

response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

*Respondents/Affected Entities:* Owners/operators of Sewage Sludge Treatment Plants.

*Estimated Number of Respondents:* 54.

*Frequency of Response:* Initially and semiannually.

*Estimated Total Annual Hour Burden:* 6,214 hours.

*Estimated Total Annual Costs:* \$2,380,931, which includes \$100,000 annualized capital/startup costs, \$1,890,000 annual O&M costs, and \$390,931 annual labor costs.

*Changes in the Estimates:* There is a decrease of 2,875 hours in the total estimated burden. This decrease in the burden from the most recently approved ICR is due to more accurate estimates of existing and anticipated new sources.

Dated: July 14, 2004.

**Oscar Morales,**

*Director, Collection Strategies Division.*

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## ENVIRONMENTAL PROTECTION AGENCY

[FRL-7791-5]

### Issuance of Final NPDES General Permits for Wastewater Lagoon Systems Located in Indian Country in MT, ND, SD, UT, and WY

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** EPA Region 8 is hereby giving notice of its issuance of five National Pollutant Discharge Elimination System (NPDES) general permits for wastewater lagoon systems that are located in Indian country in the States of Montana, North Dakota, South Dakota, Utah (except for those portions of the Navajo

Nation, the Goshutes Indian Reservation, and the Ute Mountain Ute Indian Reservation located in the State of Utah), and Wyoming and that are treating primarily domestic wastewater.

The general permits are grouped geographically by state, with the permit coverage being for specified Indian reservations in the state; any land held in trust by the United States for an Indian tribe; and any other areas which are Indian country within the meaning of 18 U.S.C. 1151. These general permits replace the twenty-one general permits that were issued for a 5-year term in 1998 for Indian reservations in Montana, North Dakota, South Dakota, and Utah. The following nine communities in South Dakota have been excluded from coverage under the general permit for South Dakota: Batesland, Claire City, Martin, New Effington, Peever, Rosholt, Sisseton, Summit, and Veblen.

The use of wastewater lagoon systems is the most common method of treating municipal wastewater in Indian country in Montana, North Dakota, South Dakota, Utah and Wyoming. Wastewater lagoon systems are also used to treat domestic wastewater from isolated housing developments, schools, camps, missions, and similar sources of domestic wastewater that are not connected to a municipal sanitary sewer system and do not use septic tank systems.

Region 8 will use general permits instead of individual permits for permitting the discharges from such facilities in order to reduce the Region's administrative burden of issuing separate individual permits. The administrative burden for the regulated sources is expected to be about the same under the general permits as with individual permits, but it will be much quicker to obtain permit coverage with general permits than with individual permits. The discharge requirements would essentially be the same with an individual permit or under the general permit. Therefore, there should be no significant difference in the amount and types of pollutants discharged.

The deadlines for applying for coverage under the general permits are given in the permits and the fact sheet. Facilities that had coverage under the previous general permit which this permit replaces are required to submit a complete Notice Of Intent (NOI) within 90 days after the effective date of this permit if they want to maintain coverage under the general permit. Facilities that did not have coverage under the previous general permit which this permit replaces must submit a complete NOI at least thirty (30) days before

either (1) the expected start of discharge from the wastewater lagoon system, or (2) the date when the operator wants authorization to begin. Authorization to discharge under this permit does not begin until the operator receives written authorization from the permit issuing authority.

**DATES:** The general permits become effective on August 16, 2004 and will expire on August 16, 2009. For appeal purposes, the 120-day time period for appeal to the U.S. Federal Courts will begin on the effective date of the permit.

**ADDRESSES:** The public record is located in the offices of EPA Region 8, and is available upon written request. Requests for copies of the public record, including a complete copy of response to comments, a list of changes made from the draft permit to the final permit, the general permit, and the fact sheet for the general permit, should be addressed to William Kennedy, Water Permits Unit (8P-W-P); U.S. EPA, Region 8; 999 18th Street, Suite 300; Denver, CO 80202-2466 or telephone (303) 312-6285. Copies of the general permit, fact sheet, response to comments, and a list of changes from the draft permit to the final permit may also be downloaded from the EPA Region 8 web page at: <http://www.epa.gov/region8/water/wastewater/npdeshome/lagoonpermit.html>. Please allow approximately one week after the date of this notice for documents to be posted on the web page.

**FOR FURTHER INFORMATION CONTACT:** Questions regarding the specific permit requirements may be directed to Mike Reed, (303) 312-6132 or E-mail at [reed.mike@epa.gov](mailto:reed.mike@epa.gov).

**SUPPLEMENTARY INFORMATION:** Region 8 proposed and solicited comments on the general permits at 68 FR 62075 (October 31, 2003). In addition, notices and copies of the draft general permit and fact sheet were sent to the applicable tribes in Region 8. Notices were sent to the persons on the Region 8 mailing list for public notices for NPDES permits. Comments were received from the Confederated Salish and Kootenai Tribes of the Flathead Nation, the Fort Peck Tribes, the Wind River Environmental Quality Commission (WREQC), the South Dakota Department of Environment and Natural Resources (SDDENR), and an individual from Montana. The response to comments is included as part of the public record. Also, the public record includes a list of the changes made from the draft permit to the final permit.

**Paperwork Reduction Act**

The information collection requirements of these permits were previously approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act, 40 U.S.C. 3501, *et seq.* and assigned OMB control numbers 2040-0250 (General Permits) and 2040-0004 (Discharge Monitoring Reports).

**Executive Order 12866**

Under Executive Order 12866 (58 FR 51735, October 4, 1993) the Agency must determine whether the regulatory action is "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 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; create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or 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 waived review of NPDES general permits under the terms of Executive Order 12866.

**Regulatory Flexibility Act**

Issuance of an NPDES general permit is not subject to rulemaking requirements, including the requirement for a general notice of proposed rulemaking, under section 535 of the Administrative Procedures Act (APA) or any other law, and is, thus, not subject to the Regulatory Flexibility Act (RFA) requirement to prepare an Initial Reg Flex Analysis (IRFA).

The APA defines two broad, mutually exclusive categories of agency action—"rules" and "orders." Its definition of "rule" encompasses "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 requirements of an agency \* \* \*." APA section 551(4). Its definition of "order" is residual: "a final disposition \* \* \* of an agency in a matter other than rulemaking but including licensing." APA section 551(6) (emphasis added). The APA

defines "license" to "include \* \* \* an agency permit \* \* \*." APA section 551(8). 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 "rulemaking" requirements. The APA defines "rulemaking" as "the agency process for formulating, amending, or repealing a rule." (APA section 551(5)). By its terms, then, section 553 applies only to "rules" and not also to "orders," which include permits.

**Unfunded Mandates Reform Act**

Section 201 of the Unfunded Mandates Reform Act (UMRA), Public Law 104-4, generally requires federal agencies to assess the effects of their "regulatory actions" on State, local, and tribal governments and the private sector. UMRA uses the term "regulatory actions" to refer to regulations. (See, *e.g.*, UMRA section 201, "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)" (emphasis added)). 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 Regulatory Flexibility Act (RFA). That section of the RFA defines "rule" as "any rule for which the agency publishes a notice of proposed rulemaking pursuant to section 553(b) of [the Administrative Procedure Act (APA)], or any other law. \* \* \*"

As discussed in the RFA section of this notice, NPDES general permits are not "rules" under the APA and, thus, are not subject to the APA requirement to publish a notice of proposed rulemaking. 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." Thus, NPDES general permits are not "rules" for RFA or UMRA purposes.

**Authority:** Clean Water Act, 33 U.S.C. 1251 *et seq.*

Dated: July 15, 2004.

**Stephen S. Tuber,**

*Assistant Regional Administrator, Office of Partnerships and Regulatory Assistance.*

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**FEDERAL COMMUNICATIONS COMMISSION**

[CS Docket No. 00-78; DA 04-2117]

**Media Bureau Implements Mandatory Electronic Filing of FCC Forms 320, 322, 324, and 325 via COALS**

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice.

**SUMMARY:** In this Notice the Media Bureau announces mandatory electronic filing via the Cable Operations and Licensing System (COALS) for FCC Forms 320 (Basic Signal Leakage), 322 (Cable Community Registration), 324 (Operator, Mail Address, and Operational Information Changes), and 325 (Annual Report of Cable Television Systems).

**DATES:** Effective February 1, 2005.

**FOR FURTHER INFORMATION CONTACT:** Michael Lance at (202) 418-7000.

**SUPPLEMENTARY INFORMATION:** In this Notice the Media Bureau announces mandatory electronic filing via the Cable Operations and Licensing System (COALS) for FCC Forms 320 (Basic Signal Leakage), 322 (Cable Community Registration), 324 (Operator, Mail Address, and Operational Information Changes), and 325 (Annual Report of Cable Television Systems). Mandatory electronic filing will commence on February 1, 2005. Paper versions of these forms will not be accepted for filing after January 31, 2005, unless accompanied by a request for waiver of the electronic filing requirement. Users can access the electronic filing system for these forms via the Internet from the Commission's Web Site at <http://www.FCC.gov/coals>. Instructions for use of the COALS and assistance are available from <http://www.fcc.gov/coals> under "download instructions." Internet access to the COALS public access system requires a user to have a browser such as Netscape version 3.04 or Internet Explorer version 3.51, or later. For technical assistance using the system or to report problems, please contact the Media Bureau, Engineering Division at (202) 418-7000 or [COALS\\_help@fcc.gov](mailto:COALS_help@fcc.gov).

Federal Communications Commission.

**W. Kenneth Ferree,**

*Chief, Media Bureau.*

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