



ENVIRONMENTAL PROTECTION AGENCY

[FRL- 11832-01-R9]

Reissuance of National Pollutant Discharge Elimination System (NPDES) General Permit for Low Threat Discharges in Navajo Nation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability of final NPDES general permit.

SUMMARY: The Environmental Protection Agency (EPA), Region 9 is publishing this notice of availability of its final general NPDES permit (Permit No. NNG990001) for water discharges from facilities classified as low threat located in the Navajo Nation. Use of a general NPDES permit in the location described above allows EPA and dischargers to allocate resources in a more efficient manner, obtain timely permit coverage, and avoid issuing resource intensive individual permits to each facility, while simultaneously providing greater certainty and efficiency to the regulated community while ensuring consistent permit conditions for comparable facilities.

DATES: For purposes of judicial review the permit is considered issued on **[INSERT DATE 14 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**. The final permit is effective on May 1, 2024.

ADDRESSES: The final general permit and other related documents in the administrative record are on file and may be inspected any time between 8:30 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays, at: U.S. EPA, Region 9, NPDES Permits Office (WTR-2-3), 75 Hawthorne Street. San Francisco, CA 94105-3901.

Copies of the final General Permit, Fact Sheet and Response to Public Comments are available at EPA, Region 9's website at <https://www.epa.gov/npdes-permits/npdes-permits-epas-pacific-southwest-region-9>. If there are issues accessing the website, please contact EPA via contact information below.

FOR FURTHER INFORMATION CONTACT: Gary Sheth, EPA Region 9, Water Division, NPDES Permits Office; telephone (415) 972-3516; email address: sheth.gary@epa.gov.

SUPPLEMENTARY INFORMATION:

A. Administrative Process.

Public notice of EPA Region 9's tentative decision to issue the permit was published in the Federal Register on May 25, 2023 (88 FR 33876) and on EPA Region 9's Website. The public comment period closed on June 26, 2023. Region 9 received written comments from one party concerning the proposed permit. Region 9 prepared a separate document (Response to Comments) which discusses these comments in more detail and Region 9's responses to the comments.

B. Changes from the Proposed Permit.

The final permit contains two minor changes from the proposed permit; these are discussed here and in the final fact sheet. EPA added a specific email address for the New Mexico Environment Department for permittees to report discharges likely to leave Navajo Nation land and reach New Mexico waters. EPA also added a requirement for submitting all required Discharge Monitoring Reports (DMRs) before the finalization of a Notice of Termination.

C. Endangered Species Act Considerations.

The ESA and its implementing regulations (50 CFR part 402) require EPA to ensure that any action authorize, funded or carried out by EPA is not likely to jeopardize the continued existence of any threatened or endangered species or adversely affect its critical habitat. EPA Region 9 concluded that the authorized discharges may affect, but are not likely to adversely affect listed species, and will not adversely affect critical habitat. EPA received a letter of concurrence on this finding from the United States Fish and Wildlife Service on January 10, 2024.

D. Permit Appeals Procedure.

Within 120 days following the date the permit is considered issued for purposes of judicial review, any interested person may appeal the permit decision 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. Such person may instead challenge the general permit in court, or apply for an individual permit as specified at 40 CFR 122.21 (and authorized at 40 CFR 122.28), and then petition the Environmental Appeals Board to review any condition of the individual permit (40 CFR 124.19).

Authority: 33 U.S.C. 1251 et seq.

Tomás Torres,

Director, Water Division,

EPA Region 9.

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