

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:

**Affected Entities:** Entities potentially affected by this action are new and used motor vehicle dealers, gasoline service stations, general automotive repair shops, and automotive repair shops not elsewhere classified.

**Estimated Number of Potential Respondents:** 64,382.

**Frequency of Response:** On occasion.

**Estimated Total Annual Hour Burden:** 6,700 hours.

**Estimated Total Annual Costs:** \$262,980.47. This includes an estimated labor cost of \$262,980.47 and an estimated cost of \$0 for capital or O&M costs.

**Changes in the Estimates:** There is an increase of 3,835 hours in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens. The primary reason for this increase is the increase in the number of technicians certified annually. EPA has revised its estimate based on data collected in June 2007 from 11 out of 24 technician certification centers. It is estimated that 55,000 new MVAC technicians are certified each year, rather than 14,000 as assumed in the last ICR. A major part of this ICR burden is based on how many technicians are certified annually.

Dated: December 17, 2008.

**John Moses,**

*Acting Director, Collection Strategies Division.*

[FR Doc. E8-30547 Filed 12-22-08; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

[FRL-8756-6]

### Notice of Availability of Draft National Pollutant Discharge Elimination System (NPDES) General Permit for Small Municipal Separate Storm Sewer Systems (MS4)

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

**ACTION:** Notice of Availability of Draft NPDES General Permits.

**SUMMARY:** The Director of the Office of Ecosystem Protection, Environmental Protection Agency—Region 1 (EPA), is issuing this Notice of Availability of Draft NPDES general permits for discharges from small MS4s to certain

waters of the states of New Hampshire and Vermont, and to certain waters on Indian Country lands in the states of Connecticut and Rhode Island. These draft NPDES general permits establish Notice of Intent (NOI) requirements, prohibitions, and management practices for stormwater discharges from small MS4s. EPA is proposing to issue six general permits. Throughout this document the terms "this permit" or "the permit" will refer to all six general permits.

Owners and/or operators of small MS4s that discharge stormwater will be required to submit a NOI to EPA—Region 1 to be covered by the general permit and will receive a written notification from EPA of permit coverage and authorization to discharge under the general permit. The eligibility requirements are discussed in the draft permit. The small MS4 must meet the eligibility requirements of the permit prior to submission of the NOI.

The draft general permits, appendices, and fact sheet are available at [http://www.epa.gov/region1/npdes/stormwater/MS4\\_2008\\_NH.html](http://www.epa.gov/region1/npdes/stormwater/MS4_2008_NH.html).

**DATES:** The public comment period is from the December 23, 2008 to January 30, 2009. Interested persons may submit comments on the draft general permit as part of the administrative record to the EPA—Region 1, at the address given below, no later than midnight January 30, 2009. The general permit shall be effective on the date specified in the **Federal Register** publication of the Notice of Availability of the final general permit. The final general permit will expire five years from the effective date.

**ADDRESS:** Submit comments by one of the following methods:

- *E-mail:* [Murphy.thelma@epa.gov](mailto:Murphy.thelma@epa.gov).
- *Mail:* Thelma Murphy, USEPA—

Office of Ecosystem Protection, One Congress Street—Suite 1100 (CIP), Boston, MA 02114.

No facsimiles (faxes) will be accepted.

The draft permit is based on an administrative record available for public review at EPA—Region 1, Office of Ecosystem Protection (CIP), One Congress Street, Suite 1100, Boston, Massachusetts 02114-2023. The following **SUPPLEMENTARY INFORMATION** section sets forth principal facts and the significant factual, legal and policy questions considered in the development of the draft permit. A reasonable fee may be charged for copying requests.

**Public Meeting Information:** EPA—Region 1 will hold a public meeting to provide information about the draft general permit and its requirements.

The public meeting will include a brief presentation on the draft general permit and a brief question and answer session. Written, but not oral, comments for the official draft permit record will be accepted at the public meeting. The public meeting will be at the following location: Wednesday—January 28, 2009, Portsmouth City Council Chambers, Portsmouth City Hall, One Junkins Avenue, Portsmouth, NH 03801, 9 a.m.—10 a.m.

**Public Hearing Information:** Following the public meeting, a public hearing will be conducted in accordance with 40 CFR 124.12 and will provide interested parties with the opportunity to provide written and/or oral comments for the official draft permit record. The public hearing will be at the following location: Wednesday—January 28, 2009, Portsmouth City Council Chambers, Portsmouth City Hall, One Junkins Avenue, Portsmouth, NH 03801, 10:10 a.m.

**FOR FURTHER INFORMATION CONTACT:** Additional information concerning the draft permit may be obtained between the hours of 9 a.m. and 5 p.m. Monday through Friday excluding holidays from: Thelma Murphy, Office of Ecosystem Protection, Environmental Protection Agency, 1 Congress Street, Suite 1100 (CIP), Boston, MA 02114-2023; telephone: 617-918-1615; e-mail: [murphy.thelma@epa.gov](mailto:murphy.thelma@epa.gov)

#### SUPPLEMENTARY INFORMATION:

##### I. Background of Proposed Permit

As stated previously, the Director of the Office of Ecosystem Protection, EPA—Region 1, is proposing to reissue six NPDES general permits for the discharge of stormwater from small MS4s to waters within the states of New Hampshire and Vermont (federal facilities only) and Indian lands within the states of Connecticut and Rhode Island. The six permits are:

NHR041000—State of New Hampshire—Traditional.

NHR042000—State of New Hampshire—Non-Traditional.

NHR043000—State of New Hampshire—Transportation.

CTR04000I—State of Connecticut—Indian Lands.

RIR04000I—State of Rhode Island—Indian Lands.

VTR04000F—State of Vermont—Federal Facilities.

The conditions in the draft permit are established pursuant to Clean Water Act (CWA) Section 402(p)(3)(iii) to ensure that pollutant discharges from small MS4s are reduced to the maximum extent practicable (MEP), protect water quality, and satisfy the appropriate

water quality requirements of the CWA. The regulations at 40 CFR 122.26(b)(16) define a small municipal separate storm sewer system as “\* \* \* all separate storm sewers that are:

(1) 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, stormwater, 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 that discharges to waters of United States.

(2) Not defined as ‘large’ or ‘medium’ municipal separate storm sewer systems pursuant to paragraphs (b)(4) or (b)(7) or designated under paragraph (a)(1)(v) of this section [40 CFR 122.26].

(3) This term includes systems similar to separate storm sewer systems in municipalities such as systems at military bases, large hospital or prison complexes, and highways and other thoroughfares. The term does not include separate storm sewers in very discrete areas, such as individual buildings.”

For example, an armory located in an urbanized area would not be considered a regulated small MS4.

The draft general permit sets forth the requirements for the small MS4 to “reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques, and system, design and engineering methods \* \* \*” (See section 402(p)(3)(B)(iii) of the CWA). MEP is the statutory standard that establishes the level of pollutant reductions that MS4 operators must achieve. EPA believes implementation of best management practices (BMPs) designed to control storm water runoff from the MS4 is generally the most appropriate approach for reducing pollutants to satisfy the technology standard of MEP. Pursuant to 40 CFR 122.44(k), the draft permit contains BMPs, including development and implementation of a comprehensive stormwater management program (SWMP) as the mechanism to achieve the required pollutant reductions.

Section 402(p)(3)(B)(iii) of CWA also authorizes EPA to include in an MS4 permit “such other provisions as [EPA] determines appropriate for control of \* \* \* pollutants.” EPA believes that this provision forms a basis for imposing water quality-based effluent limitations (WQBELs), consistent with the authority in Section 301(b)(1)(C) of the CWA. *See Defenders of Wildlife v. Browner*, 191 F.3d 1159 (9th Cir. 1999); *see also* EPA’s preamble to the Phase II

regulations, 64 FR 68722, 68753, 68788 (Dec 8, 1999). Accordingly, the draft general permits contains the water quality-based effluent limitations, expressed in terms of BMPs, which EPA has determined are necessary and appropriate under the CWA.

EPA—Region 1 issued a final general permit to address stormwater discharges from small MS4s on May 1, 2003. The 2003 general permit required small MS4s to develop and implement a SWMP designed to control pollutants to the maximum extent practicable and protect water quality. This draft general permit builds on the requirements of the previous general permit.

EPA views the MEP standard in the CWA as an iterative process. MEP should continually adapt to current conditions and BMP effectiveness. EPA believes that compliance with the requirements of this general permit will meet the MEP standard. The iterative process of MEP consists of a municipality developing a program consistent with specific permit requirements, implementing the program, evaluating the effectiveness of BMPs included as part of the program, then revising those parts of the program that are not effective at controlling pollutants, then implementing the revisions, and evaluating again. The changes contained in the draft general permits reflect the iterative process of MEP. Accordingly, the draft general permit contains more specific tasks and details than the 2003 general permit.

## II. Summary of Permit Conditions

### *Obtaining Authorization*

In order for a small MS4 to obtain authorization to discharge, it must submit a complete and accurate NOI containing the information in Appendix E of the draft general permit. The NOI must be submitted within 90 days of the effective date of the final permit. The effective date of the final permit will be specified in the **Federal Register** publication of the Notice of Availability of the final permit. A small MS4 must meet the eligibility requirements of the general permit found in Part 1.2 and Part 1.9 prior to submission of its NOI. A small MS4 will be authorized to discharge under the permit upon the effective date of coverage. The effective date of coverage is upon receipt of written notice by EPA following a public notice of the NOI.

The draft general permit provides interim coverage for permittees covered by the previous permit and whose coverage was effective upon the expiration of that permit (May 1, 2008). For those discharges covered by the

previous permit, authorization under the previous permit is continued automatically on an interim basis for up to 180 days from the effective date of the final permit. Interim coverage will terminate earlier than the 180 days when a complete and accurate NOI has been submitted by the small MS4 and coverage is either granted or denied. If a permittee was covered under the previous permit and submitted a complete and accurate NOI in a timely manner, and notification of authorization under the final permit has not occurred within 180 days of the effective date of the final permit, the permittee’s authorization under the previous permit can be continued beyond 180 days on an interim basis. Interim coverage will terminate after authorization under this general permit, an alternative permit, or denial of permit coverage.

EPA—Region 1 will provide an opportunity for the public to comment on each NOI that is submitted. Following the public notice, EPA—Region 1 will authorize the discharge, request additional information, or require the small MS4 to apply for an alternative permit or individual permit.

### *Water Quality Based Effluent Limitations*

The draft general permit includes provisions to ensure that discharges do not cause or contribute to exceedances of water quality standards. The provisions in Part 2.1 of the general permit constitute the water quality based effluent limitations of the permit. The purpose of this part of the permit is to establish the broad inclusion of water-quality based effluent limitations for those discharges requiring additional controls in order to achieve water quality standards and other water quality-related objectives, consistent with 40 CFR 122.44(d). The water quality-based effluent limitations supplement the permit’s non-numeric effluent limitations. The non-numeric effluent limitation requirements of this permit are expressed in the form of control measures and BMPs (see Part 2.3 of the general permit).

### *Non-Numeric Effluent Limitations*

If EPA has not promulgated effluent limitations for a category of discharges, or if an operator is discharging a pollutant not covered by an effluent guideline, permit limitations may be based on the best professional judgment (BPJ) of the agency or permit writer. The BPJ limits in this permit are in the form of non-numeric control measures, commonly referred to as best management practices (BMPs). Non-

numeric limits are employed under limited circumstances, as described in 40 CFR 122.44(k). EPA has interpreted the CWA to allow BMPs to take the place of numeric effluent limitations under certain circumstances. 40 CFR 122.44(k) provides that permits may include BMPs to control or abate the discharge of pollutants when: “(1) [a]uthorized under section 304(e) of the CWA for the control of toxic pollutants and hazardous substances from ancillary industrial activities; (2) [a]uthorized under section 402(p) of the CWA for the control of stormwater discharges; (3) [n]umeric effluent limitations are infeasible; or (4) [t]he practices are reasonable to achieve effluent limitations and standards or to carry out the purposes and intent of the CWA.” The permit regulates stormwater discharges using BMPs. Due to the variability associated with stormwater, EPA believes the use of BMPs is the most appropriate method to regulate discharges of stormwater from municipal systems in accordance with the above referenced regulation.

The draft permit requires small MS4s to continue to control stormwater discharges for the municipal system in a manner designed to reduce the discharge of pollutants to the maximum extent practicable and to protect water quality. The small MS4s are required to implement a SWMP consisting of control measures. These control measures include the following: Public Participation and Outreach, Public Education and Outreach, Public Participation, Illicit Discharge Detection and Elimination, Construction Stormwater Management, Stormwater Management in New Development and Redevelopment, and Good Housekeeping in Municipal Operations. Implementation of the SWMP involves the identification of BMPs and measurable goals for the BMPs. The draft permit identifies the objective of each control measure. The small MS4 must implement the control measures required by the general permit and document actions in the SWMP demonstrating progress towards achievement of the objective of the control measure. The permit also contains requirements for outfall monitoring associated with illicit detection and elimination, recordkeeping and reporting.

### III. Other Legal Requirements

#### A. Environmental Impact Statement Requirements

The draft general permit does not authorize discharges from any new sources as defined under 40 CFR 122.2. Therefore, the National Environmental

Policy Act, 33 U.S.C. sections 4321 *et seq.*, does not apply to the issuance of this general NPDES permit.

#### B. Section 404 Dredge and Fill Operations

This draft permit does not constitute authorization under 33 U.S.C. Section 1344 (Section 404 of the Clean Water Act) of any stream dredging or filling operations.

#### C. CWA 401 Water Quality Certification

Section 401(a)(1) of the CWA states that EPA may not issue a permit until a certification is granted or waived in accordance with that section of the CWA by the state in which the discharge originates or will originate. The 401 certification affirms that the conditions of the general permit will be protective of the water quality standards and satisfy other appropriate requirements of state law. The 401 certification may also include additional conditions that are more stringent than those in the draft permit that the state finds necessary to meet the requirements of appropriate laws. Regulations governing state certification are set forth in 40 CFR 124.53 and 124.55. Concurrent with the public notice of this general permit, EPA—Region 1 will request 401 water quality certifications.

Section 401(a) of the CWA states in part that in any case where a state, interstate agency or tribe has no authority to issue a water quality certification, EPA shall issue such certification. At this time, none of the tribes in Connecticut or Rhode Island have approved water quality standards or Section 401 authority for the purpose of regulating water resources within the border of Indian lands pursuant to Section 518(e) of the CWA. As provided for under Section 401(a)(1) of the CWA, EPA—Region 1 will provide certification of this permit for tribal lands.

#### D. Executive Order 12866

EPA has determined that this draft general permit is not a “significant regulatory action” under the terms of Executive Order (EO) 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under the EO.

#### E. Paperwork Reduction Act

The information collection requirements of this draft permit were previously approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and assigned OMB control number

2040–0086 (NPDES permit application) and 2040–0004 (Monitoring Reports).

#### F. Regulatory Flexibility Act

EPA’s current guidance, entitled “Federal Guidance for EPA Rule Writers: Regulatory Flexibility Act [RFA] 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/rfafinalguidance06.pdf>. After considering the guidance, EPA concludes that since this general permit affects less than 100 small entities, it does not have a significant economic impact on a substantial number of small entities. The RFA defines a “small governmental jurisdiction” as the government of a city, county, town, township, village, school district, or special district with a population of less than 50,000.

#### G. 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 tribal, state, and local governments and the private sector. The UMRA defines “regulatory actions” to include proposed or final rules with Federal mandates. The draft permit proposed today, however, is not a “rule” and is therefore not subject to the requirements of UMRA.

Dated: December 16, 2008.

**Robert W. Varney,**

*Regional Administrator, EPA New England.*

[FR Doc. E8–30549 Filed 12–22–08; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

[FRL–8756–4; Docket ID No. EPA–HQ–ORD–2008–0663]

### An Exposure Assessment of Polybrominated Diphenyl Ethers

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

**ACTION:** Notice of an extension of the public comment period.

**SUMMARY:** The EPA is announcing an extension of the public comment period for the draft document titled, “An Exposure Assessment of Polybrominated Diphenyl Ethers” (EPA 600/R–08/086A). The public comment period was announced on December 4, 2008 (FR73, 73930).

The draft document was prepared by the National Center for Environmental Assessment within EPA’s Office of