

would be negligible, and that no harm will result from aggregate exposure to *N*-acyl sarcosines and/or the sodium *N*-acyl sarcosinates.

#### D. Cumulative Effects

Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider "available information" concerning the cumulative effects of a particular pesticide's residues and "other substances that have a common mechanism of toxicity." EPA does not have, at this time, available data to determine whether *N*-acyl sarcosines and sodium *N*-acyl sarcosinates have a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, *N*-acyl sarcosines and sodium *N*-acyl sarcosinates do not share common toxic metabolites with other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that *N*-acyl sarcosines and sodium *N*-acyl sarcosinates have a common mechanism of toxicity with other substances.

#### E. Safety Determination

1. *U.S. population.* Based on the worst case assumption regarding the dietary risks resulting from exposure to *N*-acyl sarcosines and its salts when used at levels not to exceed 10% of pesticide formulations, residues of *N*-acyl sarcosines and their sodium salts would not be considered to be toxicologically significant. Based on the extensive use of *N*-acyl sarcosines and their sodium salts in various consumer products such as toothpastes, soaps, medicated skin cleaners and medicated shampoos; its physico-chemical properties; the fact that some of these chemicals have been approved for food use applications, and the review of its use, Hampshire Chemical Corporation does not believe that a potential for hazard exists when *N*-acyl sarcosines and their sodium salts are used in accordance with good agricultural practice.

2. *Infants and children.* FDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects in calculating a dose level that accounts for prenatal and postnatal toxicity and the completeness of the data base unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through the use of margin of exposure analysis or

through using uncertainty factors (safety) in calculating a dose level that poses no appreciable risk to humans. Due to the ubiquitous nature of sarcosine in human tissue and food, a safety factor analysis in assessing the risk of *N*-acyl sarcosines and sodium *N*-acyl sarcosinates was not used. For the same reason, application of the additional safety factor for infants and children would not be appropriate.

#### F. International Tolerances

No Codex maximum residue levels have been established for *N*-acyl sarcosines and/or sodium *N*-acyl sarcosinates.

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### ENVIRONMENTAL PROTECTION AGENCY

[FRL-7378-9]

#### Notice of Availability of National Pollutant Discharge Elimination System (NPDES) Storm Water General Permit for Small MS4s

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

**ACTION:** Notice of Availability of Proposed NPDES General Permit.

**SUMMARY:** The Regional Administrator, EPA, Region 9 is proposing to issue an NPDES general permit for storm water discharges from small municipal separate storm sewer systems (MS4s) located in the geographic areas of Region 9 where the NPDES permit program has not been delegated. These areas include the State of Arizona (including Indian lands), Indian lands in the States of California and Nevada, and the U.S. Pacific Island territories. For the State of Arizona (excluding Indian Country lands), the general permit is being proposed jointly by Region 9 and the Director of the Arizona Department of Environmental Quality (ADEQ). NPDES permit coverage for these discharges is required in accordance with the 1987 Amendments to the Clean Water Act (CWA), and final EPA regulations for Phase II storm water discharges (64 FR 68722, December 8, 1999). This Notice announces the availability of the proposed general permit and fact sheet for public comment.

**DATES:** *Comments:* Comments on the proposed general permit must be received or postmarked no later than October 30, 2002. Within the comment period, interested persons may also request a public hearing pursuant to 40

CFR 124.12 concerning the proposed permit.

*Public Meeting:* The public meeting will be held on October 16, 2002 at 1 p.m. to 5 p.m.

**ADDRESSES:** Comments: All public comments or requests for a public hearing must be submitted to Lisa Honor, U.S. EPA, Region 9 (WTR-5), 75 Hawthorne Street, San Francisco, CA 94105. Comments or requests for a public hearing pertaining to MS4s within non-Indian Country lands in Arizona must also be sent to Karyn Moldenhauer, ADEQ, Water Permits Unit, 1110 West Washington, Phoenix, AZ 85007.

*Public Meeting:* The public meeting will be held at the Arizona Industrial Commission Auditorium, 800 West Washington, Phoenix, AZ. A public meeting will be held to provide an opportunity for Region 9 and ADEQ to discuss the proposed permit with potential permittees and other interested persons. Written, but not oral, comments for the official public record will be accepted at the public meeting.

**FOR FURTHER INFORMATION CONTACT:** For further information on the proposed general permit, contact either Eugene Bromley, EPA, Region 9 (WTR-5), 75 Hawthorne Street, San Francisco, CA 94105 (415) 972-3510, or Karyn Moldenhauer, ADEQ, Water Permits Unit, 1110 West Washington, Phoenix, AZ 85007 (602) 771-4449.

**SUPPLEMENTARY INFORMATION:** Copies of the proposed general permit and fact sheet will be provided upon request and are also available at EPA, Region 9's website at <http://www.epa.gov/region09/water>. Additional information on Phase II of the storm water program is available at EPA's national storm water website at <http://www.epa.gov/NPDES/stormwater>.

*Administrative Record:* The proposed general permit and other related documents in the administrative record are on file and may be inspected any time between 8:30 a.m. and 4 p.m., Monday through Friday, excluding legal holidays, at the following addresses: U.S. EPA, Region 9, CWA Standards and Permits Office (WTR-5), 75 Hawthorne Street, San Francisco, CA 94105-3901. Arizona Department of Environmental Quality, Water Permits Unit, 1110 West Washington, Phoenix, AZ 85007.

#### Summary of Terms and Conditions of Proposed General Permit

##### A. Discharges Covered

The proposed general permit would authorize discharges of storm water

runoff from small MS4s located in the geographic areas of Region 9 where the NPDES permit program has not been delegated. Small MS4s are those serving a population less than 100,000 people, which is the minimum population cutoff for medium and large MS4s (Phase I MS4s). The following four categories of small MS4s are subject to Phase II storm water permitting:

1. MS4s operated by municipalities in urbanized areas as defined by the Census Bureau based on the 1990 or 2000 census.
2. MS4s operated by municipalities which are outside urbanized areas which have a population of 10,000 or more and population density of 1,000/mi<sup>2</sup>, and which are designated based on environmental concerns.
3. MS4s which contribute substantial pollutant loads to regulated MS4s through interconnections.
4. MS4s designated by petition.

The definition of a small MS4 in the Phase II regulations includes storm sewers at facilities operated by the Federal or State government (or other public entities such as a sewer or port district) such as military bases, universities, hospitals and prisons. These facilities are also subject to permitting under Phase II of the storm water program. However, the definition does not include facilities which consist of very discrete areas, such as an individual post office.

The geographic areas of coverage of the proposed permit include the State of Arizona (including Indian lands), Indian lands in the States of California and Nevada, and the U.S. Pacific Island territories of Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, Johnston Atoll, and Midway and Wake Islands. These are the areas within Region 9 where the NPDES permit program has not been delegated to a State, Tribe, or territory.

#### *B. Limitations on Coverage*

The proposed general permit includes a number of eligibility restrictions including discharges which may adversely affect endangered or threatened species, historic properties, or essential fish habitat, and discharges which may cause or contribute to exceedances of water quality standards. MS4s which do not meet the eligibility requirements of the proposed general permits are required to submit an individual permit application, or seek coverage under an alternate general permit or as a co-permittee with a Phase I MS4.

#### *C. Deadlines and Permit Application Process*

To obtain discharge authorization under the proposed general permit, dischargers must submit a notice of intent (NOI) to Region 9 requesting discharge authorization. The NOI must include basic information about the MS4 (*e.g.*, name and address), and a storm water management program describing the best management practices which the discharger will implement to control pollutants in the discharges in accordance with the requirements of the CWA. NOIs are due by March 10, 2003 for small MS4s in urbanized areas (category 1 as described above in section A). For MS4s in the category 2 as described above in section A, NOIs are due within 180 days of designation. The permitting authority is required to make designation decisions for these MS4s by December 9, 2002. For small MS4s in categories 3 and 4 as described above in section A, NOIs would be due within 180 days of designation; however, no designation deadlines have been established for these MS4s.

#### *D. NPDES Program Delegation to State of Arizona*

Region 9 is currently processing an NPDES permit program delegation request from ADEQ. The delegation would cover all discharges within the State of Arizona except for discharges in Indian lands. Region 9 anticipates that program delegation will occur in the fourth quarter of calendar year 2002, possibly prior to final issuance of the proposed general permit. If this occurs, the final permit will be issued by ADEQ for the geographic areas covered by the delegation, and Region 9 will issue the permit for the remaining geographic areas.

If the final general permit is issued by ADEQ, the proposed permit will be modified to include references to ADEQ regulations rather than EPA regulations. Further, for an ADEQ-issued permit, the eligibility restrictions related to endangered species, historic properties and essential fish habitat will be removed since they are based on requirements for Federally-issued permits but not State-issued permits.

#### *E. Storm Water Management Program (SWMP)*

The proposed general permit requires that all dischargers covered by the permit develop and implement a SWMP. The SWMP is the means through which dischargers comply with the CWA's requirement to control pollutants in the discharges to the

maximum extent practicable (MEP), and comply with the water quality related provisions of the CWA. The Phase II regulations require that the following six minimum pollution control measures be included in SWMPs.

1. Public Education and Outreach on Storm Water Impacts.
2. Public Involvement/Participation.
3. Illicit discharge detection and elimination.
4. Construction Site Storm Water Runoff Control.
5. Post-Construction Storm Water Management in New Development and Redevelopment.
6. Pollution Prevention/Good Housekeeping for Municipal Operations.

The proposed general permit also requires that measurable goals be included with the SWMP. Measurable goals are quantifiable measures of progress in implementing the various BMPs which comprise a SWMP. The measurable goals become permit requirements once the MS4 has requested and has been granted coverage under the general permit. Annual reporting is also required to provide information on the status of the implementation of the SWMP.

#### *F. Permit Appeal Procedures*

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 (and authorized at 40 CFR 122.28), and then petition the Environmental Appeals Board to review any condition of the individual permit (40 CFR 124.19 as modified on May 15, 2000, 65 FR 30886).

#### *G. Economic Impact (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.

Region 9 has determined that the proposed general permit is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to formal OMB review prior to proposal.

#### H. 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 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.

Region 9 has determined that today's proposal would not result in expenditures of \$100 million or more for State, local and Tribal governments, in the aggregate, or the private sector in any one year.

The Agency also believes that the proposed general permit will not significantly nor uniquely affect small governments. For UMRA purposes, "small governments" is defined by reference to the definition of "small governmental jurisdiction" under the RFA. (See UMRA section 102(1), referencing 2 U.S.C. 658, which references section 601(5) of the RFA.) "Small governmental jurisdiction" means governments of cities, counties, towns, etc., with a population of less than 50,000, unless the agency establishes an alternative definition.

The proposed general permit also will not uniquely affect small governments because compliance with the proposed permit conditions affects small governments in the same manner as any other entities seeking coverage under the proposed permit.

#### I. Paperwork Reduction Act

Region 9 has reviewed the requirements imposed on regulated facilities resulting from the proposed general permit under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* The information collection requirements of the proposed permit have already been approved in previous submissions made for the NPDES permit program under the provisions of the CWA.

#### J. Regulatory Flexibility Act

The Agency has determined that the proposed general permit is not subject to the Regulatory Flexibility Act ("RFA"), which generally requires an agency to conduct a regulatory flexibility analysis of any significant impact the rule will have on a substantial number of small entities. By its terms, the RFA only applies to rules subject to notice-and-comment rulemaking requirements under the Administrative Procedure Act ("APA") or any other statute. The proposed general permit is not subject to notice and comment requirements under the APA or any other statute because the APA defines "rules" in a manner that excludes permits. See APA section 551 (4), (6), and (8).

#### K. Official Signature

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

Dated: September 9, 2002.

**Catherine Kuhlman,**

*Acting Director, Water Division, EPA, Region 9.*

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## OFFICE OF SCIENCE AND TECHNOLOGY POLICY

### Meeting of the President's Council of Advisors on Science and Technology

**AGENCY:** Office of Science and Technology Policy.

**ACTION:** Notice of meeting.

**SUMMARY:** This notice sets forth the schedule and summary agenda for a meeting of the President's Council of Advisors on Science and Technology (PCAST), and describes the functions of the Council. Notice of this meeting is required under the Federal Advisory Committee Act (FACA).

**DATES AND PLACE:** September 30, 2002, Washington, DC. The meeting will be held in the Loy Henderson Conference Room at the Harry S. Truman Building, U.S. Department of State at 2201 C St., NW. Guests must use the entrance on 23rd Street between C and D Streets, NW.

**PRE-CLEARANCE:** Guests must be pre-cleared to enter the State Department Building. U.S. citizens must provide their name, date of birth and Social Security Number to be pre-cleared into the building and on arrival must present a government-issued ID (e.g., drivers license) at the registration desk. Foreign nationals should provide their name, date of birth and their passport number to be pre-cleared. On arrival, they must present their passport at the registration desk. Guests should provide this pre-clearance information to Cynthia Chase at (202) 456-6010. Pre-clearance information will also be available on the PCAST Web site at: <http://www.ostp.gov/PCAST/pcast.html>.

**TYPE OF MEETING:** Open.

**PROPOSED SCHEDULE AND AGENDA:** The President's Council of Advisors on Science and Technology is tentatively scheduled to meet in open session on Monday, September 30, 2002, at approximately 9 a.m., to discuss the status of the work being conducted by the four PCAST subcommittees: (1) The science and technology of combating terrorism; (2) policies and technologies to improve energy efficiency; (3) the federal investment in science and technology research and development; and (4) demand issues that can speed the deployment of a 21st Century broadband infrastructure. A discussion of relevant international issues with State Department officials is also tentatively scheduled to occur. This session will end at approximately 4:30 p.m.

**PUBLIC COMMENTS:** There will be a time allocated for the public to speak on any