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*Title:* NESHAP for Ferroalloys Production: Ferromanganese and Silicomanganese (Renewal).

*ICR Numbers:* EPA ICR Number 1831.04, OMB Number 2060-0391.

*ICR Status:* This ICR is scheduled to expire on September 30, 2008. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. An Agency may neither conduct nor 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 numbers for the EPA regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, and displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

*Abstract:* The National Emission Standards for Hazardous Air Pollutants (NESHAP) using Maximum Achievable Control Technology were proposed on August 4, 1998, promulgated on May 20, 1999, and amended most recently on March 22, 2001. The rule applies to ferroalloy production facilities that manufacture ferromanganese and silicomanganese that are major sources of hazardous air pollutants (HAPs) or are co-located at major sources of HAPs.

In general, all NESHAP standards require initial notifications, performance tests, and periodic reports. Respondents that are not required to conduct an initial performance test are required to notify the EPA

Administrator of the initial compliance status of the source. Sources are also required to monitor and maintain records of its operations including: (1) Process or control device parameters; (2) bag leak detention systems; (3) maintenance plan for air pollution control devices (e.g., capture system and venturi scrubbers); (4) certification that monitoring devices are accurate; and (5) the implementation and corrective actions taken related to the startup, shutdown and malfunction plan and the fugitive dust control plan. The types of periodic reports required by this regulation include: Opacity-related reports; performance test results reports; immediate and periodic startup/shutdown/malfunction reports, quarterly emissions reports; capture hood inspection reports; fugitive dust operations reports; and annual compliance status reports. These notifications, reports, and records are essential in determining compliance, and are required of all sources subject to NESHAP standards.

*Burden Statement:* The annual public reporting and recordkeeping burden for this collection of information is estimated to average 83 hours per 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 which have subsequently changed; train personnel 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:* Ferroalloy production facilities that manufacture ferromanganese and silicomanganese and are either major sources of HAPs or are co-located at major sources of HAPs.

*Estimated Number of Respondents:* 1.  
*Frequency of Response:* Initially, annually, semiannually and quarterly.  
*Estimated Total Annual Hour Burden:* 584 hours.

*Estimated Total Annual Costs:* \$37,129 in Labor costs exclusively. There are no annualized capital/startup or O&M costs associated with this ICR.

*Changes in the Estimates:* There are no changes in the labor hours and cost in this ICR compared to the previous

ICR. This is due to two considerations: (1) The regulations have not changed over the past three years and are not anticipated to change over the next three years; and (2) the growth rate for the industry is either very low, or negative, or non-existent, so there are no significant changes in the overall burden.

Since there are no changes in the regulatory requirements and there is no significant industry growth, the labor hours and cost figures in the previous ICR are used in this ICR, and there is no change in burden to industry.

Dated: July 16, 2008.

**Sara Hisel-McCoy,**

*Director, Collection Strategies Division.*

[FR Doc. E8-16739 Filed 7-21-08; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

[FRL-8695-8]

### Notice of Availability of Draft NPDES General Permits MAG7000 and NHG7000 for Discharges From Dewatering Activities in the States of Massachusetts and New Hampshire: the Dewatering General Permit (DGP)

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

**ACTION:** Notice of Availability of Draft NPDES General Permits MAG7000 and NHG7000.

**SUMMARY:** The Director of the Office of Ecosystem Protection, EPA-New England, is issuing a notice of availability of the draft National Pollutant Discharge Elimination System (NPDES) general permits for dewatering activity discharges to certain waters of the Commonwealth of Massachusetts and the State of New Hampshire. These General Permits replace the Construction Dewatering General Permits which expired on September 23, 2007.

These draft General Permits establish Notice of Intent (NOI) requirements, effluent limitations, standards, prohibitions, and management practices for facilities with dewatering activity discharges from construction dewatering, flushing of potable water lines, pump testing of water wells, and dewatering of foundation sumps. Owners and/or operators of facilities with dewatering discharges, including those currently authorized to discharge under the expired General Permits, will be required to submit an NOI to be covered by the General Permit to both EPA-New England and the appropriate

state agency. After EPA and the State have reviewed the NOI, the facility will receive a written notification from EPA of permit coverage and authorization to discharge under the General Permit. The purpose of this document is to solicit public comments on the proposed General Permits.

**Public Comment Period:** Interested persons may submit written comments on the draft General Permits to the EPA-Region I at the address listed below. Within the comment period, interested persons may also request, in writing, that EPA hold a public hearing pursuant to 40 CFR section 124.12, concerning the draft General Permits. Such requests shall state the nature of the issues proposed to be raised at the hearing. A public hearing may be held at least thirty days after public notice whenever the Regional Administrator finds that response to this notice indicates significant public interest. In reaching a final decision on this draft permit, the Regional Administrator will respond to all significant comments and make responses available to the public at EPA's Boston office. In addition to comments on the draft General Permit, EPA is also requesting comments on the cost associated with a limit for total residual chlorine (TRC) for discharges containing potable water. All comments and requests for public hearings must be postmarked or delivered before midnight August 21, 2008, the close of the public comment period. All public comments or requests for a public hearing must be submitted to the address below.

**ADDRESSES:** Written comments on the draft General Permit may be hand delivered or mailed to Ms. Sara Green, EPA-Region 1, Office of Ecosystem Protection, CIP, 1 Congress Street, Suite 1100, Boston, Massachusetts 02114-2023, or sent via e-mail to [green.sara@epa.gov](mailto:green.sara@epa.gov). No facsimiles (faxes) will be accepted.

**FOR FURTHER INFORMATION:** For further information contact Ms. Green at 617/918-1574, between the hours of 9 a.m. and 5 p.m., Monday through Friday, excluding holidays. The draft General Permits are based on an administrative record available for public review at EPA-Region 1, Office of Ecosystem Protection, 1 Congress Street, Suite 1100, Boston, Massachusetts 02114-2023, Monday-Friday from 9 a.m.-5 p.m. The draft General Permits and a Fact Sheet may also be viewed over the Internet via the EPA-Region 1 Web site. The Fact Sheet and General Permit for dischargers in Massachusetts are at <http://www.epa.gov/ne/npdes/mass.html>. The Fact Sheet and General

Permit for dischargers in New Hampshire are at <http://www.epa.gov/ne/npdes/newhampshire.html>. To obtain a paper copy of the documents, please contact Ms. Green using the contact information provided above. A reasonable fee may be charged for copying requests.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory Flexibility Analysis

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act 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.

The legal question of whether a general permit (as opposed to an individual permit) qualifies as a "rule" or as an "adjudication" under the Administrative Procedure Act (APA) has been the subject of periodic litigation. In a recent case, the court held that the Clean Water Act (CWA) Section 404 Nationwide general permit before the court did qualify as a "rule" and therefore that the issuance of the general permit needed to comply with the applicable legal requirements for the issuance of a "rule." *National Ass'n of Home Builders v. U.S. Army Corps of Engineers*, 417 F.3d 1272, 1284-85 (DC Cir. 2005) (Army Corps general permits under Section 404 of the Clean Water Act are rules under the APA and the Regulatory Flexibility Act; "Each NWP [nationwide permit] easily fits within the APA's definition of a 'rule.' \* \* \* As such, each NWP constitutes a rule \* \* \*".)

As EPA stated in 1998, "the Agency recognizes that the question of the applicability of the APA, and thus the RFA, to the issuance of a general permit is a difficult one, given the fact that a large number of dischargers may choose to use the general permit." 63 FR 36489, 36497 (July 6, 1998). At that time, EPA "reviewed its previous NPDES general permitting actions and related statements in the **Federal Register** or elsewhere," and stated that "[t]his review suggests that the Agency has generally treated NPDES general permits effectively as rules, though at times it has given contrary indications as to whether these actions are rules or permits." *Id.* at 36496. Based on EPA's further legal analysis of the issue, the Agency "concluded, as set forth in the proposal, that NPDES general permits

are permits [i.e., adjudications] under the APA and thus not subject to APA rulemaking requirements or the RFA." *Id.* Accordingly, the Agency stated that "the APA's rulemaking requirements are inapplicable to issuance of such permits," and thus "NPDES permitting is not subject to the requirement to publish a general notice of proposed rulemaking under the APA or any other law \* \* \* [and] it is not subject to the RFA." *Id.* at 36497.

However, the Agency went on to explain that, even though EPA had concluded that it was not legally required to do so, the Agency would voluntarily perform the RFA's small-entity impact analysis. *Id.* EPA explained the strong public interest in the Agency following the RFA's requirements on a voluntary basis: "[The notice and comment] process also provides an opportunity for EPA to consider the potential impact of general permit terms on small entities and how to craft the permit to avoid any undue burden on small entities." *Id.* Accordingly, with respect to the NPDES permit that EPA was addressing in that **Federal Register** notice, EPA stated that "the Agency has considered and addressed the potential impact of the general permit on small entities in a manner that would meet the requirements of the RFA if it applied." *Id.*

Subsequent to EPA's conclusion in 1998 that general permits are adjudications, rather than rules, as noted above, the DC Circuit recently held that nationwide general permits under section 404 are "rules" rather than "adjudications." Thus, this legal question remains "a difficult one" (*supra*). However, EPA continues to believe that there is a strong public policy interest in EPA applying the RFA's framework and requirements to the Agency's evaluation and consideration of the nature and extent of any economic impacts that a CWA general permit could have on small entities (e.g., small businesses). In this regard, EPA believes that the Agency's evaluation of the potential economic impact that a general permit would have on small entities, consistent with the RFA framework discussed below, is relevant to, and an essential component of, the Agency's assessment of whether a CWA general permit would place requirements on dischargers that are appropriate and reasonable. Furthermore, EPA believes that the RFA's framework and requirements provide the Agency with the best approach for the Agency's evaluation of the economic impact of general permits on small entities. While using the RFA

framework to inform its assessment of whether permit requirements are appropriate and reasonable, EPA will also continue to ensure that all permits satisfy the requirements of the Clean Water Act. Accordingly, EPA has committed to operating in accordance with the RFA's framework and requirements during the Agency's issuance of CWA general permits (in other words, the Agency has committed that it will apply the RFA in its issuance of general permits as if those permits do qualify as "rules" that are subject to the RFA).

EPA anticipates that for most general permits the Agency will be able to conclude that there is not a significant economic impact on a substantial number of small entities. In such cases, the requirements of the RFA framework are fulfilled by including a statement to this effect in the permit fact sheet, along with a statement providing the factual basis for the conclusion. A quantitative analysis of impacts would only be required for permits that may affect a substantial number of small entities, consistent with EPA guidance regarding RFA certification.<sup>1</sup>

Consistent with the above discussion, EPA has concluded that the proposed issuance of the 2008 DGP would not affect a substantial number of small entities. An estimated 36 construction projects per year were authorized under the 2002 General Permits, a substantial number of which were not operated by small entities. The 2008 DGP includes expanded coverage for additional types of discharges; however, these discharges are temporary in nature. At any one time, fewer than 100 small entities are expected to be discharging and incurring costs. In addition, requirements in the draft 2008 DGP remain substantially similar to those in the 2002 General Permit, except for the addition of total residual chlorine (TRC) limits for discharges from municipal sources. Therefore, EPA has concluded that the proposed issuance of the 2008 DGP is unlikely to have an adverse economic impact on small entities.

<sup>1</sup> EPA's current guidance, entitled Final Guidance for EPA Rulewriters: Regulatory Flexibility Act as Amended by the Small Business Regulatory Enforcement and Fairness Act, was issued in November 2006 and is available on EPA's Web site: <http://www.epa.gov/sbrefa/documents/rfinalguidance06.pdf>. After considering the Guidance and the purpose of CWA general permits, EPA concludes that general permits affecting fewer than 100 small entities do not have a significant economic impact on a substantial number of small entities.

Dated: July 14, 2008.

**Robert W. Varney,**

*Regional Administrator, Region 1.*

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**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

[FRL-8695-5]

### Notice of Availability of the Draft Demonstration of Alternative Asbestos Control Method Demolition for Two Asbestos-Containing Buildings and Expert Peer Review Meeting

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

**ACTION:** Notice of document availability and external peer review meeting.

**SUMMARY:** The U.S. Environmental Protection Agency is announcing the availability for review and comment of two draft reports titled, Evaluation of the Alternative Asbestos Control Method at Site Two (AACM2) for Demolition of Asbestos-Containing Buildings, and Evaluation of the Alternative Asbestos Control Method at Site Three (AACM3) for Demolition of Asbestos-Containing Buildings. These reports were prepared by EPA's Office of Research and Development (ORD) and are available through docket ID number EPA-HQ-ORD-2008-0523 located at <http://www.regulations.gov> and through <http://www.epa.gov/region6/6xa/asbestos>.

EPA is also announcing that in the month of August or September an EPA contractor will convene a panel of experts and will organize and conduct an independent expert external peer review meeting of the two reports. The dates and location of the peer review meeting will be provided in a separate **Federal Register** Notice. The public will be invited to register to attend the peer review meeting as observers and also will be able to give oral or provide written comments at the meeting. The expert panel will review the scientific and technical aspects of the draft documents and consider public comments received prior to the meeting in the official public docket for this activity under docket ID number EPA-HQ-ORD-2008-0523.

The public release of these draft documents is solely for the purpose of seeking public comment and external peer review. The draft reports do not represent and should not be construed to represent any final EPA by policy, viewpoint, or determination.

**DATES:** The 30-day public comment period on the two draft documents begins July 22, 2008, and ends August 21, 2008. All comments should be in writing and must be received by EPA by August 21, 2008. The dates and location of the peer review meeting will be announced at a later date in a subsequent **Federal Register** Notice.

**ADDRESSES:** You may submit comments on these documents to Docket ID No. EPA-HQ-ORD-2008-0523 by one of the following methods:

- <http://www.regulations.gov>: Follow the online instructions for submitting comments.
- *E-mail:* [ORD.Docket@epa.gov](mailto:ORD.Docket@epa.gov).
- *Mail:* ORD Docket, Environmental Protection Agency, Mail Code: 28221T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

- *Hand Delivery:* EPA Docket Center (EPA/DC), Room B102, EPA West Building, 1301 Constitution Avenue, NW., Washington, DC 20460, Attention Docket ID No. EPA-HQ-ORD-2008-0523. Deliveries are only accepted from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. Special arrangements should be made for deliveries of boxed information. If you provide comments by mail or hand delivery, please submit three copies of the comments. For attachments, provide an index, number pages consecutively with the comments, and submit an unbound original and three copies.

**Instructions:** Direct your comments to Docket ID No. EPA-HQ-ORD-2008-0523. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in