

4. *R307-840-4—Lead-based paint fees.* This section adopts a fee schedule for the Utah LBP Program during the first year of program implementation as allowed by section 63-38-3.2(5)(a) UAC. In subsequent years, LBP fees will be incorporated into the UDEQ Fee Schedule which is approved by the Utah Legislature annually.

III. Federal Overfiling

TSCA section 404(b) makes it unlawful for any person to violate, or fail or refuse to comply with, any requirement of an approved State or Tribal program. Therefore, EPA reserves the right to exercise its enforcement authority under TSCA against a violation of, or a failure or refusal to comply with, any requirement of an authorized State or Tribal program.

IV. Public Record and Electronic Submissions

The official record for this action, as well as the public version, has been established under docket control number PB-404404-UT. Copies of this notice, the State of Utah's authorization application, and all comments received on the application are available for inspection in the Region VIII office, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket is located at EPA, Region VIII, 8P3-T, 999 18th St., Suite 500, Denver, CO 80202.

Commenters are encouraged to structure their comments so as not to contain information for which CBI claims would be made. However, any information claimed as CBI must be marked "confidential," "CBI," or with some other appropriate designation, and a commenter submitting such information must also prepare a non-confidential version (in duplicate) that can be placed in the public record. Any information so marked will be handled in accordance with the procedures contained in 40 CFR part 2. Comments and information not claimed as CBI at the time of submission will be placed in the public record.

Electronic comments can be sent directly to EPA at:
cooper.bruce@epa.com

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in Wordperfect 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket control number PB-402404-UT. Electronic comments on this document may be filed online at many

Federal Depository Libraries. Information claimed as CBI should not be submitted electronically.

V. Regulatory Assessment Requirements

A. Certain Acts and Executive Orders

EPA's actions on State or Tribal lead-based paint activities program applications are informal adjudications, not rules. Therefore, the requirements of the Regulatory Flexibility Act (RFA, 5 U.S.C. 601 *et seq.*), the Congressional Review Act (5 U.S.C. 801 *et seq.*), Executive Order 12866 ("Regulatory Planning and Review," 58 FR 51735, October 4, 1993), and Executive Order 13045 ("Protection of Children from Environmental Health Risks and Safety Risks," 62 FR 1985, April 23, 1997), do not apply to this action. This action does not contain any Federal mandates, and therefore is not subject to the requirements of the Unfunded Mandates Reform Act (2 U.S.C. 1531-1538). In addition, this action does not contain any information collection requirements and therefore does not require review or approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

B. Executive Order 12875

Under Executive Order 12875, entitled "Enhancing Intergovernmental Partnerships" (58 FR 58093, October 28, 1993), EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or Tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to OMB a description of the extent of EPA's prior consultation with representatives of affected State, local, and Tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local, and Tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

Today's action does not create an unfunded Federal mandate on State, local, or Tribal governments. This action does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of

Executive Order 12875 do not apply to this action.

C. Executive Order 13084

Under Executive Order 13084, entitled "Consultation and Coordination with Indian Tribal Governments" (63 FR 27655, May 19, 1998), EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the Tribal governments. If the mandate is unfunded, EPA must provide OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected Tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's action does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this action.

Authority: 15 U.S.C. 2682, 2684.

List of Subjects

Environmental protection, Hazardous substances, Lead, Reporting and recordkeeping requirements.

Dated: October 21, 1998.

William Yellowtail,

Regional Administrator, Region VIII.

[FR Doc. 98-28866 Filed 10-27-98; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

[FRL-6180-9]

Final Second Modification of General NPDES Permit (GP) for Alaskan Mechanical Placer Miners (Permit Number AKG-37-0000)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed second modification of a general permit.

SUMMARY: The Director, Office of Water, EPA Region 10 is issuing a modified General NPDES permit for mechanical placer mining in the state of Alaska. The modified general permit contains a new effluent limitation for arsenic which was based on the "Withdrawal of Federal Regulations of the Applicability to Alaska's Waters of Human Health Criteria" published in the **Federal Register** on March 2, 1998 (63 FR 10140) and effective on April 1, 1998. A Response to Comments was prepared and is included in this notice.

DATES: The modified general permit will become effective on November 27, 1998 and will expire on June 30, 1999.

FOR FURTHER INFORMATION CONTACT: Copies of the final general NPDES permit, response to comments, and today's publication will be provided upon request by EPA Region 10, Public Information Office, at (800) 424-4372 or (206) 553-1200 or upon request to Cindi Godsey at (907) 271-6561. Requests may also be electronically mailed to: GODSEY.CINDI@EPAMAIL.EPA.GOV. Copies of the final permit and response to comments can be found by visiting the Region 10 website at www.epa.gov/r10earth/offices/water/npdes.htm.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget has exempted this action from the review requirements of Executive Order 12866 pursuant to section 6 of that order.

The state of Alaska, Department of Environmental Conservation (ADEC), has certified that the subject discharges comply with the applicable provisions of sections 208(e), 301, 302, 306 and 307 of the Clean Water Act.

The state of Alaska, Office of Management and Budget, Division of Governmental Coordination (DGC), has determined that this permitting action did not warrant a formal review for consistency with the Alaska Coastal Management Program (ACMP).

Regulatory Flexibility Act: Under the Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.*, a Federal agency must prepare an initial regulatory flexibility analysis "for any proposed rule" for which the agency "is required by section 553 of the [Administrative Procedure Act (APA)], or any other law, to publish general notice of proposed rulemaking." The RFA exempts from this requirement any rule that the issuing agency certifies "will not, if promulgated, have a significant economic impact on a substantial number of small entities." EPA has concluded that NPDES general permits

are permits under the APA and thus not subject to APA rulemaking requirements or the RFA. Notwithstanding that general permits are not subject to the RFA, EPA has determined that this general permit, if issued, will not have a significant economic impact on a substantial number of small entities.

Dated: October 20, 1998.

Philip G. Millam,

Director, Office of Water, Region 10.

Response to Comments

EPA received comments on the Second Modification of the General Permit for Alaskan Mechanical Placer Miners AKG-37-0000 from the Alaska Miners Association (AMA) and Earthjustice Legal Defense Fund (Earthjustice) on behalf of the Trustees for Alaska, Northern Alaska Environmental Center, Southeast Alaska Conservation Council, Sitka Conservation Society, and the Juneau Chapter of the Audubon Society.

On September 10, 1998, the Division of Governmental Coordination (DGC) determined that this action did not warrant a formal review for consistency with the Alaska Coastal Management Program (ACMP).

On October 5, 1998, the Alaska Department of Environmental Conservation (ADEC) issued a Certificate of Reasonable Assurance for proposed discharges from Alaskan Mechanical Placer Mines.

1. Comment: AMA requests that the permit averaging period be adjusted to reflect the manner in which the criteria were derived. AMA states that the arsenic criteria are based upon regulating long-term human exposure to this pollutant to avoid potential adverse systemic and carcinogenic human health impacts.

Response: On March 2, 1998, EPA published the "Withdrawal from Federal Regulations of the Applicability to Alaska's Waters of Arsenic Human Health Criteria" (63 FR 10140). This rule became effective on April 1, 1998, and removed the applicability to Alaska's waters of the federal human health criteria for arsenic. If the criteria being applied were based on long-term human health criteria, EPA would base the arsenic limitations on such a standard. However, the criteria is a Drinking Water Maximum Contaminant Level (MCL) which, according to 40 CFR 142.2 is a "maximum permissible level of a contaminant." Therefore, the standard must be based on an immediate limit. ADEC has indicated in their 401 Certification of this GP that this is the proper use of a Drinking Water Standard as a permit effluent limitation.

2. Comment: AMA suggests that the instantaneous maximum limitation is inappropriate for use as a permit limitation and recommends that it should be replaced with an appropriate 30-day average and daily maximum limitation, as is required in 40 CFR 122.45(d)(1). AMA suggests an average monthly discharge rate of 50 µg/L and maximum daily rate of 131 µg/L.

Response: 40 CFR 122.45(d)(1) applies only to continuous discharges. During EPA's metals study, EPA observed only one mine at which discharges were continuous. Furthermore, even after site visits in July 1998, when three more sites were included in the metals study, it was found that none of these additional sample sites discharged each week of the study. Therefore, EPA will not apply regulations for continuous discharges to Placer Mines. Instead, 40 CFR 122.45(e) is applicable to non-continuous discharges. That provision contains four considerations in setting appropriate effluent limitations. 40 CFR 122.45(e)(4) best describes how the arsenic limit was determined for the GP. It states:

Prohibition or limitation of specified pollutants by mass, concentration, or other appropriate measure (for example, shall not contain at any time more than 0.1 mg/L zinc or more than 250 grams (¼ kilogram) of zinc in any discharge).

The regulations give EPA the authority to set effluent limitations in terms of rates not to be exceeded. When this regulation is combined with the use of an MCL, a "maximum permissible level of a contaminant," the limit in the permit is permissible.

3. Comment: Earthjustice states that the use of the revised Water Quality Standard (WQS) of 50 µg/L is unjustified and unlawful as was the initial change to the WQS.

Response: The withdrawal of the human health criteria for arsenic was public noticed in the **Federal Register** (62 FR 27707) on May 21, 1997, and published final on March 2, 1998, (63 FR 10140) with an effective date of April 1, 1998. The withdrawal has not been challenged. Therefore, the WQS no longer contain a human health criteria for arsenic. However, this permit does contain a section on site specific criteria for arsenic making it possible for an affected person or community to request from the state of Alaska, a more stringent criteria for arsenic.

4. Comment: Earthjustice also attached a copy of the comment letter they submitted on the withdrawal of the human health criteria.

Response: These issues were addressed in the Response to Comments

for the withdrawal of the human health criteria for arsenic and were published in the **Federal Register** on March 2, 1998. EPA will not reiterate the responses in this document.

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FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission

October 20, 1998.

SUMMARY: The Federal Communications Commissions, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Pub. L. 104-13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) 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; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) 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.

DATES: Persons wishing to comment on this information collection should submit comments December 28, 1998. 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 comments to Les Smith, Federal Communications Commissions, Room 234, 1919 M St., NW, Washington, DC 20554 or via internet to lesmith@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at 202-418-0217 or via internet at lesmith@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060-0384.

Title: Annual Auditor's

Certification—Section 64.904.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 19.

Estimated Time Per Response: 500 hours (avg.).

Frequency of Response: Annual.

Total Annual Burden: 9,500 hours.

Estimated Cost to Respondents: \$11,400,000.

Needs and Uses: Local exchange carriers required to file cost allocation manuals must have performed annually, by an independent auditor, an audit that provides a positive option on whether the applicable data shown in the carrier's annual report presents fairly the information of the carrier required to be set forth in accordance with the carrier's cost allocation manual, the Commission's Joint Cost Orders, and applicable Commission rules in Parts 32 and 64 in force as of the date of the auditor's reports. This requirement assists the Commission in effectively carrying out its responsibilities.

OMB Control Number: 3060-0484.

Title: Amendment of Part 63 of the Commission's Rules to Provide for Notification of Common Carriers of Service Disruptions—Section 63.100.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 208.

Estimated Time Per Response: 5 hours (avg.).

Frequency of Response: On occasion reporting requirements.

Total Annual Burden: 1,040 hours.

Estimated Cost to Respondents: None.

Needs and Uses: 47 CFR Section 63.100 requires that any local exchange or interexchange common carrier that operates transmission or switching facilities and provides access service or interstate or international telecommunications service that experiences an outage on any facilities which it owns or operates must notify the Commission if such service outage continues for 30 minutes or more. An initial and a final report are required for each outage. Local exchange or interexchange common carriers or competitive access providers that operate either transmission or switching facilities and provide access service or interstate or international telecommunications service must report

outages that affect 30,000 or more customers or that affect special facilities, and report fire-related incidents impacting 1,000 or more lines. With such reports the FCC can monitor and take effective action to ensure network reliability.

OMB Control Number: 3060-0421.

Title: New Service Reporting Requirements Under Price Cap Regulation.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Businesses or other for-profit entities.

Number of Respondents: 16.

Estimated Time Per Response: 20 hours (avg.).

Frequency of Response: Annually.

Total Annual Burden: 320 hours.

Estimated Cost to Respondents: None.

Needs and Uses: Price cap carriers filing new service tariffs are subject to an annual reporting requirement which commences six months after initiation of new services. The net revenue data report is useful to the public and the Commission in determining the reasonableness of rates for new services. These reports are used to compare actual operating results with projections.

OMB Control Number: 3060-0687.

Title: Access to Telecommunications Equipment and Services by Persons with Disabilities, CC Docket No. 87-124.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Businesses or other for-profit entities.

Number of Respondents: 806,100.

Estimated Time Per Response: 2,028 hours (avg.).

Frequency of Response: On occasion reporting requirements; Third party disclosure.

Total Annual Burden: 1,635,000 hours.

Estimated Cost to Respondents: \$638,500.

Needs and Uses: The Commission requires that telephones with electromagnetic coil hearing aid compatibility be stamped with the letters HAC. Section 68.112(b)(3)(E) requires that employers with fifteen or more employees provide emergency telephones for use by employees with hearing disabilities and that the employers "designate" such telephones for emergency use. Section 68.224(a) requires a notice to be contained on the surface of the packaging of a non-hearing aid compatible telephone that the telephone is not hearing aid compatible. The requirements were