

(NMFS)) in connection with the 2014 draft Small MS4 General Permit.

On July 8, 2014, EPA initiated an informal consultation with the USFWS and the National Oceanic and Atmosphere Administration, National Marine Fisheries Service (NMFS) pursuant to Section 7 of the ESA, for the reissuance of a proposed 2014 NPDES Small MS4 General Permit. Based on the information, EPA believes that the issuance of the NPDES Small MS4 General Permit (PRR040000), may affect, but is not likely to adversely affect any threatened or endangered species.

On August 22, 2014, the USFWS indicated that the Antillean manatee may be affected. This species is found near shore waters around Puerto Rico where stormwater may be discharged. In addition, USFWS indicated they concur with EPA's determination.

On August 28, 2014, NMFS had questions regarding EPA's proposed 2014 NPDES Small MS4 General Permit. EPA ensured to provide a response to each of NMFS's questions by October 1, 2014. A follow up conference call was held on October 7, 2014 to discuss the responses. On December 18, 2014, EPA held another conference call where the NMFS requested to see examples of EPA inspection reports performed to MS4s and Municipal Stormwater Management Program. EPA provided six (6) documents of coastal municipalities on December 19, 2014. EPA followed up with a letter dated July 24, 2015 seeking NMFS to concur on EPA's determination that stormwater discharges from MS4s and discharge related activities are not likely to adversely affect any federal threatened or endangered listed species or designated habitat.

EPA's decision to issue this general permit is consistent with section 7(d) because it does not foreclose either the formulation by the NMFS, or the implementation by EPA, of any alternatives that might be determined in the consultation to be needed to comply with section 7(a)(2). If the completion of consultation results in new information warranting modifications or conditions to protect listed species or critical habitat, EPA will modify this permit under 40 CFR 122.62(a)(2) to incorporate those non-numerical effluent limits or conditions.

#### B. Executive Order 12866

EPA has determined that this general permit is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review.

#### C. Paperwork Reduction Act

The information collection requirements of this 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 2040-0004.

#### D. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.*, requires that EPA prepare a regulatory flexibility analysis for rules subject to the requirements of 5 U.S.C. 553(b) that have a significant impact on a substantial number of small entities. However, general NPDES permits are not "rules" subject to the requirements of 5 U.S.C. 553(b) and are therefore not subject to the RFA.

#### E. 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" (defined to be the same as "rules" subject to the RFA) on Tribal, State, and local governments and the private sector. However, general NPDES permits are not "rules" subject to the requirements of 5 U.S.C. 553(b) and are therefore not subject to the RFA or the UMRA.

**Authority:** This action is being taken under the Clean Water Act, 33 U.S.C. 1251 *et seq.*

Dated: May 18, 2016.

**José C. Font,**

*Director, Caribbean Environmental Protection Division.*

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## ENVIRONMENTAL PROTECTION AGENCY

[FRL-9947-58-Region 3]

### Delegation of Authority to the Commonwealth of Virginia To Implement and Enforce Additional or Revised National Emission Standards for Hazardous Air Pollutants Standards

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

**ACTION:** Notice of delegation of authority.

**SUMMARY:** On April 7, 2016, the Environmental Protection Agency (EPA) sent the Commonwealth of Virginia (Virginia) a letter acknowledging that Virginia's delegation of authority to implement and enforce the National Emissions Standards for Hazardous Air

Pollutants (NESHAPs) had been updated, as provided for under previously approved delegation mechanisms. To inform regulated facilities and the public, EPA is making available a copy of EPA's letter to Virginia through this notice.

**DATES:** On April 7, 2016, EPA sent Virginia a letter acknowledging that Virginia's delegation of authority to implement and enforce federal NESHAPs had been updated.

**ADDRESSES:** Copies of documents pertaining to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029. Copies of Virginia's submittal are also available at the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

**FOR FURTHER INFORMATION CONTACT:** Ray Chalmers, (215) 814-2061, or by email at [chalmers.ray@epa.gov](mailto:chalmers.ray@epa.gov).

**SUPPLEMENTARY INFORMATION:** On February 10, 2016, Virginia notified EPA that Virginia had updated its incorporation by reference of federal NESHAPs to include many such standards, as they were published in final form in the Code of Federal Regulations dated July 1, 2015. On April 7, 2016, EPA sent Virginia a letter acknowledging that Virginia now has the authority to implement and enforce the NESHAPs as specified by Virginia in its notice to EPA, as provided for under previously approved automatic delegation mechanisms. All notifications, applications, reports and other correspondence required pursuant to the delegated NESHAPs must be submitted to both the US EPA Region III and to the Virginia Department of Environmental Quality, unless the delegated standard specifically provides that such submittals may be sent to EPA or a delegated State. In such cases, the submittals should be sent only to the Virginia Department of Environmental Quality. A copy of EPA's letter to Virginia follows:

"Michael G. Dowd, Director  
Air Division  
Virginia Department of Environmental Quality  
629 East Main Street  
P.O. Box 1105  
Richmond, Virginia 23218  
Dear Mr. Dowd:

The United States Environmental Protection Agency (EPA) has previously delegated to the Commonwealth of Virginia (Virginia) the authority to implement and enforce various federal

National Emissions Standards for Hazardous Air Pollutants (NESHAPs) found at 40 CFR parts 61 and 63. In those actions, EPA also delegated to Virginia the authority to implement and enforce any future EPA NESHAPs on the condition that Virginia legally adopt the future standards, make only allowed wording changes, and provide specified notice to EPA.

In a letter dated February 10, 2016, Virginia informed EPA that Virginia had updated its incorporation by reference of federal NESHAPs to include many such standards, as they were published in final form in the Code of Federal Regulations dated July 1, 2015. Virginia explained that its intent in updating its incorporation by reference of the NESHAPs was to retain the authority to enforce all standards included in the revisions, as per the provisions of EPA's previous delegation actions. Virginia committed to enforcing the federal standards in conformance with the terms of EPA's previous delegations of authority. Virginia made only allowed wording changes.

EPA notes that Virginia provided a copy of the State's regulatory action that states: "[t]he amendments update state regulations that incorporate by reference certain U.S. Environmental Protection Agency regulations to reflect the Code of Federal Regulations as published on July 1, 2015. No new NESHAPs or MACTs are being incorporated. The date of the Code of Federal Regulations book being incorporated by reference is being updated to the latest version." Virginia's regulatory action indicates that "[t]he revised regulations have an effective date of February 10, 2016."

EPA also notes that Virginia provides in its regulatory action that "[t]he Environmental Protection Agency National Emission Standards for Source Categories (Maximum Achievable Control Technologies, or MACTs) as promulgated in 40 CFR part 63 and designated in 9VAC5-60-100 are, unless indicated otherwise, incorporated by reference into the regulations of the board [State Air Pollution Control Board] as amended by the word or phrase substitutions given in 9VAC5-60-110. The complete text of the subparts in 9VAC5-60-100 incorporated herein by reference is contained in 40 CFR part 63. The 40 CFR section numbers appearing under each subpart in 9VAC5-60-100 identify the specific provisions of the subpart incorporated by reference. The specific version of the provision adopted by reference shall be that contained in the CFR 2015 in effect July 1, 2015."

EPA further notes that Virginia provides in its regulatory action that

"[t]he Environmental Protection Agency National Emission Standards (NESHAPs) as promulgated in 40 CFR part 61 and designated in 9VAC5-60-70 are, unless indicated otherwise, incorporated by reference into the regulations of the board as amended by the word or phrase substitutions given in 9VAC5-60-80. The complete text of the subparts in 9VAC5-60-70 incorporated herein by reference is contained in 40 CFR part 61. The 40 CFR section numbers appearing under each subpart in 9VAC5-60-70 identify the specific provisions of the subpart incorporated by reference. The specific version of the provision adopted by reference shall be that contained in the CFR 2015 in effect July 1, 2015."

In response to Virginia's submittal, EPA acknowledges that Virginia now has the authority, as provided for under the terms of EPA's previous delegation actions, to implement and enforce the NESHAP standards which Virginia has adopted by reference in Virginia's revised regulations 9 VAC 5-60-100 and 9 VAC 5-60-70, both effective on February 10, 2016.

Please note that on December 19, 2008, in *Sierra Club v. EPA*,<sup>1</sup> the United States Court of Appeals for the District of Columbia Circuit vacated certain provisions of the General Provisions of 40 CFR part 63 relating to exemptions for startup, shutdown, and malfunction (SSM). On October 16, 2009, the Court issued a mandate vacating these SSM exemption provisions, which are found at 40 CFR 63.6(f)(1) and (h)(1).

Accordingly, EPA no longer allows sources the SSM exemption as provided for in the vacated provisions at 40 CFR 63.6(f)(1) and (h)(1), even though EPA has not yet formally removed these SSM exemption provisions from the General Provisions of 40 CFR part 63. Because Virginia incorporated 40 CFR part 63 by reference, Virginia should also no longer allow sources to use the former SSM exemption from the General Provisions of 40 CFR part 63 due to the Court's ruling in *Sierra Club vs. EPA*.

EPA appreciates Virginia's continuing NESHAP enforcement efforts, and also Virginia's decision to take automatic delegation of more recent NESHAP by adopting them by reference.

Sincerely,  
Nikos Singelis, Acting Director  
Air Protection Division"

This notice acknowledges the update of Virginia's delegation of authority to implement and enforce NESHAP and NSPS.

<sup>1</sup> *Sierra Club v. EPA*, 551 F.3rd 1019 (D.C. Cir. 2008).

Dated June 1, 2016.

**Nikos Singelis,**

*Acting Director, Air Protection Division,  
Region III.*

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## FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060-0599]

### Information Collection Being Reviewed by the Federal Communications Commission

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice and request for comments.

**SUMMARY:** As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501-3520), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

**DATES:** Written PRA comments should be submitted on or before August 12, 2016. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

**ADDRESSES:** Direct all PRA comments to Cathy Williams, FCC, via email to [PRA@fcc.gov](mailto:PRA@fcc.gov) and to [Cathy.Williams@fcc.gov](mailto:Cathy.Williams@fcc.gov).