

form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

*Abstract:* To determine compliance with the NAAQS, State air monitoring agencies are required to use, in their air quality monitoring networks, air monitoring methods that have been formally designated by the EPA as either reference or equivalent methods under EPA regulations at 40 CFR part 53. A manufacturer or seller of an air monitoring method (e.g. an air monitoring sampler or analyzer) that seeks to obtain such EPA designation of one of its products must carry out prescribed tests of the method. The test results and other information must then be submitted to the EPA in the form of an application for a reference or equivalent method determination in accordance with 40 CFR part 53. The EPA uses this information, under the provisions of part 53, to determine whether the particular method should be designated as either a reference or equivalent method. After a method is designated, the applicant must also maintain records of the names and mailing addresses of all ultimate purchasers of all analyzers or samplers sold as designated methods under the method designation. If the method designated is a method for fine particulate matter (PM<sub>2.5</sub>) and coarse particulate matter (PM<sub>10-2.5</sub>), the applicant must also submit a checklist signed by an ISO-certified auditor to indicate that the samplers or analyzers sold as part of the designated method are manufactured in an ISO 9001-registered facility. Also, an applicant must submit a minor application to seek approval for any proposed modifications to previously designated methods.

A response to this collection of information is voluntary, but it is required to obtain the benefit of EPA designation under 40 CFR part 53. Submission of some information that is claimed by the applicant to be confidential business information may be necessary to make a reference or equivalent method determination. The confidentiality of any submitted information identified as confidential business information by the applicant will be protected in full accordance with 40 CFR 53.15 and all applicable provisions of 40 CFR part 2.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control number for EPA's regulations are listed

in 40 CFR part 9 and 48 CFR Chapter 15.

The EPA would like to solicit comment to:

- (i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- (ii) evaluate the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- (iii) enhance the quality, utility, and clarity of the information to be collected; and
- (iv) minimize the burden of the collection information on those who are to respond, including through the use of appropriate automated technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

*Burden Statement:* The annual public reporting and recordkeeping burden for this collection of information is estimated to average approximately 7,492 hours during the next three years. 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 which have subsequently changed; 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.

The ICR provides a detailed explanation of the Agency's estimate, which is only briefly summarized here:

*Estimated total number of potential respondents:* 22.

*Frequency of response:* Annual.

*Estimated total average number of responses for each respondent:* 1.

*Estimated total annual burden hours:* 7,492.

*Estimated total annual costs:* \$650,494. This includes an estimated burden cost of \$517,831 and an estimated cost of \$132,668 for capital investment or maintenance and operational costs

### Are There Changes in the Estimates From the Last Approval?

There is an increase of 2,774 hours in the total estimated respondent burden compared with that identified in the ICR currently approved by OMB. This increase reflects EPA's estimate that an average of 1.33 additional applications for reference or equivalent method determinations, and an average of 1.67 additional minor applications for approval of modifications, will be received annually following promulgation of the proposed regulation changes. It is estimated that there will be a corresponding increase in total respondent costs of \$219,112 for these additional applications and an increase in \$4,415 for these additional minor modifications.

### What Is the Next Step in the Process for This ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. At that time, EPA will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

Dated: February 23, 2006.

**Jewel F. Morris,**

*Acting Director, National Exposure Research Laboratory.*

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## ENVIRONMENTAL PROTECTION AGENCY

[FRL-8053-7]

### Announcement of a Supplement to the Delegation of the Title V Permitting Program, Consistent With 40 CFR Part 71, to the Navajo Nation Environmental Protection Agency and the Suspension of Part 71 Fee Collection by USEPA for the Four Corners Steam Electric Station and the Navajo Generating Station

**AGENCY:** Environmental Protection Agency.

**ACTION:** Informational notice.

**SUMMARY:** The purpose of this notice is to announce that on March 21, 2006, the United States Environmental Protection Agency (USEPA) granted the Navajo Nation Environmental Protection Agency's (NNEPA) request to supplement its full delegation of authority to administer the Clean Air

Act's (the Act) Federal Title V operating permits program to include the Four Corners Steam Electric Station and the Navajo Generating Station (the Power Plants). Under this supplemental delegation, NNEPA will issue and implement Title V operating permits pursuant to 40 CFR part 71 for the Power Plants, which are located within the formal boundaries of the Navajo Nation reservation, and will otherwise administer the program for these sources. The terms and conditions of the supplemental delegation are specified in a Supplemental Delegation of Authority Agreement (Agreement) between the USEPA Region IX and NNEPA, signed and dated on March 21, 2006. Region IX is also simultaneously suspending its collection of part 71 fees, pursuant to 40 CFR 71.9(c)(2)(ii), for the Power Plants.

**DATES:** The effective date for the Agreement between USEPA and NNEPA, and USEPA's suspension of its part 71 fee collection for the Power Plants is March 21, 2006.

**ADDRESSES:** Copies of the letter requesting supplemental delegation of authority to administer the Federal operating permits program for the Power Plants and the Agreement between USEPA and NNEPA are available for public inspection at USEPA's Region IX Office, 75 Hawthorne Street, San Francisco, CA 94105 and at the Navajo Nation Environmental Protection Agency Air Quality Control Program Office, Rt. 12 North/Bldg #F004-051, Fort Defiance, AZ 86504. Effective March 21, 2006, all notifications, requests, applications, reports and other correspondence required under 40 CFR part 71 for the Power Plants shall be submitted to NNEPA's Air Quality Control Program Office at the following address: Navajo Nation Air Quality Control Program Office, P.O. Box 529 Fort Defiance, AZ 86504, Attn: Charlene Nelson. Sources will also remain obligated to submit copies of such documents to USEPA as set forth in the terms and conditions of their part 71 permits and consistent with Section VII(2) of the Agreement.

**FOR FURTHER INFORMATION CONTACT:** Emmanuelle Rapicavoli, Permits Office (AIR-3), 75 Hawthorne Street, San Francisco, CA 94110, Telephone: 415-972-3969, e-mail: [rapicavoli.emmanuelle@epa.gov](mailto:rapicavoli.emmanuelle@epa.gov).

**SUPPLEMENTARY INFORMATION:** The purpose of this notice is to announce that on March 21, 2006, USEPA granted NNEPA's request to supplement its existing full delegation of authority to administer the part 71 Federal operating permits program to include the Power Plants.

The Act and its implementing regulations under 40 CFR part 71 authorize USEPA to delegate authority to administer the part 71 program to any eligible Tribe that submits a demonstration of adequate regulatory procedures and authority for administration of the part 71 operating permits program.

In order to be considered an "eligible tribe," the NNEPA submitted, in August 2005, an application for a determination, under the provisions of the Tribal Authority Rule (TAR), 40 CFR part 49, that it is eligible to be treated in the same manner as a state for the purpose of receiving delegation of authority to administer the Federal part 71 operating permit program for the Power Plants. Region IX reviewed NNEPA's application and determined that it met the four criteria for eligibility, identified in 40 CFR 49.6, for the Power Plants, and was thus eligible for entering into a supplemental delegation agreement with USEPA Region IX to administer the part 71 program for the Power Plants. USEPA Region IX's eligibility determination was signed on March 21, 2006.

On October 15, 2004, USEPA Region IX and the NNEPA entered into a delegation of authority agreement (October 2004 Delegation Agreement) to allow NNEPA to administer the Federal part 71 operating permits program on behalf of USEPA for all part 71 sources except for the Power Plants within a Delegated Program Area specified in that agreement. The October 2004 Delegation Agreement excluded the Power Plants because the Navajo Nation and the participants of the Power Plants disagree as to the Nation's jurisdiction to regulate the Power Plants under a delegated Part 71 Program based on the existence of certain provisions contained in leases and grants of rights-of-way (the "Covenants" and "Grants") as between the Navajo Nation and the two facilities.

In light of this disagreement, on May 18, 2005, NNEPA entered into a voluntary compliance agreement (VCA) with the participants of the Power Plants, which provides that the parties will not assert or challenge any effect of the Covenants and Grants on the authority of NNEPA to administer a delegated part 71 program on behalf of USEPA with respect to the Plants or on the applicability to the Plants of the requirements of the Navajo Nation laws that have been expressly incorporated into a part 71 permit administered by the Navajo Nation EPA, without prejudice to their rights to assert or challenge the Covenants or Grants after expiration or termination of the VCA.

Therefore, for so long as the VCA remains in effect, the VCA resolves the dispute between the Navajo Nation and the Power Plants as to impact of the Covenants or Grants on NNEPA's ability to regulate the Power Plants pursuant to the delegation of the administration of the part 71 Program.

In August 2005, NNEPA submitted a request to the USEPA Region IX, pursuant to 40 CFR 71.10, to supplement the October 2004 Delegation Agreement by delegating authority to NNEPA to administer the Part 71 Program with respect to the Power Plants. As part of its request, NNEPA submitted a legal opinion from its attorney general stating that the Navajo Nation Air Pollution Prevention and Control Act, the Navajo Nation Air Quality Control Program Operating Permit Regulations and the VCA provide it adequate authority to carry out all aspects of the delegated program for the Power Plants. NNEPA also provided all necessary documentation to demonstrate that it has adequate authority and adequate resources to administer the part 71 Federal permitting program for the Power Plants.

Pursuant to 40 CFR 71.10(b), USEPA hereby notifies the public that effective March 21, 2006, it has granted NNEPA's request and is fully delegating the authority to administer the federal operating permits program for the Power Plants as set forth under 40 CFR part 71 and in the Agreement. The terms and conditions for the supplemental delegation are specified in the Agreement between USEPA Region IX and NNEPA signed and dated on March 21, 2006.

If, at any time, USEPA determines that NNEPA is not adequately administering or cannot adequately administer the requirements of part 71 or fulfill the terms of the Agreement, this supplemental delegation may be revoked, in whole or in part, pursuant to 40 CFR 71.10(c), after appropriate consultation with NNEPA. The Agreement also provides that the supplemental delegation will automatically terminate with respect to either Power Plant for which the VCA has terminated or expired. USEPA will notify the public through a **Federal Register** notice of a partial or full termination of this Agreement.

Under the supplemental delegation, USEPA retains its authority to (1) object to the issuance of any part 71 permit for the Power Plants, (2) act upon petitions submitted by the public regarding the Power Plants, and (3) collect fees from the owners or operators of the Power Plants if it is demonstrated that NNEPA

is not adequately administering the part 71 program with respect to the Power Plants, in accordance with the Agreement, 40 CFR part 71, and/or the Act. Because USEPA is retaining its authority to act upon petitions submitted pursuant to 40 CFR 71.10(h) and 71.11(n), any such petitions must be submitted to USEPA Region IX following the procedures set forth in those regulations.

USEPA also notifies the public, pursuant to 40 CFR 71.9(c)(2)(ii), that effective March 21, 2006, it has suspended collection of its part 71 permit fees for the Power Plants. In delegating the administration of the part 71 program, USEPA has determined that NNEPA can collect fees under tribal law sufficient to fund the delegated part 71 program for the Power Plants and carry out the duties specified in the Agreement.

Dated: March 21, 2006.

**Wayne Nastri,**

*Regional Administrator, Region 9.*

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## ENVIRONMENTAL PROTECTION AGENCY

[FRL-8053-6]

### Notice of Availability of Revisions to Proposed NPDES General Permits for Small Municipal Separate Storm Sewer Systems (MS4s) in New Mexico, Indian Country Lands in New Mexico and Indian Country Lands in Oklahoma

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

**ACTION:** Notice of availability.

**SUMMARY:** EPA Region 6 is announcing the availability of a supplemental fact sheet describing proposed revisions to, and is reopening the comment period for, previously proposed National Pollutant Discharge Elimination System (NPDES) general permits for storm water discharges from small municipal separate storm sewer systems (MS4s) located in the State of New Mexico (NMR040000), Indian Country Lands in New Mexico (NMR040001), and Indian Country Lands in Oklahoma (OKR040001). These permits were previously publically noticed on September 9, 2003 (68 FR 53166) and a 45 day public comment period on all parts of the permits was provided at that time. The public comment period is being reopened for the limited purpose of accepting public comments on changes which have been made to the draft permits primarily as a method to

address a decision by the United States Court of Appeals for the Ninth Circuit, which remanded certain portions of the Phase II NPDES storm water regulations related to issuance of general permits for small MS4s. The Region is accepting comments only on today's proposed changes to the draft permits. Following the close of the comment period, the Director will make a final permit decision based on comments received during both the initial comment period and the reopened comment period.

**DATES:** Comments on today's revisions to these draft permits must be submitted by May 4, 2006. Comments must be received or postmarked by midnight on the last day of the comment period. EPA is not required to consider late comments.

**ADDRESSES:** Comments on today's revisions to the draft general permits should be sent to Docket No. 6WQ-03-SW01, Attn: Ms. Diane Smith, EPA Region 6, Water Quality Protection Division (6WQ-CA), 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733. Comments may also be submitted in electronic format (Wordperfect 9, MS Word 2000, or ASCII Text formats only, avoiding use of special characters) to: the above address or via e-mail to [smith.diane@epa.gov](mailto:smith.diane@epa.gov). No facsimiles (faxes) will be accepted. Copies of information in the record are available upon request from the contacts below. A reasonable fee may be charged for copying.

#### FOR FURTHER INFORMATION CONTACT:

Additional information concerning the draft permits may be obtained from Ms. Diane Smith, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, telephone (214) 665-2145. The supplemental fact sheet describing the modifications being noticed today, along with the originally proposed general permit and fact sheet documents, are available at <http://www.epa.gov/earth1r6/6wq/npdes/sw/ms4/>.

**SUPPLEMENTARY INFORMATION:** The originally proposed general permits and the modifications being proposed today cover storm water discharges from municipal separate storm sewer systems (MS4s) meeting the definition of a "small municipal separate storm sewer system" at 40 CFR 122.26(b)(16) and designated under 40 CFR 122.32(a)(1) or 40 CFR 122.32(a)(2). An MS4 consists of a system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains) that collects storm water; is owned or operated by the United States,

a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the CWA; and discharges to waters of the United States. A small MS4 typically serves a population of less than 100,000. Only those small MS4s located in a Census-defined Urbanized Area or having been designated by the Director are required to apply for permits (see 40 CFR 122.32). Maps of Urbanized Areas and lists of cities and counties within them are available online at <http://cfpub.epa.gov/npdes/stormwater/urbanmaps.cfm>.

Subsequent to EPA Region 6's proposal of the general permits for small MS4s on September 9, 2003, the U.S. Court of Appeals for the Ninth Circuit denied EPA's petition for rehearing in litigation over EPA's storm water Phase II regulations. *Environmental Defense Center, et al. v. EPA*, No. 70014 & consolidated cases (9th Cir., Sept. 15, 2003). Plaintiffs in that litigation challenged the Phase II NPDES storm water regulations issued by EPA pursuant to Clean Water Act (CWA) section 402(p)(6). Among other things, the Phase II regulations require NPDES permits for storm water discharges from certain MS4s for which NPDES permits were not required under CWA section 402(p)(2) and the Phase I NPDES storm water regulations. The regulations also require the newly regulated MS4s to develop, implement, and enforce a storm water management program containing, amongst other things, best management practices (BMPs) identified by the discharger. The regulations authorize the use of general permits and require that these BMPs (as well as measurable goals associated with these BMPs) be identified in the Notice of Intent (NOI) filed by the MS4 in seeking authorization under a general permit. Relying on the "traditional" general permit model, the Agency did not require NOIs to be reviewed by the Agency, made available to the public for review and comment, or to be subject to public hearings. The Ninth Circuit held that EPA's failure to address these issues in establishing NOI requirements violated various provisions of CWA section 402, and remanded the Phase II regulations on three grounds related to