

EPA as much time as possible to process your request.

Dated: May 16, 2011.

**Anthony F. Maciorowski,**

*Deputy Director, EPA Science Advisory Board Staff Office.*

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## ENVIRONMENTAL PROTECTION AGENCY

[FRL-9309-7]

### State Program Requirements; Proposal To Approve Maine's Base National Pollutant Discharge Elimination System (NPDES) Permitting Program

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

**ACTION:** Notice.

**SUMMARY:** On August 8, 2007, the U.S. Court of Appeals for the First Circuit vacated EPA's October 31, 2003 decision to withhold the permitting of two tribally owned and operated treatment works from the Agency's approval of the State of Maine's NPDES permitting program under the Clean Water Act. Today, EPA is responding to the court's order by proposing to approve Maine's NPDES program to include the permitting of all discharges within the Indian territories of the Penobscot Nation and the Passamaquoddy Tribe.

**DATES:** Interested persons may submit comments on the approval of Maine's Base NPDES Permitting Program in these territories as part of the administrative record to EPA-Region 1, at the address given below, no later than midnight through July 22, 2011.

**ADDRESSES:** Submit comments by one of the following methods:

- *E-mail:* [Hing.Jessica@epa.gov](mailto:Hing.Jessica@epa.gov).
- *Mail:* Jessica Hing, USEPA-Region 1, 5 Post Office Square—OEP06-04, Boston, MA 02109-3912.

No facsimiles (faxes) will be accepted.

**FOR FURTHER INFORMATION CONTACT:**

Additional information concerning the proposed approval of Maine's program in these territories may be obtained between the hours of 9 a.m. and 5 p.m. Monday through Friday excluding holidays from: Jessica Hing, USEPA-Region 1, 5 Post Office Square—OEP06-04, Boston, MA 02109-3912, *Telephone:* 617-918-1560, *Email:* [hing.jessica@epa.gov](mailto:hing.jessica@epa.gov).

**SUPPLEMENTARY INFORMATION:** On December 17, 1999, EPA determined that the State of Maine had submitted a complete application to administer the

NPDES permitting program in the state under the Clean Water Act (CWA). 33 U.S.C. 1251, *et seq.*, see 64 FR 73552 (Dec. 30, 1999). Maine's application included an assertion of authority to implement the program in the territories of the federally-recognized Indian tribes within the state, based on the jurisdictional provisions of the Maine Indian Claims Settlement Act (MICSA), which ratified the Maine Implementing Act (MIA). 25 U.S.C. 1721, *et seq.* and 30 M.R.S.A. section 6201, *et seq.*, respectively.

On January 12, 2001, EPA approved the State of Maine's application to administer the NPDES program for all areas of the state other than Indian country. At that point EPA did not take any action on Maine's application to administer the program within the territories of the federally-recognized Indian tribes in Maine. EPA published notice of its action on February 28, 2001. 66 FR 12791. As described in the **Federal Register**, EPA approved the state's application to administer both the NPDES permit program covering point source dischargers and the pretreatment program covering industrial dischargers into publicly owned treatment works (POTWs). EPA did not authorize the state to regulate cooling water intake structures under CWA section 316(b) (33 U.S.C. 1326(b)). 66 FR at 12792.

### 2003 Partial Approval of Program in Indian Territories

On October 31, 2003, EPA approved the State of Maine's application to administer the NPDES program in the Indian territories of the Penobscot Indian Nation and the Passamaquoddy Tribe, with the exception of any discharges that qualified as "internal tribal matters" under MICSA and MIA. 68 FR 65052 (Nov. 18, 2003). This action generally authorized the state to administer the NPDES program in the territories of the two largest Indian tribes in the state, finding that the combination of MICSA and MIA created a unique jurisdictional arrangement that granted the state authority to issue permits to dischargers. EPA did not approve the state's program to regulate two small tribally-owned and operated POTWs. EPA determined that these POTWs qualified as internal tribal matters and, therefore, fell within an enumerated exception to the grant of jurisdiction to the state in MICSA and MIA. EPA did not take action on the state's application as it applied to the territories of the two smaller federally-recognized tribes in the state, the Houlton Band of Maliseet Indians and the Aroostook Band of Micmac Indians.

These two tribes are subject to jurisdictional provisions separate from those that apply to the Penobscot and Passamaquoddy tribes. EPA's 2003 action did address all the Indian territories that included existing point source dischargers covered by the NPDES program.

### Appeal and Decision in Maine v. Johnson

Several parties petitioned for judicial review of EPA's 2003 decision partially approving Maine's NPDES program in the Penobscot and Passamaquoddy Indian territories. The Penobscot Nation and Passamaquoddy Tribe challenged EPA's decision to generally approve the state to administer the program in their territories. The State of Maine and a coalition of public and private NPDES permit holders challenged EPA's decision to disapprove the state's program as to the two small tribal POTWs based on the finding that permitting those discharges qualified as an internal tribal matter.

On August 8, 2007, the U.S. Court of Appeals for the First Circuit issued its opinion in *Maine v. Johnson*. 498 F.3d 37. The court held that EPA had correctly determined that MICSA and MIA granted the state sufficient authority to administer the NPDES permit program in the territories of these two tribes. The court disagreed with EPA's finding, however, that permitting the two small tribal POTWs qualified as an internal tribal matter. It found that

Discharging pollutants into navigable waters is not of the same character as tribal elections, tribal membership or other exemplars [of internal tribal matters] that relate to the structure of Indian government or the distribution of tribal property.

*Id.* at 46. The court affirmed EPA's approval of Maine's NPDES program, but vacated EPA's decision to withhold permitting of the two tribal POTWs, and remanded the matter back to EPA to amend the program approval consistent with its opinion. *Id.* at 48-49. The court's mandate was issued on October 2, 2007.

### Program Approval To Address the Court's Remand

EPA is proposing to implement the court's order by modifying its approval of Maine's NPDES program to include the permitting of all discharges within the Indian territories of the Penobscot Nation and Passamaquoddy Tribe. Additionally, EPA does not plan to undertake a case-by-case analysis of any new discharges to determine whether they qualify as internal tribal matters under MICSA and MIA. As a result, the

state would assume responsibility from EPA for issuing and administering the permits for the Penobscot Nation Indian Island treatment works (EPA NPDES Permit No. ME 0101311 and MEPDES License No. 2672) and the Passamaquoddy Tribal Council treatment works (EPA NPDES Permit No. 1011773 and MEPDES License No. 2561). Neither tribe has applied to EPA to implement the NPDES permit program, so this proposed action would not address the question of either tribe's authority to implement the program.

This proposed action would not modify the types of activities covered by Maine's base program as EPA approved it in 2001. Thus, the state's program would not include regulation of cooling water intake structures under CWA section 316(b).

**Authority:** This action is proposed to be taken under the authority of Section 402 of the Clean Water Act as amended, 42 U.S.C. 1342.

Dated: May 9, 2011.

**Ira W. Leighton,**

*Acting Regional Administrator, Region 1.*

[FR Doc. 2011-12599 Filed 5-20-11; 8:45 am]

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## FEDERAL COMMUNICATIONS COMMISSION

### Information Collections Being Submitted for Review and Approval to the Office of Management and Budget

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Federal Communications Commission, 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(s), as required by the Paperwork Reduction Act (PRA) of 1995. 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; (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; and (e) ways to further reduce the

information collection burden for small business concerns with fewer than 25 employees.

The FCC 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 currently valid OMB control number.

**DATES:** Written Paperwork Reduction Act (PRA) comments should be submitted on or before June 22, 2011. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

**ADDRESSES:** Direct all PRA comments to Nicholas A. Fraser, Office of Management and Budget, via fax at 202-395-5167 or via e-mail to [Nicholas\\_A.Fraser@omb.eop.gov](mailto:Nicholas_A.Fraser@omb.eop.gov) and to the Federal Communications Commission via e-mail to [PRA@fcc.gov](mailto:PRA@fcc.gov) and [Cathy.Williams@fcc.gov](mailto:Cathy.Williams@fcc.gov). To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the web page <http://reginfo.gov/public/do/PRAMain>, (2) look for the section of the web page called "Currently Under Review", (3) click on the downward-pointing arrow in the "Select Agency" box below the "Currently Under Review" heading, (4) select "Federal Communications Commission" from the list of agencies presented in the "Select Agency" box, (5) click the "Submit" button to the right of the "Select Agency" box, and (6) when the list of FCC ICRs currently under review appears, look for the title of this ICR (or its OMB Control Number, if there is one) and then click on the ICR Reference Number to view detailed information about this ICR.

**FOR FURTHER INFORMATION CONTACT:** For additional information or copies of the information collection(s), contact Cathy Williams on 202-418-2918.

**SUPPLEMENTARY INFORMATION:**

*OMB Control Number:* 3060-0463.

*Title:* Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, Report and Order and Declaratory Ruling, CG Docket No. 03-123, FCC 07-186.

*Form Number:* N/A.

*Type of Review:* Extension of a currently approved collection.

*Respondents:* Businesses or other for-profit entities; State, Local and Tribal Government.

*Number of Respondents and Responses:* 5,045 respondents and 5,210 responses.

*Estimated Time per Response:* 10-15 hours.

*Frequency of Response:* Annual reporting requirement; recordkeeping requirement; third party disclosure.

*Obligation to Respond:* Required to obtain or retain benefits. The statutory authority can be found at section 225 of the Communications Act, 47 U.S.C. 225. The law was enacted on July 26, 1990, as Title IV of the Americans with Disabilities Act of 1990, Public Law 101-336, 104 Stat. 327.

*Total Annual Burden:* 27,397 hours.

*Total Annual Cost:* None.

*Nature and Extent of Confidentiality:* An assurance of confidentiality is not offered because this information collection does not require the collection of personally identifiable information from individuals.

*Privacy Impact Assessment:* No impact(s).

*Needs and Uses:* On November 19, 2007, the Commission released the Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, Report and Order and Declaratory Ruling (2007 TRS Cost Recovery Order), CG Docket No. 03-123, FCC 07-186, adopting (1) A new cost recovery methodology for interstate traditional Telecommunications Relay Services (TRS) and interstate Speech-to-Speech (STS) based on the Multi-state Average Rate Structure (MARS) plan proposed by Hamilton Relay, Inc., (2) a new cost recovery methodology for interstate captioned telephone service (CTS) and interstate and intrastate Internet-Protocol (IP) Captioned Telephone Service (IP CTS) based on the MARS plan, (3) a cost recovery methodology for IP Relay based on price caps, and (4) a cost recovery methodology for Video Relay Services (VRS) that adopts tiered rates based on call volume. The 2007 TRS Cost Recovery Order also clarifies the nature and extent that certain categories of costs are compensable from the Interstate TRS Fund (Fund), and addresses certain issues concerning the management and oversight of the Fund, including financial incentives offered to consumers to make relay calls and the role of the Interstate TRS Fund Advisory Council.

The 2007 TRS Cost Recovery Order establishes reporting requirements associated with the MARS plan cost recovery methodology for compensation from the Fund. Specifically, TRS providers must submit to the Fund administrator the following information