

thirty (30) days following the date of publication of this Notice, the Agency will receive written comments relating to the proposed AOC. The Agency's response to any comments will be available to public inspection at EPA's Region IX offices, located at 75 Hawthorne Street, San Francisco, California 94105.

**DATES:** Comments must be submitted on or before October 18, 2004.

**ADDRESSES:** The proposed Agreement may be obtained from Judith Winchell, Environmental Protection Specialist, telephone (415) 972-3124. comments regarding the proposed Agreement should be addressed to Judith Winchell (SFD-7) at EPA, Region IX, 75 Hawthorne Street, San Francisco, California 94105, and should reference the 38th Street Radiation Removal Site, San Diego, California and USEPA Docket No. 2004-008.

**FOR FURTHER INFORMATION CONTACT:** Andrew Helmlinger, Office of Regional Counsel, telephone (415) 972-3904, USEPA Region IX, 75 Hawthorne Street, San Francisco, California 94105.

Dated: September 8, 2004.

**Pete Guria,**

*Acting Chief, Response, Planning, and Assessment Branch.*

[FR Doc. 04-20895 Filed 9-15-04; 8:45 am]

**BILLING CODE 6560-50-M**

## ENVIRONMENTAL PROTECTION AGENCY

[FRL-7813-8]

### Proposed Modification of National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges From Construction Activities; Notice

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

**ACTION:** Notice of proposed general permit modification.

**SUMMARY:** Today's action proposes modification of permit conditions specific to construction activities covered under EPA's National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges From Construction Activities. The general permit is available for use where EPA is the NPDES permitting authority in EPA Regions 1-3 and 5-10. Coverage under the general permit authorizes the discharge of storm water from construction activities consistent with the terms of the permit. The proposed revisions clarify that permit noncompliance only applies to sites

with permit coverage. In addition, this proposed modification includes correction of a typographical error in the permit and a corresponding error in the fact sheet.

**DATES:** Comments on today's proposed modifications must be received no later than October 18, 2004.

**FOR FURTHER INFORMATION CONTACT:** Jack Faulk, (202) 564-0768; [faulk.jack@epa.gov](mailto:faulk.jack@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### A. How Can I Get Copies of the Proposed Permit Modification and Related Materials?

1. *Docket.* EPA has established an official public docket for the Construction General Permit: Docket ID No. OW-2002-0055.

The official public docket consists of the documents specifically referenced in the Construction General Permit, any public comments received, proposed modifications, and other information related to the permit. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Water Docket in the EPA Docket Center, (EPA/DC) EPA West, Room B135, 1301 Constitution Avenue, NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Water Docket is (202) 566-2426.

2. *Electronic Access.* You may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at <http://www.epa.gov/fedrgstr/>.

You may use EPA Dockets at <http://www.epa.gov/edocket/> to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select "search," then key in the docket identification number.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI, and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public

docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in section I.A. EPA intends to work towards providing electronic access to all of the publicly available docket materials through EPA's electronic public docket.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered in paper to the Docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

For additional information about EPA's electronic public docket, visit EPA Dockets online or see 67 FR 38102, May 31, 2002.

##### B. How and to Whom Do I Submit Comments?

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket identification number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked "late." EPA is not

required to consider these late comments in formulating a final decision. If you wish to submit CBI or information that is otherwise protected by statute, please contact the person listed in **FOR FURTHER INFORMATION CONTACT**. Do not use EPA Dockets or e-mail to submit CBI or information protected by statute.

1. *Electronically*. If you submit an electronic comment as described below, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *EPA Dockets*. Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at <http://www.epa.gov/edocket>, and follow the online instructions for submitting comments. To access EPA's electronic public docket from the EPA Internet Home Page, select "Information Sources," "Dockets," and "EPA Dockets." Once in the system, select "search," and then key in the appropriate Docket ID No. The system is an "anonymous access" system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. *E-mail*. Comments may be sent by electronic mail (e-mail) to: [ow-docket@epa.gov](mailto:ow-docket@epa.gov), Attention Docket ID No. (please use appropriate Docket ID number). In contrast to EPA's electronic public docket, EPA's e-mail system is not an "anonymous access" system. If you send an e-mail comment directly to the Docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the

comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD ROM*. You may submit comments on a disk or CD ROM that you mail to the mailing address identified in section I.B.2. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By Mail*. Send four copies of your comments (disk or paper copies) to: Water Docket, Environmental Protection Agency, Mail code: #4101T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, Attention Docket ID No. (please use appropriate Docket ID number).

3. *By Hand Delivery or Courier*. Deliver four sets of your comments to: EPA Docket Center, EPA West, Room B102, 1301 Constitution Avenue, NW., Washington, DC, Attention Docket ID No. (please use appropriate Docket ID number). Such deliveries are only accepted during the Docket's normal hours of operation as identified in section I.A.1.

#### C. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at your estimate.
5. Provide specific examples to illustrate your concerns.
6. Offer alternatives.
7. Make sure to submit your comments by the comment period deadline identified.
8. To ensure proper receipt by EPA, identify the appropriate docket identification number in the subject line on the first page of your response. It would also be helpful if you provided the name, date, and **Federal Register** citation related to your comments.

#### D. What Authority Does EPA Have To Take This Action?

EPA issues NPDES permits under the authority of Clean Water Act (CWA) section 402, 33 U.S.C. 1342. The NPDES regulations, at 40 CFR 124.5(a) specify that permits may be modified at the request of any interested person (including the permittee) or upon the Director's (in this instance, EPA's)

initiative; however, permits may only be modified for reasons specified in 40 CFR 122.62. Correction of technical mistakes such as errors in calculation, or mistaken interpretations of law are among the acceptable reasons for permit modification. 40 CFR 122.62(a)(15). The proposed permit and fact sheet modifications being proposed are consistent with this criterion.

#### E. Why Is This Information Being Published in the Federal Register?

Where EPA decides to modify a permit under 40 CFR 122.62, a draft permit, incorporating the proposed changes, must be prepared and public noticed consistent with 40 CFR 124.10. During the public comment period, any interested person may submit written comments on the draft permit and may request a public hearing. Any request for public hearing shall be in writing and shall state the nature of the issues proposed to be raised in the hearing. All comments will be considered in making the final decision with responses documented in the administrative record and available to the public. This **Federal Register** notice soliciting comments is being published consistent with the 40 CFR 124.10 requirements.

#### F. Which Permit Is Proposed for Modification?

On July 1, 2003, EPA noticed in the **Federal Register** (68 FR 29087) issuance of the final NPDES General Permit for Storm Water Discharges Associated with Construction Activities (hereinafter called the "construction general permit" or "CGP") for activities located in EPA Regions 1–3 and 5–10. (All references in this notice to the CGP also include the construction general permit issued in the State of Massachusetts on August 4, 2003. 68 FR 45817.) The CGP and accompanying fact sheet are available on EPA's Internet Web site at: <http://www.epa.gov/npdes/cgp>. Operators of both large (> 5 acres) and small (1–5 acres) construction sites may be eligible to obtain coverage under the CGP for allowable storm water and non-storm water discharges. The CGP is available only in those areas where EPA is the NPDES permitting authority. A number of parties filed suit in response to EPA's July 1, 2003 issuance of the CGP. This proposed modification is, in part, the result of a settlement agreement with certain petitioners in that suit. To that end, the July 1, 2003 CGP is the permit for which modifications are being proposed herein.

### G. What Permit Modifications Are Being Proposed?

The following modifications are proposed:

1. On page 7, in section 2.3.D of the CGP, Late Notifications, third sentence, strike the phrase “or permit noncompliance” so that section 2.3.D now reads: “Late Notifications: Operators are not prohibited from submitting NOIs after initiating clearing, grading, excavation activities, or other construction activities. When a late NOI is submitted, authorization for discharges occurs consistent with Subpart 2.1. The Agency reserves the right to take enforcement action for any unpermitted discharges that occur between the commencement of construction and discharge authorization.”

2. On page D–3 in Appendix D of the CGP, section D.3, second sentence, strike the phrase “or permit noncompliance” so that section D.3 of Appendix D now reads: “Late Notifications: Operators are not prohibited from submitting waiver certifications after initiating clearing, grading, excavation activities, or other construction activities. The Agency reserves the right to take enforcement for any unpermitted discharges that occur between the time construction commenced and waiver authorization is granted.”

3. On page D–3 in Appendix D of the CGP, in the paragraph following section D.3, third sentence, strike the phrase “or permit noncompliance” so that section D.3 of Appendix D now reads: “Submittal of a waiver certification is an optional alternative to obtaining permit coverage for discharges of storm water associated with small construction activity, provided you qualify for the waiver. Any discharge of storm water associated with small construction activity not covered by either a permit or a waiver may be considered an unpermitted discharge under the Clean Water Act. As mentioned above, EPA reserves the right to take enforcement for any unpermitted discharges that occur between the time construction commenced and either discharge authorization is granted or a complete and accurate waiver certification is submitted. EPA may notify any operator covered by a waiver that they must apply for a permit. EPA may notify any operator who has been in non-compliance with a waiver that they may no longer use the waiver for future projects. Any member of the public may petition EPA to take action under this provision by submitting written notice along with supporting justification.”

4. On page 11, in section 3.11.B, strike the phrase “the discharges” so that section 3.11.B now reads: “The SWPPP must be amended if during inspections or investigations by site staff, or by local, State, tribal, or Federal officials, it is determined that the SWPPP is ineffective in eliminating or significantly minimizing pollutants in storm water discharges from the construction site.”

### H. What Fact Sheet Modifications Are Being Proposed?

The following editorial correction is proposed for the accompanying CGP fact sheet: In the second paragraph of section 3.11, strike the phrase “discharges are” and replace it with “SWPPP is” so that the sentence now reads: “The plan must also be amended if inspections or investigations by site staff, or by local, State, tribal, or Federal officials determine that the SWPPP is ineffective in eliminating or significantly minimizing pollutants in storm water discharges from the construction site.”

### I. What Is the Rationale for the Proposed Changes?

Proposed changes described in G.1, G.2, and G.3 above are identical in scope. As written, the CGP suggests that construction site operators may be liable for permit noncompliance even in those instances when the operator is not covered, or not yet covered, by that permit (e.g., before the operator submits a Notice of Intent (NOI) to be covered).

Under the CGP, permit coverage commences at the time of discharge authorization. In the case of the CGP, this is typically after a seven-day waiting period subsequent to an operator's submission of an NOI to EPA. As established in the CGP, to obtain permit coverage, operators are required to meet certain eligibility criteria (e.g., development of a site-specific storm water pollution prevention plan). However, failure of the operator to take necessary actions to be eligible for permit coverage does not constitute permit noncompliance. Rather, an operator that fails to meet all applicable eligibility provisions is not authorized for permit coverage. Thus, failure to meet certain eligibility provisions may be indicative of other types of noncompliance (e.g., violation of CWA section 402 for discharging without a permit or violation of 40 CFR 122.21(c)(1) for failure to submit a permit application at least 90 days before the date on which construction is to commence). The permit requirements do not apply prior to submission of an NOI and prior to the operator's

obtaining authorization to discharge storm water. In addition, any operator is free to apply for coverage under an individual permit.

Proposed changes described in G.4 and H above are purely editorial. EPA identified these two changes as part of a routine review of the permit and fact sheet. EPA considers these edits logical revisions of existing language, simply correcting the use of incorrect terminology.

### J. What Are the Limitations on Commenting on the Draft Permit?

Pursuant to 40 CFR 124.5(c)(2), when a permit is modified, only the conditions subject to modification are reopened. All other aspects of the existing permit shall remain in effect for the duration of the unmodified permit. As such, EPA will review and consider comments submitted in response to the modifications proposed in this **Federal Register** notice but is not obligated to respond to comments on other, unrelated permit conditions or fact sheet language. All comments are due to EPA by October 18, 2004.

Signed and issued this 8th day of September, 2004.

**Joanna Jerison,**  
Acting Director, Office of Ecosystem Protection, Region I.

Signed and issued this 8th day of September, 2004.

**Walter Mugdan,**  
Director, Division of Environmental Planning and Protection, Region II.

Signed and issued this 8th day of September, 2004.

**Carl Soderberg,**  
Director, Caribbean Environmental Protection Division, Region II.

Signed and issued this 7th day of September, 2004.

**Jon M. Capacasa,**  
Director, Water Protection Division, Region III.

Signed and issued this 8th day of September, 2004.

**Jo Lynn Traub,**  
Director, Water Division, Region V.

Signed and issued this 8th day of September, 2004.

**William K. Honker,**  
Acting Director, Water Quality Protection Division, Region VI.

Signed and issued this 8th day of September, 2004.

**Leo J. Alderman,**  
Director, Water, Wetlands, and Pesticides Division, Region VII.

Signed and issued this 7th day of September, 2004.

**Judy Wong,**  
Director, Water Program, Region VIII.

Signed and issued this 7th day of September, 2004.

**Alexis Strauss,**  
Director, Water Division, Region IX.

Signed and issued this 8th day of September, 2004.

**Robert R. Robichaud,**  
Associate Director, Office of Water, Region X.  
[FR Doc. 04-20896 Filed 9-15-04; 8:45 am]  
**BILLING CODE 6560-50-P**

## FEDERAL COMMUNICATIONS COMMISSION

### Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission

September 9, 2004.

**SUMMARY:** The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act (PRA) of 1995, Public Law 104-13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

**DATES:** Written Paperwork Reduction Act (PRA) comments should be submitted on or before October 18, 2004. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

**ADDRESSES:** Direct all Paperwork Reduction Act (PRA) comments to Judith B. Herman, Federal Communications Commission, Room 1-C804, 445 12th Street, SW., DC 20554 or via the Internet to [Judith-B.Herman@fcc.gov](mailto:Judith-B.Herman@fcc.gov).

**FOR FURTHER INFORMATION CONTACT:** For additional information or copies of the information collection(s), contact Judith

B. Herman at 202-418-0214 or via the Internet at [Judith-B.Herman@fcc.gov](mailto:Judith-B.Herman@fcc.gov).

#### SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060-0360.

Title: Section 80.409, Station Logs.

Form No.: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit, not-for-profit institutions, state, local or tribal government.

Number of Respondents: 24,660.

Estimated Time Per Response: 27.3—95 hours.

Frequency of Response: Recordkeeping requirement.

Total Annual Burden: 677,380 hours.

Total Annual Cost: N/A.

Privacy Act Impact Assessment: N/A.

Needs and Uses: The Commission is revising this information collection to consolidate two recordkeeping requirements into one comprehensive collection. Both information collections were under 47 CFR 80.409 (approved by OMB under OMB Control Numbers 3060-0360 and 3060-0364). The Commission will retain OMB Control Number 3060-0360 as the active control number.

The recordkeeping requirements in Section 80.409 are necessary to document the operation and public correspondence service of public coast radiotelegraph, public coast radiotelephone stations and Alaska-public fixed stations, ship radiotelegraph, ship radiotelephone and applicable radiotelephone including the logging of distress and safety calls where applicable.

Federal Communications Commission.

**Marlene H. Dortch,**

Secretary.

[FR Doc. 04-20900 Filed 9-15-04; 8:45 am]

**BILLING CODE 6712-01-P**

## FEDERAL COMMUNICATIONS COMMISSION

[DA 04-2596]

### Audit of Operational Status of Licenses in the Paging and Radiotelephone Service and 929-930 MHz Band on Exclusive Channels

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice; correction.

**SUMMARY:** The Federal Communications Commission (Commission) published a document in the *Federal Register* on September 8, 2004, announcing an audit of the operational status of stations authorized in the paging and radiotelephone service (part 22) and

stations authorized on 929-930 MHz private carrier paging exclusive channels (part 90) which encourages licensees to verify the mailing address for each license held and to register with the Commission Registration System (CORES).

#### FOR FURTHER INFORMATION CONTACT:

Denise D. Walter, Mobility Division, at 202-418-0620.

#### Correction

1. In the *Federal Register* of September 8, 2004, in FR Doc. 04-20361, on page 54290, in the third column, correct the "proceeding title" to read: Audit of Operational Status of Licenses in the Paging and Radiotelephone Service and 929-930 MHz Band on Exclusive Channels

2. In the *Federal Register* of September 8, 2004, in FR Doc. 04-20361, on page 54290, in the first paragraph, correct the "Summary" text to read:

**SUMMARY:** In this document the Wireless Telecommunications Bureau (Bureau) announces a license audit of the operational status of all site-specific licenses operating under part 22, Paging and Radiotelephone Service, with a "CD" radio service code and all site-specific licenses operating in the 929-930 MHz band on exclusive channels, part 90, with a "GS" radio service code. Licensees are asked to verify their mailing address on record in the Universal Licensing System for each license held and, where appropriate, update the information. Licensees are also asked to verify they have registered with the Commission Registration System (CORES) and associated their FCC Registration Number (FRN) with each license held. The audit is scheduled to begin the week of September 27, 2004. Licensees will be required to respond to the audit electronically, via the internet, within forty-five (45) calendar days from the date on the audit letter.

Dated: September 10, 2004.

**Linda Chang,**

Associate Chief, Mobility Division.

[FR Doc. 04-20899 Filed 9-15-04; 8:45 am]

**BILLING CODE 6712-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Solicitation of Written Comments on Proposed Definition of Bioactive Food Components

**AGENCY:** Office of Public Health and Science, Office of the Secretary, HHS.

**ACTION:** Notice.