater, and small, one acre to less than five acres, construction activities on Indian Country lands within the States of Alabama, Florida, Mississippi and North Carolina may be eligible to obtain coverage under this permit for allowable storm water and non-storm water discharges specifically listed in the permit.

2. Limitations on Coverage

The proposed general permit retains the eligibility restrictions from the previous permit. The permit does not regulate post-construction discharges, storm water discharges commingled with non-storm water discharges, except as noted below, discharges previously

covered by another NPDES, discharges which cause or contribute to a violation of a water quality standard, discharges which adversely affect threatened or endangered species or their critical habitat, or discharges which adversely affect a listed or proposed to be listed historic place or resource. In addition, the permit includes a new restriction on discharges of storm water to waters for which a TMDL has been developed. Discharges of storm water from large and small construction activities that do not meet the eligibility requirements of the proposed general permit would be required to submit an individual permit application.

3. Deadlines and Permit Application Process

To obtain discharge authorization under the proposed general permit, dischargers must submit an NOI, which requires basic information about the facility owner/operator, location and discharge(s). NOI due dates, for construction activities on Indian lands in Alabama, Florida, Mississippi and North Carolina, are as follows:

- i. Ongoing construction activities previously covered by an NPDES permit, must submit an NOI within 60 days of the effective date of this permit.
- ii. New construction activities, after the effective date of this permit, must submit an NOI at least 48 hours prior to the commencement of any construction activity (e.g., the initial disturbance of soils associated with clearing, grading, excavation activities, or other construction activities).

4. Storm Water Pollution Prevention Plans

The proposed general permit requires operators covered by the permit to develop and implement a SWPPP. All SWPPPs must be developed in accordance with sound engineering practices and developed specific to the site. The SWPPP must be prepared prior to submission of the NOI.

III. Executive Order 12866

Under Executive Order 12866 (58 FR 51735 (October 4, 1993)) the Agency must determine whether the regulatory action in "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may: (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health, or safety, or State, local, or Tribal

governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order. OMB has exempted review of NPDES general permits under the terms of Executive Order 12866.

IV. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rule making requirements under the Administrative Procedures Act (APA) or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

Issuance of an NPDES general permit is not subject to rule making requirements, including the requirement for a general notice of proposed rule making, under APA section 533 or any other law, and is thus not subject to the RFA requirements.

The APA defines two broad, mutually exclusive categories of agency action—"rules" and "orders." APA section 551(4) defines rule as "an agency statement of general or particular applicability and future effect designed to implement, interpret or prescribe law or policy or describing the organization, procedure, or practice or requirements of an agency" APA section 551(6) defines orders as "a final disposition . . . of an agency in a matter other than rule making but including licensing." APA section 551(8) defines "license" to "include . . . an agency permit" The APA thus categorizes a permit as an order, which by the APA's definition is not a rule. Section 553 of the APA establishes "rule making" requirements. APA section 551(5) defines "rule making" as "the agency process for formulating, amending, or repealing a rule." By its terms, section 553 applies only to rules and not to orders, exempting by definition permits.

V. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for Federal agencies to assess the effects of their "regulatory actions" to refer to regulations. (See, e.g., UMRA section

401, "Each agency shall . . . assess the effects of Federal regulatory actions . . . (other than to the extent that such regulations incorporate requirements specifically set forth in law).") UMRA section 102 defines "regulation" by reference to 2 U.S.C. 658 which in turn defines "regulation" and "rule" by reference to section 601(2) of the RFA. That section of the RFA defines "rule" as "any rule for which the agency publishes a notice of proposed rule making pursuant to section 553(b) of the APA, or any other law."

As discussed in the RFA section of this notice, NPDES general permits are not "rules" by definition under the APA and thus not subject to the APA requirement to publish a notice of proposed rule making. NPDES general permits are also not subject to such a requirement under the CWA. While EPA publishes a notice to solicit public comment on draft general permits, it does so pursuant to the CWA section 402(a) requirement to provide an opportunity for a hearing. Therefore, NPDES general permits are not "rules" for RFA or UMRA purposes.

VI. Paperwork Reduction Act

EPA HQ has reviewed the requirements imposed on regulated facilities resulting from the proposed construction general permit under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* The information collection requirements of the construction general permit for large construction activities have already been approved by the Office of Management and Budget (OMB) (OMB Control No. 2040-0188) in previous submissions made for the NPDES permit program under the provisions of the CWA. Information collection requirements of the construction general permit for small construction activities were submitted to OMB (OMB Control No. 2040-0211) for review and approval and will be published in a separate **Federal Register** notice.

Carol Kemker,

Acting Director, Water Management Division.

[FR Doc. 03-23062 Filed 9-9-03; 8:45 am]

BILLING CODE 6560-50-U

FEDERAL COMMUNICATIONS COMMISSION

Federal Advisory Committee Act Notice of Public Meeting

AGENCY: Federal Communications Commission.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92-463, as amended, this notice advises interested persons that the Advisory Committee on Diversity for Communications in the Digital Age has been established and is holding its first meeting, which will be held at the Federal Communications Commission in Washington, DC.

DATES: September 29, 2003 at 2 p.m. to 4 p.m.

ADDRESSES: Federal Communications Commission, Commission Meeting Room, Room TW-C305, 445 12th St. SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Jane E. Mago, Designated Federal Officer of the Committee on Diversity, or Maureen C. McLaughlin, Alternate Designated Federal Officer of the Committee on Diversity, 445 12th St. SW., Washington, DC 20554; telephone (202) 418-2030, e-mail Jane.Mago@fcc.gov, Maureen.McLaughlin@fcc.gov. Press Contact, Audrey Spivak, Office of Public Affairs, 202-418-0512, aspivak@fcc.gov.

SUPPLEMENTARY INFORMATION: The Diversity Committee was established by the Federal Communications Commission to examine current opportunities and develop recommendations for policies and practices that will further enhance the ability of minorities and women to participate in telecommunications and related industries. The Diversity Committee will tap the expertise of high-level players in the communications sector as well as the financial and technology communities. The Diversity Committee will prepare periodic and final reports to aid the FCC in its oversight responsibilities and its regulatory reviews in this area. In conjunction with such reports and analyses, the Diversity Committee will make recommendations to the FCC concerning the need for any guidelines, incentives, regulations or other policy approaches to promote diversity of participation in the communications sector. The Diversity Committee will also develop a description of best practices within the communications sector for promoting diversity of participation.

Information concerning the activities of the Diversity Committee can be reviewed at the Committee's Web site: <http://www.fcc.gov/DiversityFAC>. Material relevant to the September 29th meeting will be posted there.

Members of the general public may attend the meeting. The Federal Communications Commission will attempt to accommodate as many people as possible. However,