

*Development Plan for the Causal Analysis/Diagnosis Decision Information System (CADDIS)* (EPA/600/R-03/074, January 2004), which was prepared by the U.S. Environmental Protection Agency's (EPA) National Center for Environmental Assessment (NCEA) of the Office of Research and Development (ORD).

**ADDRESSES:** The document will be made available electronically through the NCEA Web site ([www.epa.gov/ncea](http://www.epa.gov/ncea)). A limited number of paper copies will be available from the EPA's National Service Center for Environmental Publications (NSCEP), P.O. Box 42419, Cincinnati, OH 45242; telephone: 1-800-490-9198 or 513-489-8190; facsimile: 513-489-8695. Please provide your name, your mailing address, the title and the EPA number of the requested publication.

**FOR FURTHER INFORMATION CONTACT:** The Technical Information Staff, National Center for Environmental Assessment/ Washington Office (8623D), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Telephone: 202-564-3261; fax: 202-565-0050; e-mail: [nceadc.comment@epa.gov](mailto:nceadc.comment@epa.gov).

**SUPPLEMENTARY INFORMATION:** This document describes a strategy for developing the Causal Analysis/Diagnosis Decision Information System (CADDIS). CADDIS is envisioned as a decision support system that will help investigators in EPA Regions, states, and tribes find, access, organize, and share information useful for causal evaluations in aquatic systems. It will include supporting case studies and analysis tools, and it will provide access to databases that contain information useful for causal evaluations. The system will be developed incrementally and iteratively, and frequent user input and feedback will be essential to the system's success.

Dated: February 25, 2004.

**Peter W. Preuss,**

*Director, National Center for Environmental Assessment.*

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**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

[FRL-7633-5]

### Final National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges From Construction Activities That Are Classified as Associated With Industrial Activity

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

**ACTION:** Notice of final National Pollutant Discharge Elimination System (NPDES) general permit reissuance for storm water discharges from construction activities that are classified as "associated with industrial activity."

**SUMMARY:** EPA Region 4 is reissuing a final NPDES general permit for discharges from large and small construction activities. The reissued permit covers Phase II (small) construction activities and replaces the previous permit issued March 31, 1998 (63 FR 15622), and modified on April 28, 2000 (64 FR 25122), which covered Phase I (large) construction activities. The reissued permit covers facilities on Indian country lands within the states of Alabama, Florida, Mississippi and North Carolina.

**DATES:** The effective date of this permit is May 1, 2004, and will expire at midnight April 30, 2009.

**ADDRESSES:** The administrative record is available for inspection and copying at the United States Environmental Protection Agency, Region 4, Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, GA 30303-8960.

**FOR FURTHER INFORMATION CONTACT:** For further information on the final permit, the Notice of Intent (NOI) or Notice of Termination (NOT), contact Mr. Floyd Wellborn of the NPDES and Biosolids Permits Section at (404) 562-9296 or by email at [wellborn.floyd@epa.gov](mailto:wellborn.floyd@epa.gov) or Mr. Michael Mitchell at (404) 562-9303 or by email at [mitchell.michael@epa.gov](mailto:mitchell.michael@epa.gov). Copies may be obtained by writing the United States Environmental Protection Agency, Region 4, Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, GA 30303-8960, Attention: Ms. Ann Brown, or calling (404) 562-9288. In addition, copies of the final NPDES general permit, fact sheet or other relevant documents may be downloaded at [www.epa.gov/region4/water/permits/stormwater.html](http://www.epa.gov/region4/water/permits/stormwater.html).

**SUPPLEMENTARY INFORMATION:**

## I. Procedures for Reaching a Final Permit Decision

A formal hearing is available to challenge any NPDES permit issued according to the regulations at 40 CFR 124.15, except for a general permit as cited by 40 CFR 124.71. Within 120 days following notice of EPA's final decision for the general permit under 40 CFR 124.15, any interested person may appeal the permit in the Federal Court of Appeals in accordance with section 509(b)(1) of the CWA. Persons affected by a general permit may not challenge the conditions of a general permit as a right in further Agency proceedings. They may instead either challenge the general permit in court, or apply for an individual permit as specified at 40 CFR 122.21, as authorized at 40 CFR 122.28, and then request a formal hearing on the issuance or denial of an individual permit.

## II. Background

### A. Statutory and Regulatory History

Section 405 of the Water Quality Act of 1987 added section 402(p) to the CWA, which directed the EPA to develop a phased approach to regulate the storm water discharges under the National Pollutant Discharge Elimination System (NPDES) program. EPA published a final regulation on the first phase of this program on November 16, 1990, establishing permit application requirements for "storm water discharges associated with industrial activity." Construction activities that disturb at least five acres of land or are part of a larger plan of development and have point source discharges to waters of the U.S., are defined in 40 CFR 122.26(b)(14)(x) as an "industrial activity." Upon the advent of the Phase II storm water regulations, these activities became referred to as large construction activities.

Phase II of the storm water program was published in the **Federal Register** on December 8, 1999. Phase II includes sites disturbing at least one acre of land and less than five acres, as well as sites less than one acre of land area that are part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one and less than five acres. Small construction activity is defined at 40 CFR 122.26(b)(15)(i).

### B. Significant Changes From the 1998 General Permit and the Subsequent 2000 Modification

1. The organization and numbering of the permit has been changed from the March 1998 (63 FR 15622) permit and

the April 2000 (64 FR 25122) permit modification to mirror the organization and numbering of the national permit issued by various other EPA regions in the July 2003 **Federal Register** (68 FR 39087). This change also will support the use of the NOI form used to apply for coverage under the general permit. The NOI directs the applicant to certain sections of the permit. Therefore, it is imperative that the permit sections cited correspond to the topics referenced in the NOI.

2. Coverage for discharges from small construction activities has been added to the eligibility provisions.

3. The eligibility conditions were clarified regarding facilities discharging to water bodies with Total Maximum Daily Loads (TMDLs).

4. Waivers have been added for qualifying discharges from small construction activities.

5. The permit coverage area has been changed. This reissuance no longer covers facilities on non-Indian lands in the State of Florida. It does continue to cover facilities on Indian Country lands within the States of Alabama, Florida, Mississippi and North Carolina.

6. The NOI has been changed from the previous permit. *See* page 78118 of the December 20, 2002, **Federal Register** (67 FR 78116) for a detailed discussion on the changes.

7. Authorization of coverage is seven (7) days from the date of the acknowledgment letter rather than two (2) days from the postmark of the NOI.

8. The deadlines for submitting the NOI have changed in Part 2.2 of the permit to reflect the new authorization schedule.

9. The size rain event trigger for inspections of the site have been changed from a rain event of 0.25 inches to one that is 0.5 inches in a 24 hour period.

10. Addendum F, a list of reportable quantities of hazardous substances, has been added to the permit.

11. Part 3.2.A. has been changed to allow off site retention of the SWPPP where necessary.

### *C. Summary of Terms and Conditions of the General Permit*

#### 1. Discharges Covered

Operators of construction activities disturbing at least one acre of land, or less than an acre but is part of a larger plan of development or sale, on Indian Country lands within the States of Alabama, Florida, Mississippi and North Carolina may be eligible to obtain coverage under this permit for allowable storm water and non-storm water discharges specifically listed in the permit.

#### 2. Limitations on Coverage

The general permit retains the eligibility restrictions from the previous permit. The permit does not regulate post-construction discharges, storm water discharges commingled with non-storm water discharges, except as noted, discharges previously covered by another NPDES, discharges which cause or contribute to a violation of a water quality standard, discharges which adversely affect threatened or endangered species or their critical habitat, or discharges which adversely affect a listed or proposed to be listed historic place or resource. In addition, the permit includes a new restriction on discharges of storm water to waters for which a TMDL has been approved or established. Discharges of storm water from construction activities on at least one acre of land, or less than one acre that are part of a larger plan of development or sale, that do not meet the eligibility requirements of the general permit would be required to submit an individual permit application.

#### 3. Deadlines and Permit Application Process

To obtain discharge authorization under the general permit, dischargers must submit an NOI, which requires basic information about the facility owner/operator, location and discharge(s). NOI due dates, for construction activities on Indian lands in Alabama, Florida, Mississippi and North Carolina, are as follows:

- i. Ongoing construction activities previously covered by an NPDES permit, must submit an NOI within 60 days of the effective date of this permit.
- ii. New construction activities, after the effective date of this permit, must submit a complete and accurate NOI in accordance with the requirements of Part 2.1, prior to the commencement of construction activities. Authorization to discharge is seven (7) days after the date of the acknowledgment letter (*see* part 2.4).

#### 4. Storm Water Pollution Prevention Plans

The general permit requires operators covered by the permit to develop and implement a SWPPP. All SWPPPs must be developed in accordance with sound engineering practices and developed specific to the site. The SWPPP must be prepared prior to submission of the NOI.

#### 5. Monitoring Requirements

The permittee shall monitor by grab sample, during regular working hours, once per month within the first 30 minutes of a qualifying event or within

the first 30 minutes of the beginning of the discharge of a previously collected qualifying event for Settleable Solids (ml/l), Total Suspended Solids (mg/l), Turbidity (NTUs) and Flow (MGD).

### III. Executive Order 12866

Under Executive Order 12866 (58 FR 51735 (October 4, 1993)) the Agency must determine whether the regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may: (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health, or safety, or State, local, or Tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order. OMB has exempted review of NPDES general permits under the terms of Executive Order 12866.

### IV. Regulatory Flexibility Act

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

Issuance of an NPDES general permit is not subject to rule making requirements, including the requirement for a general notice of proposed rule making, under APA section 533 or any other law, and is thus not subject to the RFA requirements.

The APA defines two broad, mutually exclusive categories of agency action—"rules" and "orders." APA section 551(4) defines rule as "an agency statement of general or particular applicability and future effect designed to implement, interpret or prescribe law or policy or describing the organization, procedure, or practice or requirements of an agency \* \* \*" APA section 551(6) defines orders as "a final disposition

\* \* \* of an agency in a matter other than rule making but including licensing." APA section 551(8) defines "license" to "include \* \* \* an agency permit \* \* \*". The APA thus categorizes a permit as an order, which by the APA's definition is not a rule. Section 553 of the APA establishes "rule making" requirements. APA section 551(5) defines "rule making" as "the agency process for formulating, amending, or repealing a rule." By its terms, section 553 applies only to rules and not to orders, exempting by definition permits.

#### V. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for Federal agencies to assess the effects of their "regulatory actions" to refer to regulations. (*See, e.g.*, UMRA section 401, "Each agency shall \* \* \* assess the effects of Federal regulatory actions \* \* \* (other than to the extent that such regulations incorporate requirements specifically set forth in law).") UMRA section 102 defines "regulation" by reference to 2 U.S.C. 658 which in turn defines "regulation" and "rule" by reference to section 601(2) of the RFA. That section of the RFA defines "rule" as "any rule for which the agency publishes a notice of proposed rule making pursuant to section 553(b) of the APA, or any other law."

As discussed in the RFA section of this notice, NPDES general permits are not "rules" by definition under the APA and thus not subject to the APA requirement to publish a notice of proposed rule making. NPDES general permits are also not subject to such a requirement under the CWA. While EPA publishes a notice to solicit public comment on draft general permits, it does so pursuant to the CWA section 402(a) requirement to provide an opportunity for a hearing. Therefore, NPDES general permits are not "rules" for RFA or UMRA purposes.

#### VI. Paperwork Reduction Act

EPA HQ has reviewed the requirements imposed on regulated facilities resulting from the construction general permit under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* The information collection requirements of the construction general permit for large construction activities have already been approved by the Office of Management and Budget (OMB) (OMB Control No. 2040-0188) in previous submissions made for the NPDES permit program under the provisions of the CWA. Information collection requirements of the

construction general permit for small construction activities (OMB Control No. 2040-0211) were approved by OMB on June 12, 2003, and published in the **Federal Register** on July 25, 2003 (68 FR 44076).

**James D. Giattina,**

*Director, Water Management Division.*

[FR Doc. 04-5371 Filed 3-9-04; 8:45 am]

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### FEDERAL MARITIME COMMISSION

#### Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, NW., Room 940. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

*Agreement No.:* 011409-009.

*Title:* Transpacific Carrier Services, Inc. Agreement.

*Parties:*

Westbound Transpacific Stabilization Agreement,  
Transpacific Space Utilization Agreement,  
Asia North America Eastbound Rate Agreement,  
Transpacific Stabilization Agreement and their constituent member lines:  
American President Lines, Ltd.;  
APL Co. Pte Ltd.;  
Evergreen Marine Corporation;  
Hanjin Shipping Co., Ltd.;  
Hapag-Lloyd Container Linie GmbH;  
Hyundai Merchant Marine Co., Ltd.;  
Kawasaki Kisen Kaisha, Ltd.;  
A.P. Moller-Maersk A/S;  
Mitsui O.S.K. Lines, Ltd.;  
Nippon Yusen Kaisha, Ltd.;  
Orient Overseas Container Line Limited;  
P&O Nedlloyd B.V.;  
P&O Nedlloyd Limited;  
Yang Ming Marine Transport Corp.;  
COSCO Container Lines Co., Ltd.;  
CMA CGM, S.A.; and  
China Shipping Container Lines Co., Ltd.

*Synopsis:* The amendment updates the agreement language as well as several member lines' corporate names.

*Agreement No.:* 011702-002.

*Title:* Hapag-Lloyd/Lykes Space Charter Agreement.

*Parties:*

Hapag-Lloyd Container Linie GmbH and  
Lykes Lines Limited LLC.

*Synopsis:* The amendment adds Malta to the geographic scope of the agreement. The parties request expedited review.

*Agreement No.:* 011839-001.

*Title:* Med-Gulf Space Charter Agreement.

*Parties:*

Lykes Lines Limited LLC,  
Compania Chilena de Navegacion Interoceanica, and  
Compania Sud Americana de Vapores S.A.

*Synopsis:* The amendment adds Malta to the geographic scope of the agreement. The parties request expedited review.

*Agreement No.:* 011870.

*Title:* Indian Subcontinent Discussion Agreement.

*Parties:*

Evergreen Marine Corp. (Taiwan) Ltd.,  
Hapag-Lloyd Container Linie GmbH,  
Nippon Yusen Kaisha,  
P&O Nedlloyd Limited, and  
P&O Nedlloyd B.V.

*Synopsis:* The agreement authorizes the parties to exchange information and discuss and reach voluntary agreement on variety of commercial issues in the trade from ports and points in India, Pakistan, Bangladesh, and Sri Lanka to all ports and points in the United States.

*Agreement No.:* 201155

*Title:* Los Angeles/Long Beach Regional Goods Movement Efficiency Team Agreement.

*Parties:*

Port of Los Angeles,  
Port of Long Beach,  
P&O Nedlloyd Limited,  
Mitsui O.S.K. Lines, and  
Pasha Stevedoring & Terminals.

*Synopsis:* The proposed agreement would authorize the parties to confer, discuss, exchange information, and make recommendations with respect to rates, charges, practices, legislation, regulations, terminal operations, and port administration on matters concerning the establishment of extended gate programs, night-time terminal operations, and rail utilization for the ports of Los Angeles and Long Beach. The parties request expedited review.

Dated: March 5, 2004.

By Order of the Federal Maritime Commission.

**Bryant L. VanBrakle,**

*Secretary.*

[FR Doc. 04-5387 Filed 3-9-04; 8:45 am]

**BILLING CODE 6730-01-P**