

p. With this notice, we are initiating consultation with the COLORADO STATE HISTORIC PRESERVATION OFFICER (SHPO), as required by 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36 CFR pt. 800.4.

q. Procedural Schedule and Final Amendments: We intend to accept the consultation that has occurred on this project during the pre-filing period as satisfying our requirements for the standard 3-stage consultation process under 18 CFR 4.38 and for National Environmental Policy Act scoping. Based on a review of the application, resource agency consultation letters, and comments filed to date, Commission staff intends to prepare a single environmental assessment (EA) for the proposed project.

**Kimberly D. Bose,**  
Secretary.

[FR Doc. 2010-27792 Filed 11-3-10; 8:45 am]

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket Nos. RM06-16-011]

#### North American Electric Reliability Corporation; Notice of Compliance Filing

October 28, 2010.

Take notice that on October 25, 2010, the North American Electric Reliability Corporation (NERC), submitted a compliance filing in response to the Federal Energy Regulatory Commission's (Commission) Order Granting Rehearing for Further Consideration and Scheduling Technical Conference, issued on May 13, 2010.<sup>1</sup>

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to

<sup>1</sup> Order Granting Rehearing for Further Consideration and Scheduling Technical Conference, 131 FERC ¶61,136 (May 13, 2010).

serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at <http://www.ferc.gov>, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

*Comment Date:* 5 p.m. Eastern Time on November 15, 2010.

**Kimberly D. Bose,**  
Secretary.

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. EF11-1-000]

#### Southeastern Power Administration; Notice of Filing

October 28, 2010.

Take notice that on October 6, 2010, the Southeastern Power Administration, pursuant to Order No. 714,<sup>1</sup> submitted its Baseline Filing, to be effective October 6, 2010.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to

<sup>1</sup> Electronic Tariff Filings, Order No. 714, FERC Stats. & Regs. ¶ 31,276 (2008).

serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

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*Comment Date:* 5 p.m. Eastern Time on November 5, 2010.

**Kimberly D. Bose,**  
Secretary.

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## ENVIRONMENTAL PROTECTION AGENCY

[FRL-9221-1]

#### Notice of Availability of Draft National Pollutant Discharge Elimination System (NPDES) General Permits 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 Commonwealth of Massachusetts. 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 three general permits. Throughout this document the terms "this permit" and "the permit" will refer to all three general permits.

Owner 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. Following a review and public notice of the NOI, MS4s will receive a written notification from EPA regarding 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 the submission of the NOI.

The draft general permit, appendices, and fact sheet are available at: <http://www.epa.gov/region1/npdes/stormwater>.

**DATES:** The public comment period is from November 4, 2010 to December 30, 2010. 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 December 30, 2010. 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.

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

- *E-mail:* [Renahan.Kate@epa.gov](mailto:Renahan.Kate@epa.gov).
- *Mail:* Kate Renahan, U.S. EPA-Region 1, Office of the Regional Administrator, 5 Post Office Square—Suite 100, Mail Code—ORA01-1, Boston, MA 02109-3912.

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, 5 Post Office Square—Suite 100, Boston, Massachusetts 02109-3912. 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 permits 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 held at the following time and location: Thursday—December 2, 2010, Lakeville Public Library (Large Meeting Room), 4 Precinct Street, Lakeville, MA 02347, 10:15 a.m.—11:15 a.m.

The dates and times of any additional public meetings will be posted on EPA-

Region 1's Web site at: <http://www.epa.gov/region1/topics/water/stormwater.html>.

**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 held at the following time and location: Thursday—December 2, 2010, Lakeville Public Library (Large Meeting Room), 4 Precinct Street, Lakeville, MA 02347, 11:30 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: Kate Renahan, Office of the Regional Administrator, Environmental Protection Agency, 5 Post Office Square—Suite 100, Mail Code: ORA01-1, Boston, MA 02109-3912; *telephone:* 617-918-1491; *e-mail:* [Renahan.Kate@epa.gov](mailto:Renahan.Kate@epa.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **Background of Proposed Permit**

As stated previously, the Director of the Office of Ecosystem Protection, EPA-Region 1, is proposing to reissue three NPDES general permits for the discharge of stormwater from small MS4s to certain waters within the Commonwealth of Massachusetts. The three permits are:

MAR041000—Systems owned by traditional cities and towns.

MAR042000—Systems owned by state or Federal entities.

MAR04000I—Systems located on Indian Country Land within the Commonwealth of Massachusetts.

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 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 the 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 or 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, but also includes recognition that other provisions in addition to MEP may be required under some circumstances. EPA believes implementation of best management practices (BMPs) designed to control stormwater runoff from the MS4 is generally the most appropriate approach for reducing pollutants to satisfy the MEP standard. Pursuant to 40 CFR 122.44(k), the draft permit requires permittees to control stormwater discharges through 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] determine 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 permits contain the water quality-based effluent limitations, expressed in terms of BMPs, which EPA 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 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 the 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 permits contain more specific tasks and details than the 2003 general permit.

### 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 F 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 from 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 date 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 authorization will terminate earlier than the 180 days when a complete and accurate NOI has been submitted by the small MS4 and authorization is either granted or denied. If a permittee was authorized 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 either authorize the discharge, request additional information, or require the small MS4 to apply for an alternative permit or an individual permit.

#### *Water Quality-Based Effluent Limitations*

The draft permit includes provisions designed to protect water quality standards. The provisions in Parts 2.1, 2.2, and 2.3 of the general permit constitute the water quality-based effluent limitations of the permit. The purpose of this part of the permit is to include water quality-based effluent limitations for those discharges requiring additional controls in order to achieve water quality standards and other water quality related objectives. EPA invites comments on its approach to addressing water quality standards in this draft permit.

#### *Non-Numeric Effluent Limitations*

When EPA has not promulgated effluent limitations for a category of discharges, or if an operator is discharging a pollutant not covered by an effluent limitation guideline, effluent limitations may be based on the best professional judgment (BPJ) of the agency or permit writer. The BPJ limits in the general 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 from the municipal system in a manner designed to reduce the discharge of pollutant 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 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 BMPs. The draft permit identifies an objective for each control measure. The small MS4 must implement the control measures required by the general permit and document actions in the SWMP that demonstrate progress toward achievement of the objective of the control measure. The permit also contains outfall monitoring requirements that are associated with implementation of the illicit discharge detection and elimination program, as well as record keeping and reporting requirements.

Dated: October 27, 2010.

**H. Curtis Spalding,**

*Regional Administrator, Region 1.*

[FR Doc. 2010-27904 Filed 11-3-10; 8:45 am]

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