Disclaimer

The EPA Regions signed the Federal Register notice for the draft NPDES Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity (MSGP) and we (EPA) have submitted it for publication in the Federal Register.

While we have taken steps to ensure the accuracy of this web version of the Federal Register notice, it is not the official version for purposes of public comment. Please refer to the official version in a forthcoming Federal Register publication or on the Government Printing Office's web site. You may access the Federal Register at: http://www.gpoaccess.gov/fr/index.html. When using this site, note that “text” files may be incomplete because they do not include graphics. Instead, select “Adobe Portable Document File” (PDF) files.

6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OW-2012-0803; **FRL-XXXX-X]**

Draft National Pollutant Discharge Elimination System (NPDES) General Permit for Stormwater Discharges from Industrial Activities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA's Regions 1, 2, 3, 5, 6, 7, 8, 9, and 10 are today proposing for public comment the draft 2013 National Pollutant Discharge Elimination System (NPDES) general permit for stormwater discharges from industrial activity, also referred to as the Multi-Sector General Permit (MSGP). This draft permit, once finalized, will replace the existing permit covering stormwater discharges from industrial facilities in EPA's Regions 1, 2, 3, 5, 6, 9, and 10 that will expire September 29, 2013, and will provide coverage for industrial facilities in areas where EPA is the NPDES permitting authority in EPA's Regions 7 and 8. This draft permit is similar to the existing permit and will authorize the discharge of stormwater in accordance with the terms and conditions described therein. EPA proposes to issue this permit for five (5) years. EPA seeks comment on the draft permit and on the accompanying fact sheet.

DATES: Comments on the draft general permit must be received on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OW–2012–0803, by one of the following methods:

1. *http://www.regulations.gov:* Follow the online instructions for submitting comments.
2. *E-mail: ow-docket@epa.gov*

3. *Mail to:* Water Docket, U.S. Environmental Protection Agency, EPA Docket Center, Attention: Docket ID No. EPA–HQ–OW–2012–0803, Mail Code: 28221T, 1200 Pennsylvania Avenue, NW, Washington, DC 20460. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OW–2012–0803. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the 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 *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: All 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 material, such as copyrighted material, will be publicly available only in hardcopy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at a docket facility. The Office of Water (OW) Docket Center is open from 8:30 until 4:30 p.m., Monday through Friday, excluding legal holidays. The OW Docket Center telephone number is (202) 566–2426, and the Docket address is OW Docket, WJC West Building, Room 3334, 1301 Constitution Avenue, NW, Washington, DC 20004. The 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.

FOR FURTHER INFORMATION CONTACT: For further information on the draft NPDES general permit, contact the appropriate EPA Regional office listed in Section I.F of this notice, or Bryan Rittenhouse, EPA Headquarters, Office of Water, Office of Wastewater Management at tel.: 202-564-0577 or email: *rittenhouse.bryan@epa.gov*.

SUPPLEMENTARY INFORMATION: This supplementary information is organized as follows:

Table of Contents

I. General Information
- A. Does this action apply to me?
- B. How can I get copies of these documents and other related information?
- C. What should I consider as I prepare my comments for EPA?
- D. Will public hearings be held on this action?
- E. What process will EPA follow to finalize the permit?
- F. Who are the EPA regional contacts for this permit?

II. Background of Permit
III. Scope and Applicability of the Multi-Sector General Permit

A. Geographic Coverage
B. Categories of Facilities Covered
C. Summary of Significant Proposed Changes from the 2008 Multi-Sector General Permit.
IV. Executive Orders 12866 and 13563
V. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments
VI. Analysis of Economic Impacts

I. General Information

A. *Does this action apply to me?*

This draft MSGP regulates stormwater discharges from industrial facilities in the 30 sectors shown below:

Sector A—Timber Products.

Sector B—Paper and Allied Products Manufacturing.

Sector C—Chemical and Allied Products Manufacturing.

Sector D—Asphalt Paving and Roofing Materials Manufactures and Lubricant Manufacturers.

Sector E—Glass, Clay, Cement, Concrete, and Gypsum Product Manufacturing.

Sector F—Primary Metals.

Sector G—Metal Mining (Ore Mining and Dressing).

Sector H—Coal Mines and Coal Mining-Related Facilities.

Sector I—Oil and Gas Extraction and Refining.

Sector J—Mineral Mining and Dressing.

Sector K—Hazardous Waste Treatment Storage or Disposal.

Sector L—Landfills and Land Application Sites.

Sector M—Automobile Salvage Yards.

Sector N—Scrap Recycling Facilities.

Sector O—Steam Electric Generating Facilities.

Sector P—Land Transportation.

Sector Q—Water Transportation.

Sector R—Ship and Boat Building or Repairing Yards.

Sector S—Air Transportation Facilities.

Sector T—Treatment Works.

Sector U—Food and Kindred Products.

Sector V—Textile Mills, Apparel, and other Fabric Products Manufacturing.

Sector W—Furniture and Fixtures.

Sector X—Printing and Publishing.

Sector Y—Rubber, Miscellaneous Plastic Products, and Miscellaneous Manufacturing Industries.

Sector Z—Leather Tanning and Finishing.

Sector AA—Fabricated Metal Products.

Sector AB—Transportation Equipment, Industrial or Commercial Machinery.

Sector AC—Electronic, Electrical, Photographic and Optical Goods.

Sector AD—Reserved for Facilities Not Covered Under Other Sectors and Designated by the Director.

Coverage under this draft MSGP is available to operators of eligible facilities located in areas where EPA is the permitting authority and has made this general permit available for use. A list of eligible areas is included in Appendix C of the draft MSGP. Eligibility for coverage is limited to new dischargers and existing dischargers, as defined in Appendix A of the draft permit, and new owner/operators of an existing discharger. EPA notes that coverage is also available to facilities that have commenced discharging prior to the date this permit issued, but

were not covered under the 2008 MSGP or another NPDES permit.

B. *How can I get copies of these documents and other related information?*

1. *Docket.* EPA has established an official public docket for this action under Docket ID No. EPA–HQ–OW–2012–0803. The official public docket is the collection of materials that is available for public viewing at the Water Docket in the EPA Docket Center, (EPA/DC) WJC West Building, Room 3334, 1301 Constitution Ave., NW, Washington, DC 20460. Although all documents in the docket are listed in an index, some information is not publicly available, i.e., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Publicly available docket materials are available in hard copy at the EPA Docket Center Public Reading Room, 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 and the telephone number for the Water Docket is (202) 566-2426.

2. *Electronic Access.* You may access this **Federal Register** document electronically through the United States government on-line source for Federal regulations at *http://www.regulations.gov.* Electronic versions of this final permit and fact sheet are available on EPA's NPDES website at *http://www.epa.gov/npdes/stormwater/msgp.*

An electronic version of the public docket is available through the EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.regulations.gov* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. For additional information about EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/dockets*. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials

through the Docket Facility identified in Section I.B.1.

C. *What should I consider as I prepare my comments for EPA?*

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark all of the information that you claim to be CBI. For CBI information on computer disks mailed to EPA, mark the surface of the disk as CBI. Also identify electronically the specific information contained in the disk or that you claim is CBI. In addition to one complete version of the specific information claimed as CBI, you must submit a copy that does not contain the information claimed as CBI for inclusion in the public document. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

2. *Tips for Preparing Your Comments.* When submitting comments, remember to:

- Identify this permit by docket number and other identifying information (subject heading, **Federal Register** date, and page number).
- Where possible, respond to specific questions or organize comments by referencing a section or part of the permit.
- Explain why you agree or disagree, suggest alternatives, and suggest substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/ or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible.
- To ensure that EPA can read, understand, and therefore properly respond to comments, the Agency would prefer that commenters cite, where possible, the paragraph(s) or section in the fact sheet or permit to which each comment refers.
- Make sure to submit your comments by the comment period deadline identified.

D. Will public hearings be held on this action? EPA has not scheduled any public hearings to receive public comment concerning the draft permit. All persons will continue to have the right to provide written comments during the public comment period. However, interested persons may request a public hearing pursuant to 40 CFR 124.12 concerning the draft permit. Requests for a public hearing must be sent or delivered in writing to the same address as provided above for public comments prior to the close of the comment period. Requests for a

public hearing must state the nature of the issues proposed to be raised in the hearing. Pursuant to 40 CFR 124.12, EPA shall hold a public hearing if it finds, on the basis of requests, a significant degree of public interest in a public hearing on the draft permit. If EPA decides to hold a public hearing, a public notice of the date, time and place of the hearing will be made at least 30 days prior to the hearing. Any person may provide written or oral statements and data pertaining to the draft permit at the public hearing.

E. *What process will EPA follow to finalize the permit?* After the close of the public comment period, EPA intends to issue a final permit to replace the current 2008 MSGP, which expires September 29, 2013. This permit will not be issued until all significant comments have been considered and appropriate changes made to the permit. EPA's responses to public comments received will be included in the docket as part of the final permit issuance. Once the final permit becomes effective, eligible operators of industrial facilities may seek authorization under the new MSGP. Any industrial facility operator obtaining permit coverage prior to the expiration date of the 2008 MSGP will automatically remain covered under that permit until the earliest of:

- The operator is authorized for coverage under a reissued permit or a replacement version of the permit following the timely submittal of a complete and accurate NOI requesting coverage under the new permit; or
- The operator submits a Notice of Termination; or
- EPA issues an individual permit for the facility's stormwater discharges; or
- EPA formally decides not to reissue the general permit, at which time EPA will identify a reasonable time period for covered dischargers to seek coverage under an alternative general

permit or an individual permit. Coverage under the permit will cease at the end of this time period.

F. *Who are the EPA regional contacts for this final permit?*

For EPA Region 1, contact David Gray at tel.: (617) 918-1577 or e-mail at *gray.davidj@epa.gov*.

For EPA Region 2, contact Sergio Bosques at tel.: (787) 977-5838 or e-mail at *bosques.sergio@epa.gov*.

For EPA Region 3, contact Kaitlyn Bendik at tel.: 215-814-2709 or e-mail at *bendik.kaitlyn@epa.gov*.

For EPA Region 5, contact Brian Bell at tel.: (312) 886-0981 or e-mail at *bell.brianc@epa.gov*.

For EPA Region 6, contact Nelly Smith at tel.: (214) 665-7109 or e-mail at *smith.nelly@epa.gov.*

For EPA Region 7, contact Mark Matthews at tel. 913-551-7635 or e-mail at *matthews.mark@epa.gov.*

For EPA Region 8, contact Gregory Davis at tel.: (303) 312-6314 or e-mail at *davis.gregory@epa.gov*.

For EPA Region 9, contact Eugene Bromley at tel.: (415) 972-3510 or e-mail at *bromley.eugene@epa.gov*.

For EPA Region 10, contact Margaret McCauley at tel.: (206) 553-1772 or e-mail at *mccauley.margaret@epa.gov*.

II. Background

Section 405 of the Water Quality Act of 1987 (WQA) added section 402(p) of the Clean Water Act (CWA), which directed the Environmental Protection Agency (EPA) to develop a phased approach to regulate stormwater discharges under the National Pollutant Discharge Elimination System (NPDES) program. EPA published a final regulation on the first phase on

this program on November 16, 1990, establishing permit application requirements for ‘‘stormwater discharges associated with industrial activity.’’ See 55 FR 48063. EPA defined the term ‘‘stormwater discharge associated with industrial activity’’ in a comprehensive manner to cover a wide variety of facilities. See 40 CFR 122.26(b)(14). EPA proposes to issue the MSGP under this statutory and regulatory authority. This draft permit, once finalized, will replace the existing permit covering stormwater discharges from industrial facilities in EPA’s Regions 1, 2, 3, 5, 6, 9 and 10 that will expire September 29, 2013, and will provide coverage for industrial facilities in areas where EPA is the NPDES permitting authority in EPA’s Regions 7 and 8.

III. Scope and Applicability of the Multi-Sector General Permit

A. Geographic Coverage

This draft permit provides coverage for sectors of industrial point source discharges that occur in areas not covered by an approved state NPDES program. The geographic coverage of this permit is listed in Appendix C of the permit. EPA notes that, unlike the 2008 MSGP, facilities located in EPA Regions 7 and 8 will be covered by the permit.

B. Categories of Facilities Covered

This permit regulates stormwater discharges from industrial facilities in 30 sectors, as shown above in section I.A.

C. Summary of Significant Proposed Changes from the 2008 Multi-Sector General Permit.

The proposed MSGP, once finalized, will replace the 2008 MSGP, which was issued for a five-year term on September 29, 2008 (see 73 FR 56572). The draft permit is similar to the existing permit, and is structured in nine (9) parts: general requirements that apply to all facilities (e.g., eligibility of discharges, effluent limitations, stormwater pollution prevention plan (SWPPP) requirements, monitoring and reporting requirements) (Parts 1–7), industrial sector-

specific conditions (Part 8), and specific requirements applicable to facilities within individual states or Indian Country (Part 9). Additionally, the appendices provide draft forms for the Notice of Intent (NOI), the Notice of Termination (NOT), the Conditional No Exposure Exclusion, Discharge Monitoring Report (DMR), and the annual report, as well as step-by-step procedures for determining eligibility with respect to protecting historic properties and endangered species, and for calculating site-specific, hardness-dependent benchmarks.

This draft MSGP includes several new or modified requirements from the 2008 MSGP. These proposed changes are summarized below and are discussed in more detail in the draft MSGP fact sheet.

1. NEPA Review for Dischargers Subject to any New Source Performance Standards (NSPS). Previous versions of the MSGP required those facilities constructed after the promulgation of their industry's New Source Performance Standards (NSPS) to determine and document in their SWPPP either "No Significant Impact" under the National Environmental Policy Act (NEPA), or to complete an Environmental Impact Statement in accordance with an environmental review conducted by EPA. For the 2013 MSGP, EPA plans to prepare an Environmental Assessment (EA) to analyze the potential environmental impacts of the permit. The EA will consider the potential environmental impacts from the discharge of pollutants in stormwater discharges from new sources associated with industrial facilities where EPA is the permitting authority to determine whether to prepare an Environmental Impact Statement (EIS). Therefore, under the proposed 2013 MSGP, industrial discharges subject to NSPS do not have to independently make such a determination.

2. Electronic Reporting. The draft MSGP requires that all NOIs, NOTs, annual reports, Discharge Monitoring Reports (DMRs), and certain other reporting information be submitted

electronically, unless the operator has received one of the following waivers from the EPA Regional office: (1) the operator's headquarters is physically located in a geographic area (i.e., zip code or census tract) that is identified as under-served for broadband Internet access in the most recent report from the Federal Communications Commission; or (2) the industrial owner/operator has limitations regarding available computer access or computer capability. An operator who wishes to use paper submittals must contact the appropriate EPA Region to obtain a waiver from submitting reports electronically. Waivers are only granted for a one-time use for a single information submittal, i.e., an initial waiver does not apply for the entire term of the permit. If information needs to submit information on paper after the first waiver, the operator must apply for a new waiver.

3. Allowable Non-Stormwater Discharges. Previous MSGP versions authorized any washwater to be discharged as long as there were no detergents or toxic / hazardous spill material present in the discharge. In addition to detergents, hazardous cleaning products have been specifically prohibited from being discharged under the 2013 MSGP. The 2013 draft permit also prohibits the discharge of wash waters that have come into contact with oil and grease deposits or any other toxic or hazardous materials, unless the deposits have been cleaned up using dry clean-up methods. Additionally, because the act of washing (especially power washing) by its very nature tends to mobilize particulates and other potential pollutants present on pavement, specific effluent limits have been included to ensure particulates and other potential pollutants mobilized by pavement washing are controlled via treatment controls before they are discharged, unless the pavement wash waters were treated by the control measures in Part 2.1.2.

4. Endangered Species Requirements. The draft 2013 MSGP incorporates changes to the procedures operators are required follow to establish their eligibility with regard to protection of

threatened and endangered species and critical habitat (Appendix E and Part 1.1.4.5) as a result of EPA's consultation under Section 7 of the Endangered Species Act. These changes are to better ensure that the criteria chosen are adequately protective of threatened and endangered species and their critical habitats and consistent with the Endangered Species Act. Using the same decision making process to determine the operator's eligibility criteria when threatened and endangered species are in proximity to the industrial facility (i.e., its "action area), EPA is now requiring the process be documented by filling out and submitting a worksheet. Because the criteria and the procedures operators are required to follow in making their eligibility determination in Appendix E have changed, all operators seeking coverage under the 2013 MSGP must make their Part 1.1.4.5 eligibility determination in accordance with the requirements in the new permit (i.e., operators cannot check the same criteria they selected in the 2008 MSGP without following the procedures in Appendix E).

5. Historic Properties Preservation. The procedures for determining operator eligibility regarding historic properties were also revised in the draft 2013 MSGP Appendix F as a result of EPA's consultation under Section 106 of the National Historic Preservation Act. EPA has included a more detailed set of steps to help operators more conclusively determine whether historic properties are within the industrial facility's "area of potential effect". This may include greater interaction with knowledgeable sources such as state or tribal historic preservation authorities or a qualified consultant in the historical or archeological fields. The eligibility criteria were also slightly revised for the proposal. All operators seeking coverage under the 2013 MSGP must make their Part 1.1.4.6 eligibility determination in accordance with the requirements in the new permit (i.e., operators cannot check the same criteria they selected in the 2008 MSGP without following the procedures in Appendix F).

6. SWPPP and its Availability. To provide greater access to the SWPPP to the public and other stakeholders, the draft MSGP requires that permittees either provide a uniform resource locator (URL) for the SWPPP on the NOI form, or provide selected information from the SWPPP on the NOI form. The information from the SWPPP that would have to be added to the NOI includes: a description of onsite industrial activities exposed to stormwater, including potential spill and leak areas; the pollutants associated with each industrial activity exposed to stormwater and/or authorized non-stormwater; a description of control measures employed to comply with the non-numeric technology-based effluent limits in Part 2.1.2 and Part 8, and any other measures taken to comply with the requirements in Part 2.2; and a schedule for good housekeeping and maintenance and schedule for all inspections required in Part 4. EPA has also identified certain effluent limit requirements that can be copied verbatim into the SWPPP without providing additional documentation because they do not involve the site-specific selection of a control measure or are specific activity requirements.

7. Effluent Limit Clarifications. Several of the effluent limits in Part 2 of the draft MSGP include a greater level of specificity in order to make the requirements more clearly articulated, transparent, and enforceable. EPA believes that these clarifications will help permittees to better understand how to comply with the effluent limits. The effluent limits in Part 2 for which EPA has made clarifications include requirements for minimizing exposure, good housekeeping, maintenance, spill prevention and response procedures, and employee training.

8. Corrective Action. The draft MSGP includes additional specificity with regard to what is considered to be an adequate corrective action. The corrective action deadlines in the proposed MSGP are similar to the corresponding deadlines in Part 3.3 of the 2008 MSGP, but have been modified to further specify what actions must be taken by the deadlines. The draft permit now

requires that corrective action steps be taken immediately (i.e., on the same day the condition was found) in order to ensure that pollutant discharges are minimized and that a permanent solution is implemented expeditiously. The draft MSGP also requires that subsequent action must be taken to install a new or modified control and make operational, or complete the repair, before the next storm event if possible, and within 14 calendar days from the discovery of the condition.

9. Annual Reports and Routine Inspections. Annual reporting in the draft MSGP has been changed to submitting a summary of the past year's routine facility inspections and quarterly visual assessments of discharges, instead of a summary of the results of the single comprehensive site assessment, as required in the previous permit. EPA has eliminated the comprehensive site assessment requirement and instead will rely on the four required routine facility inspections, which are similar to the comprehensive site assessment requirements in the 2008 MSGP. Corrective action reporting in the draft permit remains unchanged from the 2008 MSGP.

10. Benchmark Values for Saline Waters. The draft MSGP has included additional non-hardness dependent metals benchmarks for facilities that discharge into saline waters. The addition of these benchmarks was necessary to provide an appropriate indicator of the performance of the measures undertaken to meet the effluent limitations contained in the permit where stormwater is discharged into saline waters. Benchmark values in the 2008 MSGP for these metals were based on acute or chronic aquatic life freshwater criteria. These additional saline benchmark values are based on available acute ambient water quality criteria for arsenic, cadmium, copper, cyanide, lead, mercury, nickel, selenium, silver and zinc.

11. Industry Sector-specific Requirements. The draft MSGP includes changes to the several

of the sector-specific requirements in Part 8 as summarized below.

- Sector G, Metal Mining; Sector H, Coal Mining; and Sector J, Mineral Mining and Dressing – Consistent with the 2008 MSGP, the draft 2013 MSGP enables operators for these sectors to include coverage for construction and exploration activities under this permit, instead of being separately covered under the Construction General Permit (CGP). The draft MSGP includes updated sector-specific requirements for these sectors that are consistent with the reissued 2012 CGP.

- Sector S, Air Transportation – The draft MSGP includes added sector-specific requirements for Sector S that are based on the final Effluent Limitation Guidelines (ELG) for airplane and airport deicing operations.

12. Discharges to a CERCLA Site. The draft MSGP makes facilities discharging to CERCLA sites as defined in Appendix A and listed in Appendix P ineligible for coverage under the permit unless the applicable EPA Regional Office is first notified and has determined that the facility is eligible for permit coverage. In determining eligibility for coverage, the EPA Regional Office may evaluate whether the facility has included appropriate controls and implementation procedures designed to ensure that the discharge will not lead to recontamination of aquatic media at the CERCLA Site.

EPA has also included in the fact sheet a request for comment on potential permit requirements for certain toxic pollutants in industrial stormwater discharges. EPA is concerned that current 2008 and draft 2013 Multi-Sector General Permit requirements may not adequately prevent certain, particularly problematic toxic pollutants in stormwater discharges from causing sediment contamination and recontamination of Superfund cleanup sites and/or presenting an imminent and substantial endangerment to human health or welfare or the environment. One

approach under consideration is to identify and list in the permit certain toxic pollutants of concern that are especially problematic and to make ineligible under the MSGP any discharge of these pollutants above the detection limit. The industrial operator would have to either eliminate such discharges or apply for an individual permit. EPA requests comment on this approach where highly toxic pollutants in stormwater discharges are linked to sediment contamination that may recontaminate or over time create future Superfund sites or that present or may present an imminent and substantial endangerment to human health, or welfare, or the environment. EPA also solicits comment on what criteria should be used to identify the toxic pollutants that would be subject to such a provision. Additionally, EPA solicits comments on alternative approaches to address this problem.

IV. Executive Orders 12866 and 13563

Under Executive Order (EO) 12866 (58 FR 51735 (October 4, 1993)) this action is a ''significant regulatory action.'' Accordingly, EPA submitted this action to the Office of Management and Budget (OMB) for review under Executive Orders 12866 and 13563 and any changes made in response to OMB recommendations have been documented in the docket for this action.

V. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments

In compliance with Executive Order 13175, EPA has consulted with tribal officials to gain an understanding of and, where necessary, to address tribal implications of the draft MSGP. In the course of this consultation, EPA undertook the following activities:

- *December 11, 2012* – EPA presented an overview of the current MSGP and potential changes in the draft 2013 MSGP to the National Tribal Caucus.

- *December 12, 2012* – EPA presented an overview of the current MSGP and potential changes in the draft 2013 MSGP to the National Tribal Water Council.
- *December 12, 2012* – EPA mailed out notification letters out to Tribal Leaders initiating consultation and coordination on the renewal of the MSGP. The initiation letter was posted on the tribal portal website at http://www.epa.gov/tribal/consultation.
- *January 15, 2013* – EPA held an informational teleconference open to all tribal representatives, and reserved the last part of the teleconference for official consultation comments. EPA also invited tribes to submit written comments on the permit renewal. The presentation was posted on the tribal portal website at http://www.epa.gov/tribal/consultation.

EPA also encourages tribes to participate in the public review process by submitting comments through regulations.gov.

VI. Analysis of Economic Impacts

EPA expects the economic impact on entities covered under this permit, including small businesses, to be minimal. A copy of EPA's economic analysis, titled, ''Cost Impact Analysis for the Multi-Sector General Permit (MSGP)'' is available in the docket for this permit. The economic impact analysis indicates that while there will be some incremental increase in the costs of complying with the new permit, these costs will not have a significant economic impact on a substantial number of small entities.

Authority: Clean Water Act, 33 U.S.C. 1251 et seq.

Dated:

Michael Kenyon,
Acting Deputy Regional Administrator, EPA Region 1.

Dated:

Jose C. Font,
Director, Caribbean Environmental Protection Division, EPA Region 2.

Dated:

Jon M. Capacasa,
Director, Water Protection Division, EPA Region 3.

Dated:

Tinka G. Hyde
Director, Water Division, EPA Region 5.

Dated:

William K. Honker
Director, Water Quality Protection Division, EPA Region 6.

Dated:

Karen Flournoy,
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Dated:

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Dated:

John Kemmerer,
Acting Director, Water Division, EPA Region 9.

Dated:

Daniel D. Opalski,
Director, Office of Water and Watersheds, EPA Region 10.