

number for the ORD Docket is (202) 566-1752.

**FOR FURTHER INFORMATION CONTACT:** Dr. Michael W. Broder, Office of the Science Advisor, Mail Code 8105-R, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone number: (202) 564-3393; fax number: (202) 564-2070, E-mail: [broder.michael@epa.gov](mailto:broder.michael@epa.gov).

**SUPPLEMENTARY INFORMATION:** Key goals for the U.S. EPA include improving the transparency, objectivity and scientific basis for health risk assessment. In 2005, a WHO-sponsored effort produced guidance on the development of Chemical-Specific Adjustment Factors (CSAFs). CSAFs are intended to replace default uncertainty factor values for inter- and intraspecies extrapolation in health risk assessment. The U.S. EPA recognizes differences between the WHO guidance and typical Agency risk assessment practices, policies and guidance. EPA's Risk Assessment Forum convened a technical panel that initiated work on developing draft guidance for use in replacing default values for inter- and intraspecies uncertainty factors with science-based extrapolation factors. The draft document has been reviewed by EPA's Risk Assessment Forum and Science and Technology Policy Council and approved for external review. In 2010, the document was sent to the National Science and Technology Council (NSTC) Committee on Environment and Natural Resources, Toxics and Risk Subcommittee for informal review and comment. The draft document is now available for public comment.

The draft document has been structured and developed in accordance with existing Agency policies on health risk assessment. The draft document provides guidance for the evaluation of data describing interspecies differences in chemical disposition (toxicokinetics); interspecies differences in toxicant-induced response (toxicodynamics);

intraspecies differences in chemical disposition (toxicokinetics); and intraspecies differences in toxicant-induced response (toxicodynamics). The document maintains the subdivision of the interspecies and intraspecies uncertainty factors into toxicokinetic and toxicodynamic components specified in the U.S. EPA Inhalation Reference Concentration methodology (U.S. EPA, 1994). EPA will consider all peer review and public comments in finalizing *Guidance for Applying Quantitative Data to Develop Data-Derived Extrapolation Factors for Interspecies and Intraspecies Extrapolation*.

Dated: May 26, 2011.

**Paul T. Anastas,**

*EPA Science Advisor.*

[FR Doc. 2011-14294 Filed 6-8-11; 8:45 am]

**BILLING CODE 6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

[FRL-9316-1]

**Modification of the Expiration Date for the National Pollutant Discharge Elimination System General Permit for Stormwater Discharges From Construction Activities on Tribal Lands Within the Southeastern United States**

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

**ACTION:** Notice.

**SUMMARY:** EPA Region 4 proposes to modify the expiration date of the National Pollutant Discharge Elimination System (NPDES) general permit authorizing the discharge of stormwater from construction activities on Tribal Lands within the states of Alabama, Florida, Mississippi and North Carolina. This NPDES construction general permit (CGP), hereinafter referred to as "the Region 4 CGP," was issued on September 1, 2009, with an expiration date of August 31,

2011. EPA Region 4 is proposing to extend the expiration date from August 31, 2011, to September 1, 2012. No other revisions are being proposed to the Region 4 CGP. The purpose of extending the expiration date is to ensure that there is no lapse in permit coverage prior to the effective date of the issuance of a new permit, which has been proposed for public review and comment in a separate action. Information about the proposed new permit, hereinafter referred to as "the new National CGP," can be found at <http://cfpub.epa.gov/npdes/stormwater/cgp.cfm>.

**DATES:** EPA is proposing a modification to the Region 4 CGP that would extend the expiration date from August 31, 2011, to September 1, 2012. If the proposed modification is finalized, the Region 4 CGP would expire at midnight, on September 1, 2012, or on the effective date of the new National CGP, whichever is earlier. Comments on the proposal to modify the expiration date of the Region 4 CGP must be postmarked by July 11, 2011.

**FOR FURTHER INFORMATION CONTACT:** Alanna Conley or Michael Mitchell of the Stormwater and Nonpoint Source Section, Water Protection Division, Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, GA 30303; telephone number: (404) 562-9443 or (404) 562-9303; fax number: (404) 562-8692; e-mail address: [conley.alanna@epa.gov](mailto:conley.alanna@epa.gov) or [mitchell.michael@epa.gov](mailto:mitchell.michael@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. General Information**

*A. Does this action apply to me?*

If a discharger chooses to apply for coverage under the Region 4 CGP, the permit provides specific requirements for preventing contamination of waterbodies from stormwater discharges from the following construction activities:

Category	Examples of affected entities	North American Industry Classification System (NAICS) Code
Industry .....	Construction site operators disturbing 1 or more acres of land, or less than 1 acre but part of a larger common plan of development or sale if the larger common plan will ultimately disturb 1 acre or more, and performing the following activities:	
	Building, Developing and General Contracting .....	233
	Heavy Construction .....	234

EPA does not intend the preceding table to be exhaustive, but provides it as a guide for readers regarding entities likely to be regulated by this action.

This table lists the types of activities that EPA is now aware of that could potentially be affected by this action. Other types of entities not listed in the

table could also be affected. To determine whether your facility is affected by this action, you should carefully examine the definition of

“construction activity” and “small construction activity” in existing EPA regulations at 40 CFR 122.26(b)(14)(x) and 122.26(b)(15), respectively. If you have questions regarding the applicability of this action to a particular entity, consult the person listed for technical information in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Eligibility for coverage under the Region 4 CGP would be limited to operators of “new projects” or “unpermitted ongoing projects.” A “new project” is one that commences after the effective date of the Region 4 CGP (*i.e.*, September 1, 2009). An “unpermitted ongoing project” is one that commenced prior to the effective date of the Region 4 CGP, yet never received authorization to discharge under the previous CGP or any other NPDES permit covering its construction-related stormwater discharges. The Region 4 CGP is effective only in those areas where EPA Region 4 is the permitting authority, which includes all Indian Country Lands within the states of Alabama, Florida, Mississippi, and North Carolina. A list of eligible areas is included in Appendix B of the Region 4 CGP.

*B. How can I get copies of this document and other related information?*

You may access this **Federal Register** document electronically through the EPA Internet under the “Federal Register” listings at <http://www.epa.gov/fedrgstr/>. Electronic versions of the Region 4 CGP and fact sheet are available at EPA Region 4’s stormwater Web site at: <http://www.epa.gov/region4/water/permits/stormwater.html>.

*C. How and to whom do I submit comments?*

You may submit comments electronically (e-mail or cdrom), or by postal mail. Comments should be sent to the person listed for technical information in the **FOR FURTHER INFORMATION CONTACT** section of this notice. To ensure proper receipt by EPA, identify the appropriate **Federal Register** title in the subject line on the first page of your comment. To ensure that EPA can read, understand, and therefore properly respond to comments, the Agency would prefer that commenters cite, where possible, the paragraph(s) or section in the fact sheet or permit to which each comment refers. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked “late.” EPA is not

required to consider these late comments.

*D. Finalizing this action*

This action will not be finalized until after all significant public comments have been considered and addressed. Once the final permit becomes effective, operators of new and unpermitted ongoing construction projects may seek authorization under the Region 4 CGP prior to midnight, September 1, 2012, or the effective date of the new National CGP, whichever is earlier.

**II. Background of Permit**

*A. Statutory and Regulatory History*

The Clean Water Act (CWA) establishes a comprehensive program “to restore and maintain the chemical, physical, and biological integrity of the Nation’s waters.” See 33 U.S.C. 1251(a). The CWA also includes the objective of attaining “water quality which provides for the protection and propagation of fish, shellfish and wildlife and \* \* \* recreation in and on the water.” See 33 U.S.C. 1251(a)(2). To achieve these goals, the CWA requires EPA to control point source discharges of pollutants through the issuance of NPDES permits.

The Water Quality Act of 1987 (WQA) added section 402(p) of the CWA, which directed EPA to develop a phased approach to regulate stormwater discharges under the NPDES program, 33 U.S.C. 1342(p). EPA published a final regulation in the **Federal Register**, often called the “Phase I Rule” on November 16, 1990, establishing permit application requirements for, among other things, “storm water discharges associated with industrial activity.” See 55 FR 47990. EPA defined the term “storm water discharge associated with industrial activity” in a comprehensive manner to cover a wide variety of facilities. Construction activities, including activities that are part of a larger common plan of development or sale, that ultimately disturb at least five acres of land and have point source discharges to waters of the United States were included in the definition of “industrial activity” pursuant to 40 CFR 122.26(b)(14)(x). The second rule implementing section 402(p), often called the Phase II Rule, was published in the **Federal Register** on December 8, 1999, requires NPDES permits for discharges from construction sites disturbing at least one acre but less than five acres, including sites that are less than one acre but are part of a larger common plan of development or sale that will ultimately disturb at least one acre but less than five acres, pursuant to 40 CFR 122.26(b)(15)(i). See 64 FR

68722. EPA issued the Region 4 CGP under the statutory and regulatory authority cited above.

NPDES permits issued for construction stormwater discharges are required under Section 402(a)(1) of the CWA to include conditions for meeting technology-based effluent limits established under Section 301 and, where applicable, Section 306. Once an effluent limitations guideline or new source performance standard is promulgated in accordance with these sections, NPDES permits are required to incorporate limits based on such limitations and standards. See 40 CFR 122.44(a)(1). Prior to the promulgation of national effluent limitations guidelines and new source performance standards, permitting authorities incorporate technology-based effluent limitations on a best professional judgment basis. See CWA section 402(a)(1)(B); 40 CFR 125.3(a)(2)(ii)(B).

*B. Summary of the Region 4 CGP Issued in 2009*

EPA announced the issuance of the 2009 Region 4 CGP on August 26, 2009. See 74 FR 43120. Construction operators choosing to be covered by the Region 4 CGP must certify in their notice of intent (NOI) that they meet the requisite eligibility requirements, described in Subpart 1.3 of the permit. If eligible, operators are authorized to discharge under this permit in accordance with Part 2. Permittees must install and implement control measures to meet the effluent limits applicable to all dischargers in Part 3, and must inspect such stormwater controls and repair or modify them in accordance with Part 4. The permit in Part 5 requires all construction operators to prepare a stormwater pollution prevention plan (SWPPP) that identifies all sources of pollution and describes control measures used to minimize pollutants discharged from the construction site. Part 6 details the requirements for terminating coverage under the permit.

EPA Region 4 issued the Region 4 CGP in 2009 to replace the expired CGP, issued in 2004, for operators of new and unpermitted ongoing construction projects. The geographic coverage and scope of eligible construction activities are listed in Appendix B of the Region 4 CGP.

*C. What is EPA’s rationale for the modification of the expiration date for the Region 4 CGP?*

EPA proposes to modify the Region 4 CGP by extending the expiration date of the permit to September 1, 2012. EPA Region 4 finds it necessary to propose this extension in order to provide

sufficient time for finalization of the new National CGP which is being issued by EPA Region 4 and the other EPA regional offices and would also provide coverage to eligible existing and new construction projects in all areas of the country where EPA is the NPDES permitting authority (*i.e.*, other Indian Lands, Idaho, Massachusetts, New Hampshire, New Mexico, Puerto Rico, Washington, DC, and U.S. territories and protectorates). The proposed National CGP will incorporate for the first time new effluent limitations guidelines and new source performance standards, which EPA promulgated in December 2009. Once the new National CGP is effective, eligible existing and new construction projects on Tribal lands within Region 4, will be regulated under the new National CGP. The extension of the expiration date of the Region 4 CGP is necessary in order to make up for a delay in the issuance process of the new National CGP due to an error discovered in the December 2009 final rule regarding the calculation of the numeric limitation on turbidity. This numeric limit has since been stayed by EPA. EPA's proposed extension would provide the Agency with sufficient time to account for this delay and to meet its other permit issuance obligations.

NPDES permits issued for construction stormwater discharges are required under Section 402(a)(1) of the CWA to include conditions for meeting technology-based effluent limits established under Section 301 and, where applicable, Section 306. Once an effluent limitations guideline or new source performance standard is promulgated in accordance with these sections, any NPDES permits issued after the effective date of these requirements must incorporate limits based on such limitations and standards. See 40 CFR 122.44(a)(1). In the case of the CGP, EPA promulgated effluent limitations guidelines and new source performance standards for the construction and development point source category on December 1, 2009 ("C&D rule"), which for the first time imposed a set of minimum Federal numeric and non-numeric effluent limitations on regulated construction sites. See 74 FR 62996 (December 1, 2009). The C&D rule (located at 40 CFR part 450) became effective on February 1, 2010, thus requiring that any NPDES permit issued after this date, whether issued by EPA or an authorized state, must incorporate the substantive technology-based requirements of the rule into the permit. For the new National CGP, this means that EPA must

incorporate the effective requirements of the C&D rule into the permit.

Among other requirements, the C&D rule subjected discharges from certain larger construction sites to a numeric effluent limitation of 280 NTU for the pollutant turbidity starting in August of 2011 (for sites disturbing 20 or more acres at one time) and February of 2014 (for sites disturbing 10 or more acres at one time). Subsequent to the promulgation of the C&D rule, EPA received two petitions for reconsideration of the rule. These petitions pointed out a potential error in the calculation of the numeric limitation. Based on EPA's examination of the dataset underlying the 280 NTU limit, EPA concluded that it improperly interpreted the data and, as a result, the calculations in the existing administrative record are no longer adequate to support the 280 NTU numeric effluent limitation. In response to this finding, EPA finalized a stay of the 280 numeric NTU limit and associated monitoring requirements (see 40 CFR 450.22(a)) on January 4, 2011, in order to enable the Agency to correct its error in calculating the numeric limitation. See 75 FR 68215 (November 5, 2010). EPA is currently in the process of initiating a limited rulemaking to correct the numeric limitation.

Preceding the decision to stay the numeric turbidity limit, the uncertainty surrounding the error in calculating the 280 NTU limit, and the appropriate way for EPA to address it, caused a delay of several months to the permit issuance process for the new National CGP. EPA believes it is impracticable to finalize the new National CGP when considering the minimum tasks required of the Agency to finalize the permit.

With the setback of time related to the stay of the 280 NTU limit, EPA needs additional time to complete the permit issuance process as explained above. EPA believes that the proposed extension of the expiration date of the Region 4 CGP to September 1, 2012, will provide the sufficient time for the Agency to finalize the new National CGP. EPA believes it is imperative that sufficient time to incorporate the C&D ELG into the new National CGP is allotted. If EPA does not extend the expiration date of the Region 4 CGP, no new construction projects could receive general permit coverage between September 1, 2011, and the effective date of the new National CGP, leaving individual NPDES permits as the only available option for permitting new projects. The sole reliance on individual permits would mean that discharge authorizations would almost certainly be delayed due to the greater amount of

time and Agency resources that are required for developing and issuing individual permits. In turn, construction projects that need to begin construction activities on or after midnight August 31, 2011, for the 2009 Regional CGP, would be delayed for an uncertain amount of time until EPA can review their individual permit application and issue the necessary permits. Rather than risk detrimental delays to new construction projects, with no clear benefit to our nation's surface waters, EPA Region 4 has decided that it is advisable to instead propose a modification to the 2009 Region 4 CGP to extend the expiration date until September 1, 2012.

#### *D. EPA's Authority To Modify NPDES Permits*

EPA regulations establish when the permitting authority may make modifications to existing NPDES permits. In relevant part, EPA regulations state that "[w]hen the Director receives any information \* \* \* he or she may determine whether or not one or more of the causes listed in paragraph (a) \* \* \* of this section for modification \* \* \* exist. If cause exists, the Director may modify \* \* \* the permit accordingly, subject to the limitations of 40 CFR 124.5(c)." 40 CFR 122.62. For purposes of this **Federal Register** notice, the relevant cause for modification is at 40 CFR 122.62(a)(2), which states that a permit may be modified when "[t]he Director has received new information" and that information was not available at the time of permit issuance \* \* \* and would have justified the application of different permit conditions at the time of issuance." Pursuant to EPA regulations, "[w]hen a permit is modified, only the conditions subject to the modification are reopened." 40 CFR 122.62.

In the case of the Region 4 CGP, a permit modification is justified based on the new information EPA received following the issuance of the permit, and more specifically, in terms of the delay to the permit process associated with the discovery of the numeric limit calculation error and resulting stay to the numeric turbidity limit. If this information was available at the time of issuance of the Region 4 CGP, it would have justified EPA establishing an expiration date for the Region 4 CGP that was later than August 31, 2011. As a result, cause exists under EPA regulations to justify modification of the Region 4 CGP to extend the permit until September 1, 2012. If the proposed modification is finalized, the Region 4 CGP would expire at midnight, on

September 1, 2012, or on the effective date of the proposed new National CGP, whichever is earlier.

EPA notes that, by law, NPDES permits cannot be extended beyond 5 years. See 40 CFR 122.46. The proposed extension of the expiration date of the Region 4 CGP complies with this restriction. The Region 4 CGP was issued with an effective date of September 1, 2009. Assuming the extension of the expiration date of the Region 4 CGP is finalized as proposed, the permit would still have been in effect for less than the 5-year limit.

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

Signed this 27th day of May, 2011.

**Douglas Mundrick,**

*Acting Director, Water Protection Division, Region 4.*

[FR Doc. 2011-14197 Filed 6-8-11; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

[EPA-R07-OW-2011-0504; FRL-9317-5]

### Notice of Approval of the Primacy Application for National Primary Drinking Water Regulations for the State of Missouri

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

**ACTION:** Notice of approval and solicitation of requests for a public hearing.

**SUMMARY:** The Environmental Protection Agency (EPA) is hereby giving notice that the State of Missouri is revising its approved Public Water System Supervision Program under the Missouri Department of Natural Resources (MDNR). The EPA has determined that these revisions are no less stringent than the corresponding Federal regulations. Therefore, the EPA intends to approve these program revisions.

**DATES:** This determination to approve the Missouri program revision is made pursuant to 40 CFR 142.12(d)(3). This determination shall become final and effective on July 11, 2011, unless (1) A timely and appropriate request for a public hearing is received or (2) the Regional Administrator elects to hold a public hearing on his own motion. Any interested person, other than Federal Agencies, may request a public hearing. All interested parties may request a public hearing on the approval of these program revisions to the EPA Regional Administrator to the address shown

below by July 11, 2011. If a substantial request for a public hearing is made within the requested thirty day time frame, a public hearing will be held and a notice will be given in the **Federal Register** and a newspaper of general circulation. Frivolous or insubstantial requests for a hearing may be denied by the Regional Administrator.

**ADDRESSES:** Any request for a public hearing shall include the following information: (1) Name, address and telephone number of the individual organization or other entity requesting a hearing; (2) a brief statement of the requesting person's interest in the Regional Administrator's determination and a brief statement on information that the requesting person intends to submit at such hearing; (3) the signature of the individual making the request or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity. Requests for Public Hearing shall be addressed to: Karl Brooks, Regional Administrator, Environmental Protection Agency-Region 7, 901 North 5th Street, Kansas City, Kansas 66101.

All documents relating to this determination are available for review between the hours of 9 a.m. and 4:30 p.m., Monday through Friday, at the following offices:

(1) Missouri Department of Natural Resources, Public Drinking Water Branch, 1101 Riverside Drive, Jefferson City, MO 65101. (2) Environmental Protection Agency-Region 7, Water Wetlands and Pesticides Division, Drinking Water Management Branch, 901 North 5th Street, Kansas City, Kansas 66101.

**FOR FURTHER INFORMATION CONTACT:** Neftali Hernandez-Santiago, Environmental Protection Agency-Region 7, Drinking Water Management Branch, (913) 551-7036, or by e-mail at [hernandez-santiago.neftali@epa.gov](mailto:hernandez-santiago.neftali@epa.gov).

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that the EPA has determined to approve an application by the Missouri Department of Natural Resources to incorporate the following EPA National Primary Drinking Water Regulations: (1) Stage 2 Disinfectants and Disinfection Byproducts Rule (January 4, 2006, 71 FR 388) and (2) Long Term 2 Enhanced Surface Water Treatment Rule (January 5, 2006, 71 FR 654). During the review of the state's drinking water regulations, EPA noted an issue related to best available technology (BAT). Under the Safe Drinking Water Act, EPA must specify the best available technology for each maximum contaminant level (MCL) or

maximum residual disinfectant level (MRDL) that is set. Public water systems that are unable to achieve an MCL or MRDL may be granted a variance on condition that the system use the BATs, treatment techniques, or other means which the Administrator finds are available (taking costs into consideration), based upon an evaluation satisfactory to the State that indicates that alternative sources of water are not reasonably available to the system. Missouri allows variances to MCLs but has not adopted the BATs listed in 40 CFR 141.64(a) and (b). Since Missouri has the authority to grant variances, the state must also adopt the BATs specified by the EPA Administrator, in order to be consistent with the language in Sections 1415 and 1416 of the SDWA. The Missouri rule language currently states that the system installs BATs that the state (department) finds to be available; this language is less stringent than the Federal statute requires. EPA Region 7 has negotiated a resolution to this issue with MDNR, concluding that, until Missouri promulgates a rule adopting EPA's BATs, MDNR agrees to issue variances only to systems that have agreed, as a condition of being issued the variance, to utilize BATs, treatment techniques, or other means, which the EPA Administrator, taking cost into consideration, finds generally available, in accordance with the requirements of Title 40 of the CFR and Sections 1415 and 1416 of the SDWA. In light of Missouri's agreement to issue variances only to systems that have agreed to install BATs, treatment techniques, or other means consistent with requirements of the SDWA and its implementing regulations, EPA has determined that Missouri continues to meet requirements for primary enforcement responsibility of the SDWA, as specified in 40 CFR 142.10.

**Authority:** Section 1413 of the Safe Drinking Water Act, as amended, and 40 CFR 142.10, 142.12(d) and 142.13.

Dated: May 31, 2011.

**Karl Brooks,**

*Regional Administrator, Region 7.*

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