

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 (APA) 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 proposed 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 were submitted to OMB (OMB Control No. 2040-0211) for review and approval and will be published in a separate **Federal Register** notice.

Carol Kemker,

Acting Director, Water Management Division.

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FEDERAL COMMUNICATIONS COMMISSION

Federal Advisory Committee Act Notice of Public Meeting

AGENCY: Federal Communications Commission.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92-463, as amended, this notice advises interested persons that the Advisory Committee on Diversity for Communications in the Digital Age has been established and is holding its first meeting, which will be held at the Federal Communications Commission in Washington, DC.

DATES: September 29, 2003 at 2 p.m. to 4 p.m.

ADDRESSES: Federal Communications Commission, Commission Meeting Room, Room TW-C305, 445 12th St. SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Jane E. Mago, Designated Federal Officer of the Committee on Diversity, or Maureen C. McLaughlin, Alternate Designated Federal Officer of the Committee on Diversity, 445 12th St. SW., Washington, DC 20554; telephone (202) 418-2030, e-mail Jane.Mago@fcc.gov, Maureen.McLaughlin@fcc.gov. Press Contact, Audrey Spivak, Office of Public Affairs, 202-418-0512, aspivak@fcc.gov.

SUPPLEMENTARY INFORMATION: The Diversity Committee was established by the Federal Communications Commission to examine current opportunities and develop recommendations for policies and practices that will further enhance the ability of minorities and women to participate in telecommunications and related industries. The Diversity Committee will tap the expertise of high-level players in the communications sector as well as the financial and technology communities. The Diversity Committee will prepare periodic and final reports to aid the FCC in its oversight responsibilities and its regulatory reviews in this area. In conjunction with such reports and analyses, the Diversity Committee will make recommendations to the FCC concerning the need for any guidelines, incentives, regulations or other policy approaches to promote diversity of participation in the communications sector. The Diversity Committee will also develop a description of best practices within the communications sector for promoting diversity of participation.

Information concerning the activities of the Diversity Committee can be reviewed at the Committee's Web site: <http://www.fcc.gov/DiversityFAC>. Material relevant to the September 29th meeting will be posted there.

Members of the general public may attend the meeting. The Federal Communications Commission will attempt to accommodate as many people as possible. However,