

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 for the municipal system in a manner designed to reduce the discharge of pollutants 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 the BMPs. The draft permit identifies the objective of each control measure. The small MS4 must implement the control measures required by the general permit and document actions in the SWMP demonstrating progress towards achievement of the objective of the control measure. The permit also contains requirements for outfall monitoring associated with illicit detection and elimination, recordkeeping and reporting.

III. Other Legal Requirements

A. Environmental Impact Statement Requirements

The draft general permit does not authorize discharges from any new sources as defined under 40 CFR 122.2. Therefore, the National Environmental

Policy Act, 33 U.S.C. sections 4321 *et seq.*, does not apply to the issuance of this general NPDES permit.

B. Section 404 Dredge and Fill Operations

This draft permit does not constitute authorization under 33 U.S.C. Section 1344 (Section 404 of the Clean Water Act) of any stream dredging or filling operations.

C. CWA 401 Water Quality Certification

Section 401(a)(1) of the CWA states that EPA may not issue a permit until a certification is granted or waived in accordance with that section of the CWA by the state in which the discharge originates or will originate. The 401 certification affirms that the conditions of the general permit will be protective of the water quality standards and satisfy other appropriate requirements of state law. The 401 certification may also include additional conditions that are more stringent than those in the draft permit that the state finds necessary to meet the requirements of appropriate laws. Regulations governing state certification are set forth in 40 CFR 124.53 and 124.55. Concurrent with the public notice of this general permit, EPA—Region 1 will request 401 water quality certifications.

Section 401(a) of the CWA states in part that in any case where a state, interstate agency or tribe has no authority to issue a water quality certification, EPA shall issue such certification. At this time, none of the tribes in Connecticut or Rhode Island have approved water quality standards or Section 401 authority for the purpose of regulating water resources within the border of Indian lands pursuant to Section 518(e) of the CWA. As provided for under Section 401(a)(1) of the CWA, EPA—Region 1 will provide certification of this permit for tribal lands.

D. Executive Order 12866

EPA has determined that this draft general permit is not a “significant regulatory action” under the terms of Executive Order (EO) 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under the EO.

E. Paperwork Reduction Act

The information collection requirements of this draft 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

2040–0086 (NPDES permit application) and 2040–0004 (Monitoring Reports).

F. Regulatory Flexibility Act

EPA’s current guidance, entitled “Federal Guidance for EPA Rule Writers: Regulatory Flexibility Act [RFA] as Amended by the Small Business Regulatory Enforcement and Fairness Act,” was issued in November 2006 and is available on EPA’s Web site: <http://www.epa.gov/sbrefa/documents/rfafinalguidance06.pdf>. After considering the guidance, EPA concludes that since this general permit affects less than 100 small entities, it does not have a significant economic impact on a substantial number of small entities. The RFA defines a “small governmental jurisdiction” as the government of a city, county, town, township, village, school district, or special district with a population of less than 50,000.

G. 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” on tribal, state, and local governments and the private sector. The UMRA defines “regulatory actions” to include proposed or final rules with Federal mandates. The draft permit proposed today, however, is not a “rule” and is therefore not subject to the requirements of UMRA.

Dated: December 16, 2008.

Robert W. Varney,

Regional Administrator, EPA New England.

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ENVIRONMENTAL PROTECTION AGENCY

[FRL–8756–4; Docket ID No. EPA–HQ–ORD–2008–0663]

An Exposure Assessment of Polybrominated Diphenyl Ethers

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of an extension of the public comment period.

SUMMARY: The EPA is announcing an extension of the public comment period for the draft document titled, “An Exposure Assessment of Polybrominated Diphenyl Ethers” (EPA 600/R–08/086A). The public comment period was announced on December 4, 2008 (FR73, 73930).

The draft document was prepared by the National Center for Environmental Assessment within EPA’s Office of

Research and Development to provide a comprehensive assessment of the exposure of Americans to polybrominated diphenyl ethers, PBDEs, a class of brominated flame retardants. The document is being distributed solely for the purpose of pre-dissemination review under applicable information quality guidelines. It does not represent and should not be construed to represent any Agency policy, viewpoint, or determination. EPA will consider any public comments submitted in accordance with this notice when revising the document.

DATES: The public comment period began on December 4, 2008. This notice announces the extension of the deadline for public comment from January 5, 2008, to February 2, 2008. Comments must be received on or before February 2, 2008.

ADDRESSES: The draft document entitled, "An Exposure Assessment of Polybrominated Diphenyl Ethers," is available primarily via the Internet on the National Center for Environmental Assessment's home page under the Recent Additions and Publications menus at <http://www.epa.gov/ncea>. A limited number of paper copies are available from the Information Management Team, NCEA; telephone: 703-347-8561; facsimile: 703-347-8691. Please provide your name, your mailing address, and the draft document title, "An Exposure Assessment of Polybrominated Diphenyl Ethers" (EPA/600/R-08/086A) to facilitate processing of your request. Comments may be submitted electronically via <http://www.regulations.gov>, by mail, by facsimile, or by hand delivery/courier. Please follow the detailed instructions provided in the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: For information on the public comment period, contact the Office of Environmental Information Docket; telephone: 202-566-1752; facsimile: 202-566-1753; or e-mail: ORD.Docket@epa.gov.

For technical information, contact Matthew Lorber, NCEA; telephone: 703-347-8535; facsimile: 703-347-8692; or e-mail: lorber.matthew@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Information About the Project/Document

The United States Environmental Protection Agency (EPA) has formed a working group comprised of individuals from several program offices including the Offices of Pesticides, Prevention, and Toxic Substances; the Office of Water; the Office of Research and

Development; and the Office of Policy, Economics, and Innovation, to study production, use, alternatives, environmental fate, exposure, and health effects of polybrominated diphenyl ethers (PBDEs). This working group issued a project plan in 2006 that outlined projects in these areas. EPA reports regularly on progress in completing the activities identified in the project plan, with the most recent status report issued in March 2008. The Web site that describes this working group, including the project plan, is <http://www.epa.gov/oppt/pbde>. This draft document addresses the exposure assessment needs identified in that project plan. It provides a comprehensive assessment of the exposure of Americans to this class of persistent organic pollutants. Individual chapters in this document address: The production, use, and lifecycle of PBDEs; environmental fate; environmental and exposure media levels; and human exposure.

II. How To Submit Technical Comments to the Docket at <http://www.regulations.gov>

Submit your comments, identified by Docket ID No. EPA-HQ-ORD 2008-0663, by one of the following methods:

- <http://www.regulations.gov>: Follow the online instructions for submitting comments.
- *E-mail:* ORD.Docket@epa.gov.
- *Fax:* 202-566-1753.
- *Mail:* Office of Environmental Information (OEI) Docket (Mail Code: 2822T), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. The phone number is 202-566-1752.
- *Hand Delivery:* The OEI Docket is located in the EPA Headquarters Docket Center, Room 3334 EPA West Building, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is 202-566-1744. Such deliveries are only accepted during the docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

If you provide comments by mail or hand delivery, please submit three copies of the comments. For attachments, provide an index, number pages consecutively with the comments, and submit an unbound original and three copies.

Instructions: Direct your comments to Docket ID No. EPA-HQ-ORD-2008-0663. Please ensure that your comments

are submitted within the specified comment period. Comments received after the closing date will be marked "late," and may only be considered if time permits. It is EPA's policy to include all comments it receives in the public docket without change and to make the comments available online at <http://www.regulations.gov>, including any personal information provided, unless a comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

Docket: Documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other materials, such as copyrighted material, are publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the OEI Docket in the EPA Headquarters Docket Center.

Dated: December 16, 2008.

Rebecca Clark,

Acting Director, National Center for Environmental Assessment.

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