

**U.S. Environmental Protection Agency
2013 Proposed Reissuance of
National Pollutant Discharge Elimination System
(NPDES) Multi-Sector General Permit for
Stormwater Discharges Associated with
Industrial Activity**

Fact Sheet

AGENCY: Environmental Protection Agency (EPA)

ACTION: Notice of Proposed NPDES General Permit

Summary

The Regional Administrators of EPA Regions 1, 2, 3, 5, 6, 7, 8, 9, and 10 are today proposing a reissuance of EPA's NPDES Stormwater Multi-Sector General Permit (MSGP). This general permit, MSGP 2013, when finalized, will replace the 2008 MSGP, which was issued on September 29, 2008 (73 FR 56572), and expires on September 29, 2013.

Public Comment

EPA is soliciting comment on the proposed MSGP 2013. Comments on any provision of the permit and on the fact sheet discussion are welcome. The comment period is open for 60 days from publication of the Notice in the Federal Register announcing this permit. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at www.regulations.gov, except for material claimed as confidential business information.

Submitting Comments

Comments may be submitted to EPA in the following ways:

- EPA Dockets. Use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to www.regulations.gov and follow the online instructions for submitting comments. Once in the system, select "search" and then Docket ID No. EPA-HQ-OW-2012-0803. The system is an "anonymous access" system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.
- E-mail. Comments may be sent by electronic mail (e-mail) to ow-docket@epa.gov, Attention Docket ID No. EPA-HQ-OW-2012-0803. In contrast to EPA's electronic public docket, EPA's e-mail system is not an "anonymous access" system. If you send an email comment directly to the Docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.
- Disk or CD-ROM. You may submit comments on a disk or CD-ROM that you mail to the mailing address identified below. These electronic submissions will be accepted in Microsoft Word or ASCII file format. Avoid the use of special characters and any form of encryption.
- By Mail. Send the original and three copies of your comments to: U.S. Environmental Protection Agency, EPA Docket Center, Attention Docket ID No. EPA-HQ-OW-2012-0803, Mailcode: 28221T, 1200 Pennsylvania Ave., NW., Washington, DC, 20460.
- By Hand Delivery or Courier. Deliver your comments to: EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004, Attention Docket ID No. EPA-HQ-OW-2012-0803. Such deliveries are only accepted during the Docket's normal hours of operation as identified below. Special arrangements should be made for deliveries of boxed information.

What Should I Consider As I Prepare My Comments

Submitting Confidential Business Information (CBI). Do not submit this information to EPA through www.regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then electronically identify within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. CBI so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2.

Tips for Preparing Your Comments

Please follow these guidelines as you prepare your comments so that EPA can better address them in a timely manner.

1. Identify the permit by docket number and other identifying information (subject heading, Federal Register date, and page number).
2. Explain why you agree or disagree with any proposed provisions; suggest alternatives and substitute language for your requested changes.
3. Describe any assumptions, and provide any technical information and/or data that you used.
4. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
5. Provide specific examples to illustrate your concerns, and suggest alternatives.
6. Explain your views as clearly as possible.
7. Make sure to submit your comments by the comment period deadline. EPA is not obligated to accept or consider late comments.

How and to Whom Do I Submit Comments?

The opportunity to raise issues and provide information on this general permit is during the public comment period (see 40 CFR 124.13 for more information). You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket identification number in the subject line on the first page of your comment. 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 part of the permit to which each comment refers. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments.

For additional information about EPA's public docket, visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the Water Docket in the EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Ave., NW, Washington, DC 20004. A reasonable fee may be charged for copying. 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 Water Docket is (202) 566-1744.

Further Information

Supporting information and materials for this permit are included in Docket ID No. EPA-HQ-OW-2012-0803 available at: www.regulations.gov.

**Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity (MSGP)
– Fact Sheet**

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I. Background

Congress passed the Federal Water Pollution Control Act of 1972 (Public Law 92-500, October 18, 1972) (hereinafter the Clean Water Act or CWA), 33 U.S.C. 1251 et seq., with the stated objectives to "restore and maintain the chemical, physical, and biological integrity of the Nation's waters." Section 101(a), 33 U.S.C. 1251(a). To achieve this goal, the CWA provides that "the discharge of any pollutant by any person shall be unlawful" except in compliance with other provisions of the statute. CWA section 301(a). 33 U.S.C. 1311. The CWA defines "discharge of a pollutant" broadly to include "any addition of any pollutant to navigable waters from any point source." CWA section 502(12). 33 U.S.C. 1362(12). EPA is authorized under CWA section 402(a) to issue a National Pollutant Discharge Elimination System (NPDES) permit for the discharge of any pollutant from a point source. These NPDES permits are issued by EPA or NPDES authorized state or tribal agencies. Since 1972, EPA and the authorized states have issued NPDES permits to thousands of dischargers, both industrial (e.g., manufacturing, energy and mining facilities) and municipal (e.g., sewage treatment plants). As required under Title III of the CWA, EPA has promulgated Effluent Limitations Guidelines (ELGs) and New Source Performance Standards (NSPS) for many industrial point source categories and these requirements are incorporated into NPDES permits. The Water Quality Act (WQA) of 1987 (Public Law 100-4, February 4, 1987) amended the CWA, adding CWA section 402(p), requiring implementation of a comprehensive program for addressing stormwater discharges. 33 U.S.C. 1342(p).

Section 405 of the Water Quality Act of 1987 (WQA) added section 402(p) of the CWA, which directed the EPA to develop a phased approach to regulate stormwater discharges under the NPDES program. EPA published a final regulation on the first phase of this program on November 16, 1990, establishing permit application requirements for "stormwater discharges associated with industrial activity". See 55 FR 47990. 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 is issuing the Multi-Sector General Permit (MSGP) under this statutory and regulatory authority.

The Regional Administrators of EPA Regions 1, 2, 3, 5, 6, 7, 8, 9, and 10 are today proposing a reissuance of EPA's NPDES Stormwater Multi-Sector General Permit (MSGP). This general permit, the 2013 MSGP, when finalized, will replace the 2008 MSGP, which was issued on September 29, 2008 (73 FR 56572), and expires on September 29, 2013. This permit is actually 40 separate permits covering either areas within an individual state, tribal land, or U.S. territory, or federal facilities. These 40 permits contain provisions that require industrial facilities in 29 different industrial sectors to, among other things, implement control measures and develop site-specific stormwater pollution prevention plans (SWPPP) to comply with NPDES requirements. In addition, the MSGP includes a thirtieth sector, available for EPA to permit additional industrial activities which the Agency determines require permit coverage for industrial stormwater discharges not included in the other 29 industrial sectors. Currently, an estimated 2365 facilities are authorized to discharge (or "covered").

II. Summary of Changes from the 2008 MSGP

The proposed permit includes a number of new or modified requirements, and thus differs from the 2008 MSGP. The following list summarizes the changes to the MSGP.

Eligibility Requirements

EPA has added specific eligibility requirements to Part 1.1 that describe all the conditions that must be met to be eligible under this permit. Furthermore, listing these eligibility requirements ensures that operators have verified that their facility and stormwater discharges from it, are eligible for coverage.

NEPA Review

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 proposed 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 new source pollutants in stormwater discharges 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.

Information Required for NOIs

This permit revises the information required in NOIs to provide EPA with adequate information to determine eligibility, to determine whether additional water quality-based requirements are necessary, and to enable EPA to inform the operator of its specific monitoring requirements. Operators now need to include location information for each stormwater outfall they discharge from, whether the facility discharges to saltwater, the hardness of the receiving waterbody (if subject to benchmark monitoring for metals), whether the facility discharges to a federal CERCLA site identified in Appendix P, as well as general information from their SWPPP if the SWPPP is not posted online. The eNOI system will use outfall location information to automatically determine the receiving waters the site discharges to and the impairment status.

Electronic Reporting Requirements

Electronic reporting is being required in this proposed permit in anticipation of EPA's new electronic reporting requirements and to make the MSGP consistent with the CGP. Electronic reporting is necessary to create efficiencies and burden reduction regarding information submittal to the Agency. Recognizing there may be cases that make electronic submittals of information not possible, EPA has included a waiver that an operator can receive after they ask an EPA Region for the waiver and the Region grants it. EPA intends for a granted waiver to not cover the remaining term of the permit for other required information submittals; rather, it is for a single use waiver only. Continued use of paper submittals is only on a case-by-case basis. All paper submittals must be sent to the appropriate Regional office.

Endangered Species Requirements

EPA has proposed 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) as a result of consultations under Section 7 of the Endangered Species Act. These changes are necessary to ensure that the endangered and threatened species eligibility criteria in Part 1.1.4.5 are adequately protective of species, and to ensure the operators are making accurate determinations of which eligibility criterion they qualify under.

Effluent Limit Clarifications

Several of the effluent limits in Part 2 of the proposed 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.

Inspections

The Comprehensive Site Inspection Procedures and Routine Facility Inspection Procedures in the 2008 MSGP were essentially the same but with different documentation requirements. Therefore for this proposed permit, these two inspection requirements have been consolidated into one to eliminate redundancies.

Corrective Actions

Although the 2008 MSGP required corrective actions, EPA has clarified which conditions require a SWPPP review, modified the deadlines to further specify EPA's expectations for what actions must be taken by the deadlines, and rewritten and clarified the reporting requirements for reporting following corrective actions.

SWPPP Documentation

To reduce permittee burden, EPA identified the effluent limit requirements in Part 2.1.2 that are the most straightforward, i.e., the ones that do not involve the site-specific selection of a control measure or are specific activity requirements (e.g., "Drain fluids from equipment and vehicles that will be decommissioned"). Permittees can then comply with the documentation requirements regarding these particular effluent limits by including the effluent limits verbatim into their SWPPP without providing additional information, thereby reducing the burden associated with SWPPP development (see Part 5.2.4.1). EPA believes that requirements which involve activities that are done infrequently or are direct and simple only need to be identified in the SWPPP as written in the permit to be executed effectively.

SWPPP Availability

To provide greater access to the SWPPP to the public, to the EPA, and to the Services, the proposed MSGP requires that permittees either provide a URL for the SWPPP on the NOI form, or provide selected information from the SWPPP on the NOI form. The selected information from the SWPPP that would have to be included in the NOI form includes: onsite industrial activities exposed to stormwater, including potential spill and leak areas (see Parts 5.2.3.1, 5.2.3.3 and 5.2.3.5); pollutants or pollutant constituents associated with each industrial activity exposed to stormwater that could be discharged in stormwater and/or any authorized non-stormwater discharges listed in Part 1.1.3 (see Part 5.1.3.2); stormwater control measures employed to comply with the non-numeric technology-based effluent limits required in Part 2.1.2 and Part 8, and any other measures taken to comply with the requirements in Part 2.2 Water Quality -Based Effluent Limitations (see Part 5.2.4.1); and a description of control measures employed to comply with the non-numeric technology-based effluent limits required in Part 2.1.2, and any other measures taken to comply with the requirements in Part 2.2.

Benchmark Values

For this proposed permit, EPA 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.

Industry Sector-specific Requirements

The following changes were made to Part 8 of the MSGP, which describes requirements specific to particular industry sectors:

Sector G, Metal Mining – The permit still enables operators to include coverage for construction and exploration activities under this permit where in the past those activities were required to be covered separately under the Construction General Permit (CGP). To facilitate such coverage, additional requirements have been added that are consistent with EPA's recently issued Construction General Permit.

Sector H, Coal Mining – As with Sector G above additional requirements have been added that are consistent with EPA's recently issued Construction General Permit.

Sector J, Mineral Mining and Dressing – As with Sectors G and H above, additional requirements have been added that are consistent with EPA's recently issued Construction General Permit.

Sector S, Air Transportation – Requirements have been added based on the final Effluent Limitation Guidelines (ELG) for airplane and airport deicing operations

III. Geographic Coverage of this Permit

This permit provides coverage for classes of point source discharges that occur in areas not covered by an approved state NPDES program. EPA notes that facilities located in Region 4 are not covered by this permit. The areas of geographic coverage of this permit are listed in Appendix C, and include the states of New Hampshire, Massachusetts, New Mexico, and Idaho as well as all Indian Country lands, and federal operators in selected states. Permit coverage is also provided in Puerto Rico, the District of Columbia, and the Pacific Island territories.

Federal facilities in Colorado, and Indian country located in Colorado (including the portion of the Ute Mountain Reservation located in New Mexico), Iowa, Kansas, Montana, Nebraska, North Dakota, South Dakota (including the portion of the Pine Ridge Reservation located in Nebraska and the portion of the lands within the former boundaries of the Lake Traverse Reservation located in North Dakota), Utah (except for the Goshute and Navajo Reservation lands) and Wyoming were not included in the 2008 MSGP, but are included in the proposed 2013 MSGP. In addition, industrial activities within the State of Alaska, except for Indian country and areas in the Denali National Park and Preserve operated by a federal operator, are no longer covered under EPA's MSGP due to the delegation of NPDES program responsibilities to the state.

IV. Categories of Facilities That Can Be Covered Under this Permit

This permit is available for stormwater discharges from the following 29 sectors of industrial activity (Sector A – Sector AC), as well as any discharge not covered under the 29 sectors (Sector AD) that has been identified by EPA as appropriate for coverage. The sector descriptions are based on Standard Industrial Classification (SIC) codes and Industrial Activity Codes consistent with the definition of stormwater discharge associated with industrial activity at 40 CFR 122.26(b)(14)(i-ix, xi). See Appendix D in this permit for specific information on each sector. The sectors are listed below:

Sector A – Timber Products	Sector P – Land Transportation
Sector B – Paper and Allied Products Manufacturing	Sector Q – Water Transportation
Sector C – Chemical and Allied Products Manufacturing	Sector R – Ship and Boat Building or Repairing Yards
Sector D – Asphalt Paving and Roofing Materials Manufactures and Lubricant Manufacturers	Sector S – Air Transportation Facilities

Sector E – Glass, Clay, Cement, Concrete, and Gypsum Product Manufacturing	Sector T – Treatment Works
Sector F – Primary Metals	Sector U – Food and Kindred Products
Sector G – Metal Mining (Ore Mining and Dressing)	Sector V – Textile Mills, Apparel, and other Fabric Products Manufacturing
Sector H – Coal Mines and Coal Mining-Related Facilities	Sector W – Furniture and Fixtures
Sector I – Oil and Gas Extraction and Refining	Sector X – Printing and Publishing
Sector J – Mineral Mining and Dressing	Sector Y – Rubber, Miscellaneous Plastic Products, and Miscellaneous Manufacturing Industries
Sector K – Hazardous Waste Treatment Storage or Disposal	Sector Z – Leather Tanning and Finishing
Sector L – Landfills and Land Application Sites	Sector AA – Fabricated Metal Products
Sector M – Automobile Salvage Yards	Sector AB – Transportation Equipment, Industrial or Commercial Machinery
Sector N – Scrap Recycling Facilities	Sector AC – Electronic, Electrical, Photographic and Optical Goods
Sector O – Steam Electric Generating Facilities	Sector AD – Reserved for Facilities Not Covered Under Other Sectors and Designated by the Director

V. Coverage under this Permit

V.A. Eligibility (Part 1.1).

As with previous permits, to be eligible for coverage under this permit, operators of industrial facilities must meet the eligibility provisions described in Part 1.1 of the permit. If they do not meet all the eligibility requirements, discharges of stormwater associated with industrial activity that require permit coverage will be in violation of the CWA, unless the operator has obtained coverage under another permit.

V.A.1. Allowable Stormwater Discharges (Part 1.1.2).

Part 1.1.2 specifies which stormwater discharges are eligible for coverage under the permit. As described in Section V.A.3 of this fact sheet, not all stormwater discharges associated with industrial activity are eligible for coverage under this permit (e.g., stormwater discharges regulated by certain national effluent limitations guidelines).

Purpose: This provision lists the type of stormwater discharges eligible for coverage under the permit. Dischargers should use this section to determine which stormwater discharges from their site can be covered under the MSGP. For example, Part 1.1.2.3 specifies that discharges that are not otherwise required to obtain NPDES permit authorization, but are commingled with discharges that are authorized under this permit (e.g., under-drain water combining groundwater and surface water subject to this permit), are eligible for coverage under this permit. Additionally, EPA has updated the table in 1.1.2.4 to account for the Airport Deicing Effluent Limitation Guidelines (ELGs) to control the discharge of pollutants from airport deicing operations to surface waters and to publicly owned treatment works under Title III of the Clean Water Act.

V.A.2 Allowable Non-Stormwater Discharges (Part 1.1.3).

This provision lists the non-stormwater discharges authorized under the permit (including the non-stormwater discharge in Sector A that was only listed in the Sector A requirements in the 2008 MSGP). The changes to the allowable non-stormwater discharges in Part 1.1.3 were made to ensure consistency with the corresponding effluent limit requirements in Part 2 of the permit and to ensure that pollutant discharges from allowable non-stormwater discharges are minimized. This Part also clarifies that the MSGP authorizes allowable stormwater and non-stormwater discharges that are commingled with a discharge authorized by a different NPDES permit and/or a discharge that does not require NPDES permit authorization. These changes are consistent with EPA's recently issued Construction General Permit.

Purpose: 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. Needing clarity, EPA believes, is the prohibition of pollutants in discharges from cleaning agents, which can consist of more than just detergents. Therefore, in addition to detergents, hazardous cleaning products have been specifically prohibited from being discharged under the 2013 MSGP. The 2013 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 newly included to ensure particulates 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 (e.g., by performing good housekeeping, preventing spills and leaks and cleaning up spills and leaks promptly). Other control measures should be considered when doing such cleaning including using the least amount of water in pressure washing to reduce the quantity of waste water produced, and running the washwater through a filter to ensure the resultant flow is clean prior to discharge. Alternatively, operators can direct the washwater flow through a green infrastructure feature(s) to cleanse it enough for discharge or to capture and infiltrate it so there is no discharge. In any case, if in doubt regarding the presence of contaminants in the washwater, even after treatment, do not discharge it.

Also specifically identified as being authorized, for clarity sake, is stormwater runoff that commingles with an allowed non-stormwater discharge, a discharge authorized by a different NPDES permit, or a discharge that does not require NPDES permit authorization. EPA also clarified that all other non-stormwater discharges requiring NPDES permit coverage that are not listed in Part 1.1.3 are not authorized. If non-stormwater discharges requiring NPDES permit coverage other than those specifically authorized in Part 1.1.3 will be discharged, such non-stormwater discharges are not covered by the permit or the permit shield provision of the CWA Section 402(k) and must be covered under another NPDES permit.

V.A.3 Limitations on Coverage (Part 1.1.4).

For this permit, EPA added the clarification that any discharges not expressly authorized under this permit are: not within the scope of the pollutants authorized, not covered by this permit or the permit shield provision of the CWA Section 402(k), and cannot become authorized or shielded by disclosure to EPA and/or state via the Notice of Intent to be covered by the permit or by any other means (e.g., in the Stormwater Pollution Prevention Plan or during an inspection). This is consistent with EPA's long-standing interpretation of the scope of its permit. EPA has also modified the eligibility requirements for many of the criteria in this section. The rationale for these changes and for limitations on coverage under this permit is described below.

Discharges Mixed with Non-Stormwater (Part 1.1.4.1). The MSGP does not authorize stormwater discharges that are mixed with non-stormwater other than those non-stormwater discharges listed in Part 1.1.3.

Purpose: In previous permits, EPA explained that the prohibition on mixed stormwater and non-stormwater discharges further ensures that non-stormwater discharges (except for those classes of non-stormwater discharges that are specifically authorized by the permit) are not authorized by this permit. Where a stormwater discharge is mixed with non-stormwater that is not authorized by the MSGP or another NPDES permit, the operator must submit the appropriate application forms to obtain authorization under another NPDES permit to discharge the non-stormwater portion of the discharge.

Stormwater Discharges Associated with Construction Activity (Part 1.1.4.2). This permit does not apply to stormwater discharges associated with construction activity, defined in 40 CFR 122.26(b)(14)(x) and (b)(15), unless it is in conjunction with mining or oil and gas activities, where the applicable sector-specific requirements for construction stormwater discharges as specified in sectors G, H, I and J are met. The exception to this provision is that discharges from land disturbances less than one (1) acre in size are covered by this permit consistent with Part 1.1.2.3 of the permit for discharges not otherwise required to obtain permit coverage but that are commingled with discharges that are authorized under this permit.

Purpose: The exclusion of coverage for construction stormwater discharges recognizes the distinction that has been made between construction and other types of stormwater discharges associated with industrial activity. The exception to this provision for sectors G, H, I, and J acknowledges that many of the industrial activities associated with mining and oil and gas extraction are similar to construction activities and adding construction activities for these sectors establishes a more streamlined approach for operators preferring to be covered by one permit, instead of two.

Discharges Currently or Previously Covered by Another Permit (Part 1.1.4.3). This section of the MSGP describes situations where an operator is ineligible for coverage under this permit because of coverage under another permit. These include operators currently covered under an individual permit or an alternative NPDES general permit; operators covered by a permit within the past five years prior to the effective date of this permit, which established site-specific numeric water quality-based limitations developed for the stormwater component of the discharge; or operators with discharges from facilities where the associated NPDES permit has been or is in the process of being denied, terminated, or revoked by EPA, although this last provision does not apply to the routine reissuance of permits every five years.

Purpose: The purpose of the prohibition on coverage where a discharge was covered by another NPDES permit and where a permit is/was being denied, terminated, or revoked by EPA is to avoid conflict with the anti-backsliding provisions of the CWA. This provision has not been changed from the 2008 MSGP

Discharges Subject to Effluent Limitations Guidelines (Part 1.1.4.4). This section specifies that only the discharges subject to the stormwater-specific effluent limitations guidelines in Table 1-1 of the permit are eligible for coverage. All other stormwater and non-stormwater discharges subject to effluent limitation guidelines must be covered under any applicable alternate general permit or an individual permit.

Purpose: This provision ensures that discharges subject to Federal effluent limitations guidelines comply with all relevant limits. This provision has not been changed from the 2008 MSGP.

Endangered and Threatened Species and Critical Habitat Protection (Part 1.1.4.5). The Endangered Species Act (ESA) of 1973 requires all Federal Agencies to ensure, in consultation with the U.S. Fish and Wildlife Service (FWS) and the National Marine Fisheries Service (NMFS) (the

“Services”), that any Federal action carried out by the Agency is not likely to jeopardize the continued existence of any species that is federally-listed as endangered or threatened (“listed”), or result in the adverse modification or destruction of habitat of such species that is Federally-designated as critical (“critical habitat”). See 16 U.S.C. 1536(a)(2), 50 CFR 402 and 40 CFR 122.49(c).

The criteria in Part 1.1.4.5 were developed in consultation with the Services to ensure that discharges covered under the permit are protective of threatened and endangered species and their critical habitats. The criteria in Part 1.1.4.5 require the operator to determine that their facility's stormwater discharges, allowable non-stormwater discharges, and stormwater discharge-related activities were either the subject of an Endangered Species Act (ESA) consultation or an ESA Section 10 permit, or are not likely to adversely affect any species that are federally-listed as endangered or threatened (“listed”) under the Endangered Species Act (ESA) and are not likely to adversely affect habitat that is federally-designated as “critical habitat” under the ESA. To make this determination, operators must follow the steps in Appendix E.

Purpose: EPA is proposing changes to the criteria in Part 1.1.4.5 to better ensure that the criteria are adequately protective of threatened and endangered species and their critical habitats and consistent with the Endangered Species Act. 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). The changes to the Part 1.1.4.5 criteria are summarized as follows:

Criterion A – No substantial changes.

Criterion B (formally Criterion F in the 2008 MSGP) – In the proposed 2013 MSGP, operators may only choose Part 1.1.4.5 criterion B if another operator has already established their eligibility under Part 1.1.4.5 for the facility's discharges and discharge-related activities under the 2013 MSGP; this criterion may not be selected based on a determination made under the 2008 MSGP. This criterion can be selected if there are multiple operators for a single facility where one operator has completed the Part 1.1.4.5 eligibility determination for all discharges from the facility, or for facilities that have changed operators during the 2013 MSGP term.

Criterion C (formally Criterion E in the 2008 MSGP) – In the proposed 2013 MSGP, operators may only make a determination that their discharges are not likely to adversely affect threatened and endangered species and their critical habitats after following all the steps in Appendix E, which requires the submission of a worksheet to EPA and the Services a minimum of 30 days prior to filing an NOI for permit coverage. The worksheet requires the operator to evaluate their site's discharges and discharge-related activities and to determine, document, and implement any specific controls necessary to ensure no likely adverse effects. During the 30 day review period of the worksheet, EPA and the Services may determine that additional controls are necessary in order to be consistent with a not likely to adversely affect determination, or that an individual permit is necessary. While filling out and submitting a worksheet is a new requirement, the content of the worksheet and steps it requires operators to complete are not new requirements, but instead clarify and provide guidance to existing requirements from the 2008 MSGP.

Criterion D (formally Criterion B in the 2008 MSGP) – This criterion is substantially similar to the corresponding criterion in the 2008 MSGP. However, in the proposed 2013 MSGP, applicants certifying under this criterion are required to ensure that a separate section 7 consultation remains valid, and if necessary, to reinitiate consultation.

Criterion E (formerly Criterion C in the 2008 MSGP) – No substantial changes.

In the proposed 2013 MSGP, EPA has removed the eligibility criterion (Criterion D in the 2008 MSGP) that required coordination between the applicant and the Service office with a written statement of a not likely to adversely affect determination). The Services feel “front-loading” the permit with requirements to protect species eases their burden regarding having to coordinate with operators who have potential endangered species issues.

These proposed changes were developed in consultation with the Services, and are necessary to ensure that the endangered and threatened species eligibility criteria in Part 1.1.4.5 are adequately protective of species, and to ensure the operators are making accurate determinations of which eligibility criterion they qualify under.

Historic Properties Preservation (Part 1.1.4.6). Coverage under this permit is available only if the operator certifies to one of the eligibility criteria related to compliance with the National Historic Preservation Act (NHPA). To be eligible for coverage under this permit, an operator must meet at least one of the four criteria (A-D) detailed in Appendix F. The operator must certify in their NOI which criterion was met prior to submitting their NOI.

Purpose: Operators seeking coverage under the MSGP are thus required to make certain certifications regarding the potential effects of their stormwater discharge, allowable non-stormwater discharge, and discharge-related activities on properties listed or eligible for listing on the National Register of Historic Places.

EPA does not anticipate effects on historic properties from the pollutants in the stormwater discharges covered by this permit. Thus, to the extent EPA's issuance of this permit authorizes discharges of such constituents confined to existing stormwater channels or natural drainage areas, the permitting action does not have the potential to cause effects on historic properties. In addition, the overwhelming majority of sources covered under this permit will be operators that are seeking renewal of previous permit coverage. These existing dischargers should have already addressed NHPA issues in the 2008 MSGP as they were required to certify that they were either not affecting historic properties or they had obtained written agreement from the applicable State Historic Preservation Officer (SHPO), Tribal Historic Preservation Officer (THPO), or other tribal representative regarding methods of mitigating potential impacts. EPA is not aware of any impacts on historic properties under the 2008 MSGP, or, for that matter, any need for a written agreement. Therefore, to the extent this permit authorizes renewal of prior coverage without relevant changes in operation, it has no potential to affect historic properties.

However, operators could undertake activities in connection with this permit that might affect historic properties if they install new control measures that involve subsurface disturbance. This is the only situation that EPA envisions where activities authorized in connection with this permit may affect historic properties. Since both new and existing dischargers could undertake such activities, both are required to follow the historic property screening process to document eligibility. As part of the NHPA consultation process, EPA has developed a Programmatic Agreement with SHPOs, THPOs and the Advisory Council for Historic Preservation that describes how the permit and EPA's administration of the permit comply with Section 106 of the National Historic Preservation Act (NHPA). The Programmatic Agreement will be available on EPA's stormwater website at www.epa.gov/npdes/stormwater/msgp.

Eligibility for New Dischargers: Based on Water Quality Standards (Part 1.1.4.7). Part 1.1.4.7 describes permit eligibility with regard to new dischargers (as defined in Appendix A). If the facility is a “new discharger”, it is not eligible for coverage under the MSGP for any discharges

that EPA determines will not meet any applicable water quality standard. Where such a determination is made prior to authorization, EPA may notify the permittee that an individual permit application is necessary in accordance with Part 1.2.3. However, EPA may authorize coverage under this permit after the permittee has included appropriate controls and implementation procedures designed to ensure the discharge meets water quality standards. Part 1.1.4.7 describes that in the absence of information demonstrating otherwise, EPA expects that compliance with the stormwater control requirements of this permit, including the requirements applicable to such discharges in Part 2, will result in discharges that meet applicable water quality standards.

Purpose: Part 1.1.4.7 is a new requirement that provides greater guidance for new dischargers in complying with 40 CFR 122.4(i). Part 1.1.4.7 clarifies that, in the absence of information demonstrating otherwise, EPA expects that compliance with the permit will not adversely impact applicable water quality. EPA notes that while Part 1.1.4.7 is designed to specifically implement 40 CFR 122.4(i), other water quality-based requirements apply to new and existing dischargers. Part 2.2 of the permit includes water quality-based effluent limits applicable to all sources, which are designed to ensure that discharges from both new and existing permittees are controlled as necessary to meet water quality standards. In addition, Part 1.1.4.8 of the permit includes specific eligibility requirements that are designed to comply with 40 CFR 122.4(i) for new dischargers who are discharging to impaired waterbodies.

Eligibility for New Dischargers to Water Quality Impaired Waters (Part 1.1.4.8). Part 1.1.4.8 of the permit requires any new discharger to demonstrate its ability to comply with 40 CFR 122.4(i) (prohibiting the issuance of permits to new dischargers that will cause or contribute to the violation of water quality standards) prior to coverage under the permit. To satisfy the requirements of 40 CFR 122.4(i), an operator must complete one of the following: (a) prevent all exposure to stormwater of the pollutant(s) for which the waterbody is impaired, and retain such documentation with the SWPPP; or (b) submit technical information or other documentation to the appropriate EPA Regional Office to support a claim that the pollutant(s) for which the waterbody is impaired is not present at your site in advance of submitting an NOI and retain documentation with the SWPPP; or (c) submit data or other technical documentation to the appropriate EPA Regional Office to support a conclusion that the discharge will meet in-stream water quality standards at the point of discharge or, for discharges to waters with a TMDL, that there are sufficient remaining wasteload allocations in the TMDL.

Purpose: Part 1.1.4.8, which applies to new dischargers, and is designed to comply with 40 CFR 122.4(i) requirements that address new discharges to waterbodies not meeting instream water quality standards.

Eligibility for New Dischargers to Waters with High Water Quality (Part 1.1.4.9). Part 1.1.4.9 includes the eligibility requirements for new dischargers discharging to a Tier 2, 2.5, or 3 waters. Operators discharging to Tier 2 or Tier 2.5 waters must not lower the water quality of the applicable water. Additionally, coverage under the permit is not available to new dischargers who discharge to waters designated by a state or tribe as Tier 3 (outstanding national resource waters or "ONRW") for antidegradation purposes. Any such discharges must, therefore, apply for coverage under an individual permit.

Purpose: The requirements in Part 1.1.4.9 ensure that new dischargers to high quality waters are in compliance with the antidegradation requirements applicable to Tier 2, Tier 2.5 or Tier 3 waters. For background, state and tribal water quality standards must include an antidegradation policy. In addition, each state and tribe must identify

implementation methods for their policy that, at a minimum, provide a level of protection that is consistent with the three-tiered approach of the Federal antidegradation provisions. Tier 3 maintains and protects water quality in ONRWs. Waters designated as ONRWs by states and tribes are generally the highest quality waters of the U.S. However, the ONRW classification also offers special protection for waters of exceptional ecological significance, i.e., those that are important, unique, or sensitive ecologically, but do not necessarily have high water quality. Except for certain temporary changes, water quality cannot be lowered in such waters. 40 CFR 131.12(a)(3). EPA expects few industrial stormwater discharges into ONRWs will be covered under an NPDES permit. See list of Tier 2, Tier 2.5 and Tier 3 waters in Appendix L. See 40 CFR 131.12.

The requirements in Part 1.1.4.9 correspond to Part 2.2.2 and 2.2.3 of the 2008 MSGP, but in the new proposed permit have been moved to Part 1 to ensure that antidegradation requirements are met as a condition for establishing eligibility for permit coverage. By making these requirements a condition for permit eligibility, new dischargers are provided greater assurance that their discharges are in compliance with the antidegradation requirements.

Eligibility for Stormwater Discharges to Federal CERCLA Sites (Part 1.1.4.10). As proposed, this MSGP would not authorize direct stormwater discharges to certain specified sites undergoing remedial cleanup actions pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) unless first approved by the appropriate EPA Regional office. For the purposes of the permit, a permittee is considered to discharge to a federal CERCLA Site if the discharge flows directly into the site through its own conveyance, or a through a conveyance owned by others, such as a municipal separate storm sewer system. This does not include discharges to a tributary that flows into a CERCLA Site. Additionally, a permittee discharges to a Federal CERCLA Site if the permittee has been notified by EPA, another government agency, or a potentially responsible party under CERCLA that it has potential liability for response costs incurred at the CERCLA Site or that it is discharging hazardous substances or pollutants or contaminants to the CERCLA Site.

The federal CERCLA sites to which Part 1.1.4.10 applies are listed in Appendix P. Applicants seeking authorization to discharge stormwater to one of these identified CERCLA Sites would be required to first notify the appropriate EPA Regional Office prior to submitting their NOI for permit coverage. In determining eligibility for coverage under this Part, the EPA Regional Office may evaluate whether the discharger has in place sufficient controls and implementation procedures (e.g., enhanced controls, corrective actions, monitoring requirements, and/or numeric benchmarks or effluent limits) to ensure that the proposed discharge will not recontaminate sediments or other aquatic media being remediated under CERCLA. Likewise, if a discharger previously granted coverage under this MSGP subsequently determines that its facility discharges stormwater to a CERCLA Site referenced in Appendix P, that discharger must notify the appropriate EPA Regional Office. Upon notification, the Regional Office may impose additional monitoring requirements, controls, or the like to prevent recontamination of the CERCLA Site. There are a variety of scenarios under which an MSGP-permitted discharger could subsequently determine that it is discharging to a CERCLA Site. For example, the discharger could become aware of new information regarding the location of its stormwater outfall or the fate of the stormwater it discharges into a municipal stormwater system. Or the permittee could be notified of the fact that it is discharging to a CERCLA Site by a potentially responsible party, EPA, or another government agency.

Purpose: The intent of this provision is to more effectively integrate the actions and purposes of the CERCLA and the CWA. NPDES-permitted stormwater discharges may occur within the bounds of sites remediated or undergoing remediation under CERCLA. Source

sampling and sediment data from some NPDES outfalls indicate exceedances of sediment cleanup goals established for CERCLA Sites. NPDES permits, particularly general permits, may not control discharges sufficiently to avoid sediment recontamination because most effluent limits are written to protect the water column and not with particular regard to sediment impacts or contamination. Likewise, NPDES permits, particularly general permits, may not require monitoring sufficient to determine the effects of discharges on sediment quality and the aquatic organisms that live in or feed on the bottom of waterbodies. As a result, after extensive and costly clean-up of federal CERCLA Sites, these sites can be recontaminated by NPDES discharges. The requirements in Part 1.1.4.10 were included to assist EPA in ensuring that stormwater discharges will not lead to contamination/recontamination of aquatic media at existing CERCLA Sites. To avoid the contamination/recontamination of CERCLA Sites, the proposed permit would limit a discharger's eligibility for coverage under the permit if it discharges to those sites that are identified in Appendix P. The permit describes what steps are needed for a facility in such a situation to obtain or maintain permit coverage. This section provides an opportunity for the discharger and EPA to identify or develop corrective actions or other mechanisms to prevent recontamination. Once these measures are in place, the discharger to a CERCLA Site will be able to obtain MSGP coverage (or, if coverage was obtained prior to the commencement of the CERCLA remediation or determination of an applicable discharge, to continue operating under the MGSP). Alternatively, the discharger or the Regional EPA office may determine that coverage under the MSGP is not appropriate, and individual permit coverage may be sought or required pursuant to Part 1.2.3 of this permit. See 40 C.F.R. § 122.28(b)(3).

For the purposes of Part 1.4.1.10, "CERCLA Site" means a facility as defined in Section 101(9) of CERCLA, 42 U.S.C. § 9601(9), that is undergoing a remedial investigation and feasibility study, or for which a Record of Decision for remedial action has been issued in accordance with the National Contingency Plan, 40 C.F.R. Part 300. This definition includes sites that have been listed on the National Priorities List in accordance with Section 105 of CERCLA, 42 U.S.C. §9605, or that are being addressed using CERCLA authority, including use of an agreement consistent with the Superfund Alternative Approach Guidance.

The federal CERCLA Sites referenced in Appendix P are those that the EPA Regional offices believe, given the information available to them at this time, have the greatest potential to experience contributions of and/or recontamination by hazardous substances in industrial stormwater discharges. The operators of facilities to which these provisions apply may have received notice from EPA or the appropriate state environmental agency that they may be potentially responsible parties for cleanup costs at a CERCLA Site or found to be a source to the CERCLA Site.

EPA requests comment on this proposed requirement to address discharges to Federal CERCLA Sites.

Request for Comment on Potential Permit Requirements for Certain Toxic Pollutants in Industrial Stormwater Discharges

Background of the Toxic Pollutants Problem

Contaminated in-stream sediment can cause water quality standards exceedances and impairment of designated uses. Such sediment contamination may not always be addressed by applicable numeric water quality standards or other narrative standards but may nonetheless present an imminent and substantial endangerment to human health or welfare or the environment. EPA has the authority to address imminent and substantial endangerment under several federal environmental laws (Comprehensive Environmental Response, Compensation,

and Liability Act [CERCLA], section 106; Resource Conservation and Recovery Act [RCRA], section 7003; Safe Drinking Water Act [SDWA], section 1431).

In some instances, sediment contamination has been shown to be exacerbated by toxic pollutants in stormwater discharges from NPDES-permitted municipalities and industrial sites (e.g., in Washington State, discharges from Boeing Field – King County International Airport to the Lower Duwamish Waterway*). These toxic pollutants can bioaccumulate in biota that are eaten by humans and higher order birds and mammals. Additionally these pollutants may, after reaching certain concentrations, adversely impact the survival, growth or reproduction of aquatic species directly exposed to the contaminated sediment.

Other factors germane to the issues of industrial stormwater discharges and sediment contamination, and regulating these in the MSGP, include the following:

- The toxic pollutants may not be associated with industrial activity currently taking place at the site (e.g., PCBs in soil from historic industrial sources and/or older building materials).
- Stormwater has recontaminated sediment addressed under Superfund and will do so because cleanup levels are lower (more stringent) than what permits require.
- The Western District of the US District Court in Washington found the Washington Department of Transportation's discharges under its MS4 Phase 1 permit were federally permitted releases.
- Few states have adopted contaminated sediment water quality criteria (although EPA has issued guidance to help states adopt such criteria);
- EPA does not require monitoring for many of the types of toxic substances that cause negative sediment impacts.

*At Boeing Field, a facility covered under the Washington State MSGP, the following pollutants were found in their stormwater discharges: PCBs, PAHs, Cadmium, Arsenic and Mercury, at levels exceeding WA numeric water quality standards or sediment standards that are CWA standards and are used for cleanup and CWA purposes. Source tracing analysis determined that the pollutants from Boeing Field are due to caulk on the runway, paint, and metal from manufacturing practices. Boeing Field was not required to sample for the pollutants of concern associated with the Lower Duwamish Waterway Superfund Site. Source: WA Department of Ecology

A Permitting Option

EPA is concerned that current 2008 and proposed 2013 Multi-Sector General Permit requirements may not adequately prevent 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. EPA has added a new provision to the proposed 2013 MSGP at 1.1.4.10 to attempt to address this issue with respect to present and future Superfund sites. However, the possibility of certain, particularly problematic toxic pollutants contaminating or recontaminating present or future Superfund sites, or presenting an imminent and substantial endangerment to human health or welfare or the environment, is still of great concern to EPA. 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 discharge or apply for an individual permit. The following toxic substances are under consideration for such a list and all are on EPA's Priority Persistent Bioaccumulative and Toxic (PBT) pollutant list:

DDT/DDD/DDE, Dioxins/furans, PCBs, Aldrin/dieldrin, Hexachlorobenzene, Mirex, Octachlorostyrene, Toxaphene and Chlordane.

EPA requests comment on this approach under consideration to address the situation 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 requests comments on the proposed candidate chemicals. Additionally, EPA seeks comments on alternative approaches to address this issue.

V.B. Authorization Under This Permit (Part 1.2).

How to Obtain Authorization (Part 1.2.1). To obtain authorization under the MSGP, operators must be located in a state, territory, or Indian country, or be a federal operator identified in Appendix C where EPA is the permitting authority; meet the Part 1.1 eligibility requirements; select, design, install, and implement control measures in accordance with Part 2.1 to meet numeric and non-numeric effluent limits; develop a SWPPP according to the requirements of Part 5 of the permit or update your existing SWPPP consistent with Part 5 prior to submitting your NOI for coverage; and submit a complete and accurate NOI. These requirements apply to operators previously covered by the 2008 MSGP, as well as new facilities seeking coverage.

Purpose: Part 1.2.1 specifies conditions that must be met in order to obtain authorization under this permit. Also revised here is the replacement of "Federal Facility" with "Federal Operator" because the existing definition of Federal Facility conflicts with the terms of the delegation of powers between EPA and Washington State, in that private entities operating on federal lands must get state permits. Likewise, Federal Operators working on non-federal lands must get EPA's permit. This change is intended to clarify that the permitting requirement is determined by the type of operator rather than the location of the project and is consistent with the CGP.

Submitting Your Notice of Intent (NOI) (Part 1.2.1.1). Part 1.2.1.1 specifies that to be covered under the MSGP, the operator must submit to EPA a complete and accurate Notice of Intent (NOI) by the deadlines listed in Table 1-2 for existing dischargers that were authorized for coverage under the 2008 MSGP, new dischargers or existing dischargers that were not authorized for coverage under the 2008 MSGP, new owner/operators of existing dischargers, and other eligible facilities.

Part 1.2.1.1 also clarifies that authorization is not valid if the NOI upon which authorization is based is incomplete or inaccurate, or if the discharge was never eligible for permit coverage. Part 1.2.1.1 also notes the operator must complete the development of a Stormwater Pollution Prevention Plan (SWPPP) or update their existing plan prior to submitting the NOI for coverage under this permit.

Purpose: The requirements in 1.2.1.1 carries out the fundamental requirement that discharges are not authorized until permit coverage is obtained and that permit coverage is obtained for the MSGP through the submission of a complete and accurate NOI.

How to Submit Your NOI (Part 1.2.1.2). The requirements in Part 1.2.1.2 clarifies that operators must comply with the requirements in Part 7.1 to submit their NOIs for permit coverage.

Purpose: Part 1.2.1.2 clarifies the method by which operators are to submit their NOIs for permit coverage. Previous acceptance of paper NOIs has been changed to mandatory use of eNOI system unless EPA Regional approval is given, which is compatible with the e-Reporting rule and the CGP. Electronic submittal requirements are detailed in Part 7.1.

Deadlines for Submitting Your NOI and Your Official Date of Permit Coverage (Part 1.2.1.3). Part 1.2.1.2 specifies the deadlines for submitting NOIs for permit coverage and official discharge authorization dates for the different discharge categories.

Purpose: Part 1.2.1.2 provides the deadlines for NOI submission and the minimum timeframes following NOI submission for discharge authorization. To be authorized to discharge, the operator must have met all the eligibility conditions, including but not limited to submitting an NOI; selecting, designing, and installing control measures as necessary to meet applicable effluent limits; and developing a SWPPP or updated their existing SWPPP.

Part 1.2.1.2 specifies that all NOI submissions are subject to a 30-day review period. EPA may use the waiting period to determine whether any more stringent requirements are necessary to meet applicable water quality standards, to be consistent with an applicable WLA, or to comply with state or tribal antidegradation requirements. Additionally, during this waiting period, the public Services or the State or Tribal Historic Preservation Office (SHPO or THPO) or other tribal representative may request EPA place a hold on an NOI authorization based upon concerns to listed species and/or historic properties. Depending on the nature of the issue, EPA will require appropriate action either prior to or following discharge authorization. In addition, EPA may delay authorization if warranted, or may determine that the discharge is not eligible for authorization under this permit.

The proposed 2013 MSGP has eliminated the previous permit's 60-day authorization wait period for new dischargers because the reason for the 60-day wait was addressed in this proposal. In the 2008 MSGP, new dischargers who posted a SWPPP online when they submitted their NOI got the 30-day authorization wait period and those that did not post a SWPPP got the 60-day wait. The longer period was to provide more time for issues related to the proposed discharge to be identified when SWPPP information wasn't readily available. The proposed 2013 MSGP now requires all operators to post their SWPPP or provide salient SWPPP information with their NOIs, making it unnecessary for the different wait periods. As a result, the proposed permit is simpler and more streamlined.

Continuation of Coverage for Existing Permittees After the Permit Expires (Part 1.2.2). Part 1.2.2 specifies that if the permit is not reissued or replaced prior to the expiration date, it will be administratively continued in accordance with section 558(c) of the Administrative Procedure Act (see 40 CFR 122.6) and remain in force and effect for discharges that were covered prior to its expiration. All operators granted permit coverage prior to the expiration date of this permit will automatically remain covered under by the 2013 MSGP until the earliest of:

1. The authorization for coverage under a reissued or replacement version of this permit following the timely submittal of a complete and accurate NOI requesting coverage under the new permit. Note that if a timely NOI for coverage under the reissued or replacement permit is not submitted, coverage will terminate on the date that the NOI was due; or
2. The date of the submittal of a Notice of Termination; or
3. Issuance of an individual permit for the operator's discharges; or
4. A formal permit decision by EPA not to reissue this 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 this permit will terminate at the end of this time period.

EPA reserves the right to modify or revoke and reissue this permit under 40 CFR 122.62 and 63, in which case the permittee will be notified of any relevant changes or procedures to which you may be subject.

Purpose: Part 1.2.2 of the MSGP describes to permittees the continuation of coverage for existing permittees if the permit expires. Where EPA fails to issue a final general permit prior to the expiration of a previous general permit, EPA has the authority to administratively extend the permit for permittees authorized to discharge under the prior general permit. However, EPA does not have the authority to provide coverage to industrial operators not already authorized to discharge under that prior general permit. Once the five-year expiration date for this permit has passed, any such projects would need to obtain coverage under an individual permit, or other general permit that was still in effect.

Coverage Under Alternative Permits (Part 1.2.3). Part 1.2.3 describes to permittees the procedures for obtaining an alternative permit. Alternative permits can be obtained in one of three ways: 1) a new or previously permitted facility was denied coverage under the MSGP; 2) an existing facility covered under the MSGP lost their authorization under the MSGP; or 3) a permittee requested to be covered under an alternative permit.

Following submittal of a complete and accurate NOI, the permittee may be notified in writing by EPA that they are not covered, and that they must apply for and/or obtain coverage under either an individual NPDES permit or an alternate general NPDES permit. This notification will include a brief statement of the reasons for this decision and will provide application information. Any interested person may request that EPA consider requiring an individual permit or alternate general permit under this paragraph.

If the permittee is already covered under this permit, or a previously issued MSGP, the notice will set a deadline to file the permit application or NOI for an alternate general permit or individual permit, and will include a statement that on the effective date of the individual NPDES permit or the date of coverage under an alternate general NPDES permit, coverage under this general permit will terminate. EPA may grant additional time to submit the application or NOI if the permittee requests it. If a covered permittee fails to submit an individual NPDES permit application or NOI as required by EPA, the applicability of the MSGP is terminated at the end of the day specified by EPA as the deadline for application or NOI submittal. EPA may take appropriate enforcement action for any unpermitted discharge. If a timely permit application is submitted, then when an individual NPDES permit is issued or coverage is provided under an alternate general NPDES permit, coverage under the MSGP is terminated on the effective date of the coverage under the alternate permit.

After being covered by the MSGP, the permittee may request to be excluded from such coverage by applying for an individual permit. In this case, the permittee must submit an individual permit application in accordance with 40 CFR 122.28(b)(3)(iii), along with a statement of reasons supporting the request, to EPA at the applicable EPA Regional Office listed in Part 7.9 of this permit. The request may be granted by issuance of an individual permit or authorization of coverage under an alternative general permit if the reasons are adequate to support the request. Under this scenario, if an individual permit is issued, or authorization to discharge under an alternative general permit is granted, coverage under this permit is automatically terminated under 40 CFR 122.28(b)(3)(iv) on the effective date of the individual permit or the date of authorization of coverage under the alternative general permit.

Purpose: Part 1.2.3 is a new requirement that clarifies the procedures permittees must follow if they are denied coverage under this permit. It describes the procedures for permittees that were denied coverage following the submittal of an NOI, the procedures for permittees that were denied coverage after being previously approved for coverage under this or another MSGP, and the procedures to follow if a permittee is requesting to

be excluded from coverage under the MSGP. In all cases, permittees must apply for and/or obtain coverage under an individual permit or alternate general permit.

V.C. Terminating Coverage (Part 1.3).

Submitting a Notice of Termination (NOT) (Part 1.3.1). To terminate coverage under the MSGP, the permittee is required to submit a complete and accurate Notice of Termination. The permittee's authorization to discharge under the permit terminates at midnight of the day that a complete Notice of Termination is processed.

Purpose: EPA requires permittees to file a Notice of Termination to notify EPA that its obligation to manage industrial stormwater no longer is necessary for one of the EPA-approved reasons (as described in Part 1.3.3). Once a valid Notice of Termination is submitted, this permit no longer applies to stormwater discharges associated with industrial activities at the site. If EPA determines that the Notice of Termination is incomplete or the permittee has not satisfied one of the conditions in Part 1.3.3 for being able to submit a Notice of Termination, then the notice is not valid; the permittee must continue to comply with the conditions of the permit.

How to Submit Your NOT (Part 1.3.2). The requirements in Part 1.3.2 clarifies that operators must comply with the requirements in Part 7.2 to submit their NOTs to terminate permit coverage.

Purpose: Part 1.3.2 clarify the method by which operators are to submit their NOTs to terminate permit coverage. Previous acceptance of paper NOTs has been changed to mandatory use of eNOI system unless EPA Regional approval is given, which is compatible with the e-Reporting rule and the CGP. Electronic submittal requirements are detailed in Part 7.

When to Submit a Notice of Termination (Part 1.3.3). Once a stormwater discharge associated with industrial activity is eliminated from a facility, the permittee must submit a Notice of Termination, as described in Part 1.3.1, within 30 days after one or more of the following conditions have been met: (1) a new owner or operator has assumed responsibility for the facility; (2) operations have ceased at the facility (including facility closure) and there no longer are discharges of stormwater associated with industrial activity and necessary sediment and erosion controls have already been implemented at the facility as required by Part 2.1.2.5; (3) you are covered under one of the three mining-related sectors in the permit (i.e., Sectors G, H, and J) and you have met the specific termination requirements described in the specific sector under which you are covered; or (4) permit coverage has been obtained under an individual or alternative general permit for all discharges requiring NPDES permit coverage, either because EPA required you to obtain such coverage or you petitioned EPA requesting coverage under an alternative permit.

Purpose: Part 1.3.3 specifies when and under what conditions a Notice of Termination must be filed. No significant changes were made to the 2008 MSGP provision.

V.D. Conditional Exclusion for No Exposure (Part 1.4)

Part 1.4 states that after submittal of a No Exposure Certification, a permittee is no longer authorized by, nor required to comply with, the MSGP (including the Notice of Termination requirements). To be excluded from NPDES industrial stormwater requirements, the discharger must submit a No Exposure Certification once every five years. Operators are to file their No Exposure Certification in accordance with Part 7.2 of the permit.

Purpose: This provision allows permittees who become eligible for a no exposure exclusion from permitting under 40 CFR 122.26(g) to file a No Exposure Certification to EPA. For background, under the conditional no exposure exclusion, operators of industrial facilities have the opportunity to certify to a condition of "no exposure" if their industrial materials

and operations are not exposed to stormwater. As long as the condition of "no exposure" exists at a certified facility, the operator is excluded from NPDES industrial stormwater permit requirements provided that the operator notifies the permitting authority at least every five years consistent with 40 CFR 122.26(g) requirements. No significant changes were made to the 2008 MSGP provision.

V.E. Permit Compliance (Part 1.5).

Part 1.5 explains that any failure to comply with the conditions of this permit constitutes a violation of the CWA. Where requirements and schedules for taking corrective actions are included, the time intervals are not grace periods, but are schedules considered reasonable for making repairs and improvements. For provisions specifying a time period to remedy noncompliance, the initial failure, such as a violation of a numeric or non-numeric effluent limit, constitutes a violation of the MSGP and the CWA, and subsequent failure to remedy such deficiencies within the specified time periods constitutes an independent, additional violation of this permit and CWA. However, where corrective action is triggered by an event, which does not itself constitute permit noncompliance, such as an exceedance of an applicable benchmark, there is no permit violation provided the permittee takes the required corrective action within the deadlines in Part 4.2.

Purpose: Part 1.5 is intended to instruct the permittee of the ramifications for failure to comply with the conditions of the permit. Also applicable to all permittees is the standard NPDES permit condition for the "duty to comply", included in Section B.1 of Appendix B.

VI. Control Measures and Effluent Limits (Part 2).

VI.A. Control Measures and Technology-Based Effluent Limits (Part 2).

Effluent limitations guidelines (ELGs) are technology-based effluent limitations required by CWA sections 301 for categories of point source discharges. These effluent limitations, which can be either numeric or non-numeric, along with water quality-based effluent limitations, if necessary, are incorporated into NPDES permits. ELGs are based on the degree of control that can be achieved using various levels of pollutant control technology as defined in Title III of the CWA and summarized as follows:

1. Best Practicable Control Technology Currently Available (BPT) - The CWA requires EPA to specify BPT effluent limitations guidelines for conventional, toxic, and nonconventional pollutants. In doing so, EPA is required to determine what level of control is technologically available and economically practicable. CWA section 301(b)(1)(A). In specifying BPT, the CWA requires EPA to look at a number of factors. EPA considers the total cost of application of technology in relation to the effluent reduction benefits to be achieved from such application. The Agency also considers the age of the equipment and facilities, the process employed and any required process changes, engineering aspects of the application of the control technologies, non-water quality environmental impacts (including energy requirements), and such other factors as the Administrator deems appropriate. CWA section 304(b)(1)(B).
2. Best Available Technology Economically Achievable (BAT) - BAT effluent limitations guidelines are applicable to toxic (priority) and nonconventional pollutants. EPA has identified 65 pollutants and classes of pollutants as toxic pollutants, of which 126 specific pollutants have been designated priority toxic pollutants. See 40 CFR 401.15 and 40 CFR Part 423, Appendix A. In general, BAT represents the best available performance of facilities through application of the best control measures and practices economically achievable including treatment techniques, process and procedure innovations, operating methods, and other alternatives within the point source category. CWA section 304(b)(2)(A). The factors EPA considers in assessing BAT include the cost of

achieving BAT effluent reductions, the age of equipment and facilities involved, the processes employed, the engineering aspects of the control technology, potential process changes, non-water quality environmental impacts (including energy requirements), and such factors as the Administrator deems appropriate. CWA section 304(b)(2)(B).

3. Best Conventional Pollutant Control Technology (BCT) - The 1977 amendments to the CWA required EPA to identify effluent reduction levels for conventional pollutants associated with BCT technology for discharges from existing point sources. BCT is not an additional limitation, but replaces Best Available Technology (BAT) for control of conventional pollutants. In addition to other factors specified in CWA section 304(b)(4)(B), the Act requires that EPA establish BCT limitations after consideration of a two-part "cost-reasonableness" test. EPA explained its methodology for the development of BCT limitations in July 1986. 51 FR 24974 (July 9, 1986). Section 304(a)(4) designates the following as conventional pollutants: biochemical oxygen demand (BOD₅), total suspended solids (TSS), fecal coliform, pH, and any additional pollutants defined by the Administrator as conventional. See 40 CFR 401.16. The Administrator designated oil and grease as an additional conventional pollutant. 44 FR 44501 (July 30, 1979). CWA section 304(b)(4)(B).

NPDES permits issued for industrial stormwater discharges are required under Section 402(a)(1) of the CWA to include conditions for meeting technology-based effluent limitations guidelines established under Section 301. Once an effluent limitations guideline is promulgated, NPDES permits are required to incorporate limits based on such limitations. See 40 CFR 122.44(a)(1). Prior to the promulgation of national effluent limitation guidelines, permitting authorities incorporate technology-based effluent limitations on a best professional judgment basis. See CWA section 402(a)(1)(B); 125.3(a)(2)(ii)(B).

Purpose: The CWA requires that discharges from existing facilities, at a minimum, must meet technology-based effluent limitations reflecting, among other things, the technological capability of permittees to control pollutants in their discharges. These control measures must reflect best industry practice considering their technological availability and economic practicability (BPT) and achievability (BAT). Because toxic and nonconventional pollutants are controlled in the first step by BPT and in the second step by BAT, and the second level of control is "increasingly stringent" {EPA v. National Crushed Stone, 449 U.S. 64, 69 (1980)}, for simplicity of discussion, the rest of this discussion will focus on BAT. Similarly, because the BAT levels of control are BMPs and pollution prevention measures, they will also control conventional pollutants. Therefore this discussion will focus on BAT rather than BCT or BPT for conventional pollutants. To determine technological availability and economic achievability, operators need to consider what control measures are considered "best" for their industry, and then select and design control measures for their site that are viable in terms of cost and technology. EPA believes that for many facilities minimization of pollutants in stormwater discharges can be achieved without using highly engineered, complex treatment systems. The specific limits included in Part 2.1 emphasize effective "low-tech" controls, such as minimizing exposure to stormwater (albeit, without significantly increasing impervious surfaces), regular cleaning of outdoor areas where industrial activities may take place, proper maintenance of equipment, diversion of stormwater around areas where pollutants may be picked up, minimization of runoff through infiltration and flow dissipation practices, and effective advanced planning and training (e.g., for spill prevention and response). The revisions made to the proposed permit language are intended to further clarify the requirements. The non-numeric effluent limits themselves also provide greater specificity as to what is required to minimize pollutant discharges. Water quality-based effluent limitations (WQBELs) are required by CWA Section

301(b)(1)(C). Water quality-based requirements will be discussed in greater depth in Section VII.B. Both technology-based and water quality-based effluent limitations are implemented through NPDES permits. CWA sections 301(a) and (b).

VI.A.1. Control Measures Used to Meet the Technology-Based Effluent Limits (Part 2).

EPA generally does not mandate specific stormwater control measures operators must select, design, install and implement. It is left to the operator to determine what must be done to meet the applicable effluent limits. For example, Part 2.1.2.1 requires operators to minimize the exposure of raw, final and waste materials to stormwater and runoff. How this is achieved will vary by facility: For some facilities, some or all activities may be moved indoors, while for others this will not be feasible. However, even for the latter, many activities may be moved indoors, others may be "covered" by roofing or tarps, while still other activities may be limited to times when exposure to precipitation is not likely. Each of these stormwater control measures is acceptable and appropriate in some circumstances. In this respect, the non-numeric effluent limits in this permit are analogous to more traditional numeric effluent limits, which also do not require specific control technologies as long as the limits are met.

Stormwater control measures can be actions (including processes, procedures, schedules of activities, prohibitions on practices and other management practices), or structural or installed devices to prevent or reduce water pollution. They can be just about anything that "does the job" of preventing deleterious substances from entering the environment, and of meeting applicable limits. In this permit, industrial facility operators are required to select, design, install, and implement site-specific control measures to meet these limits. Most industrial facilities already have such controls in place for product loss prevention, accident and fire prevention, worker health and safety or to comply with other environmental regulations. The permit along with this fact sheet provides examples of stormwater control measures, but operators must tailor these to their facilities as well as improve upon them as necessary to meet permit limits. The examples emphasize prevention over treatment. However, sometimes more traditional end-of-pipe treatment may be necessary, particularly where a facility might otherwise cause or contribute to a violation of water quality standards.

There are many stormwater control measures that could be used to meet the limits in this permit. The following are helpful resources for developing and implementing stormwater control measures for a facility:

Sector-specific *Industrial Stormwater Fact Sheet Series*, (www.epa.gov/npdes/stormwater/msgp);
National Menu of Stormwater BMPs (www.epa.gov/npdes/stormwater/menuofbmps);
National Management Measures to Control Nonpoint Source Pollution from Urban Areas (www.epa.gov/owow/nps/urbanmm/index.html); and
Stormwater Management for Industrial Activities: Developing Pollution Prevention Plans and Best Management Practices (http://cfpub2.epa.gov/npdes/pkeyword.cfm?keywords=industrial+activities&program_id=0).

VI.B. Control Measures (Part 2.1).

Part 2.1 requires the operator to select, design, install and implement control measures to meet the technology-based effluent limits listed in Part 2.1.2 and 2.1.3 and the water quality-based effluent limitations in Part 2.2. The selection, design and implementation of these control measures must be in accordance with good engineering practices and manufacturer's specifications. Regulated stormwater discharges from the facility include stormwater run-on that commingles with stormwater discharges associated with industrial activity at the facility. If operators find their stormwater control measures are not reducing pollutant discharges adequately, the control measures must be modified in accordance with the Part 4 corrective action requirements.

Some of the control measures required in this part are straightforward and therefore EPA believes compliance documentation (documentation is part of the SWPPP requirements in Part 5) for such measures can be minimal, as appropriate. Thus, the following documentation provision was added: "Effluent limit requirements in Part 2.1.2 that do not involve the site-specific selection of a control measure or are specific activity requirements (e.g., "Drain fluids from equipment and vehicles that will be decommissioned") are marked with an asterisk (*).

Purpose: Part 2.1 establishes the requirements for selecting, designing and implementing control measure practices to meet the technology-based effluent limitations in this permit. This Part also defines the effluent limits that must be met. The approach to control measures in the permit is consistent with the CWA as well as its implementing regulations at 40 CFR 122.44(k)(4). Section 402(a)(2) of the CWA states: "The administrator shall prescribe conditions for such permits to assure compliance with the requirements in paragraph (1) . . . including conditions on data and information collection, reporting and such other requirements as he deems appropriate." (Section 402(a)(1) includes effluent limitation requirements.) This statutory provision is reflected in the CWA implementing regulations, which state that control measures can be included in permits when, "[t]he practices are reasonably necessary to achieve effluent limitations and standards or to carry out the purposes and intent of the CWA." 40 CFR 122.44(k)(4). In this permit, and as contemplated by the statute and regulations, requirements that pertain to the selection, design and implementation of control measures are practices necessary to meet limits, but are not limits themselves. For those control measures flagged with asterisks, EPA believes the relative lack of leeway or options that operators have for compliance justifies the option of allowing operators to just reproduce the requirement as written in SWPPPs. While minimal documentation may be sufficient and reduces some burden, operators may wish to add more information about such things as where, when, and to which things the flagged control measures will be applied, if they deem this information useful.

VI.B.1. Control Measure Selection and Design Considerations (Part 2.1.1).

In Part 2.1.1 operators are required to consider certain factors when selecting control measures, including:

- Preventing stormwater from coming into contact with polluting materials is generally more effective and less costly than trying to remove pollutants from stormwater;
- Using combinations of control measures is more effective than using control measures in isolation for minimizing pollutants;
- Assessing the type and quantity of pollutants, including their potential to impact receiving water quality, is critical to determining which control measures will achieve the limits in this permit;
- Minimizing impervious areas at the facility and infiltrating runoff onsite (via bioretention cells, green roofs, pervious pavement, etc.) can reduce runoff, and improve ground water recharge and stream base flows in local streams (although care must be taken to avoid groundwater contamination);
- Attenuating flow using open vegetated swales and natural depressions can reduce in-stream impacts of erosive flows;
- Conserving and/or restoring riparian buffers will help protect streams from stormwater runoff and improve water quality; and
- Using treatment interceptors (e.g., swirl separators, oil-water separators, sand filters) may be appropriate in some instances to minimize the discharge of pollutants.

Purpose: Part 2.1.1 provides permittees with important considerations for the selection of control measures. No significant changes were made from the 2008 MSGP provision.

VI.B.2 Non-Numeric Effluent Limits Technology-Based Effluent Limits (BPT/BAT/BCT) (Part 2.1.2).

This permit requires permittees to comply with non-numeric technology-based effluent limits (found in Parts 2.1.2 and 8 of the permit) by implementing stormwater control measures. The achievement of these non-numeric limits will result in the reduction or elimination of pollutants from the operator's stormwater discharge. Such limits constitute this permit's technology-based limits, expressed narratively per 40 CFR 122.44(k), and are developed using best professional judgment (BPJ).

The stormwater control requirements in Part 2 are the effluent limitations that apply to all discharges associated with industrial activity eligible for coverage under this permit.

Purpose: Part 2.1.2 requires all operators to meet certain technology-based effluent limits through the implementation of control measures that minimize pollutants from the discharge. The following is a summary of the permit's non-numeric technology-based effluent limits:

Minimize Exposure (Part 2.1.2.1). Part 2.1.2.1 requires permittees to minimize the exposure of manufacturing, processing, and material storage areas to stormwater by either locating industrial materials and activities inside or protecting them with storm-resistant coverings. Minimizing exposure prevents pollutants from coming into contact with precipitation and can reduce the need for control measures to treat or otherwise reduce pollutants in stormwater runoff. Examples include covering materials or activities with temporary structures (e.g., tarps) when wet weather is expected or moving materials or activities to existing or new permanent structures (e.g., buildings, silos, sheds). Even the simple practice of keeping a dumpster lid closed can be very effective. To meet this effluent limit, the permittee must:

- Use grading, berming, or curbing to prevent runoff of contaminated flows and divert run-on away from these areas, unless infeasible;
- Locate materials, equipment, and activities so that potential leaks and spills are contained or able to be contained or diverted before discharging;
- Clean up spills and leaks promptly using dry methods (e.g., absorbents) to prevent the discharge of pollutants;
- Unless infeasible, store leaky vehicles and equipment indoors or, if stored outdoors, use drip pans and absorbents;
- Use spill/overflow protection equipment;
- drain fluids from equipment and vehicles that will be decommissioned or will remain unused for extended periods of time;
- Perform all vehicle and/or equipment cleaning operations indoors, under cover, or in bermed areas that prevent runoff and run-on and also that capture any overspray;
- Drain fluids from equipment and vehicles that will be decommissioned or will remain unused for extended periods of time;* and
- Ensure that all washwater, with the exception of discharges from pavement wash water and routine building washdown described in Part 1.1.3, drains to a sanitary sewer, sump, or other collection system (i.e., not the stormwater drainage system).*

Part 2.1.2.1 also clarifies that the discharge of vehicle and equipment washwater, including tank cleaning operations, is not authorized by the permit. These wastewaters must be covered under a separate NPDES permit, discharged to a sanitary sewer in accordance with applicable

industrial pretreatment requirements, or disposed of otherwise in accordance with applicable law.

Good Housekeeping (Part 2.1.2.2). Part 2.1.2.2 requires that all exposed areas that are potential pollutant sources be kept clean. Good housekeeping is an inexpensive way to maintain a clean and orderly facility and keep contaminants out of stormwater discharges. Often the most effective first step towards preventing pollution in stormwater from industrial sites simply involves using common sense to improve the facility's basic housekeeping methods. Poor housekeeping can result in more stormwater running off a site than necessary and an increased potential for stormwater contamination. A clean and orderly work area reduces the possibility of accidental spills caused by mishandling of chemicals and equipment. Well-maintained material and chemical storage areas will reduce the possibility of stormwater mixing with pollutants.

There are some simple procedures a facility can use to meet the good housekeeping effluent limit, including improved operation and maintenance of industrial machinery and processes, improved materials storage practices, better materials inventory controls, more frequent and regular clean-up schedules, maintaining well organized work areas, and education programs for employees about all of these practices. At a minimum, to comply with this effluent limit the permittee must:

- Sweep or vacuum at regular intervals;
- Store materials in appropriate containers;
- Identify and control all on-site sources of dust to minimize stormwater contamination from the deposition of dust on areas exposed to precipitation;
- Keep all dumpsters under cover or fit with a lid that must remain closed when not in use;*
- Ensure that waste, garbage, and floatable debris are not discharged to receiving waters by keeping exposed areas free of such materials or by intercepting them before they are discharged.

Part 2.1.2.2 also includes a plastic materials requirement for facilities that handle pre-production plastic pellets to implement BMPs to eliminate plastic discharges in stormwater.

The good housekeeping effluent limit has been clarified to provide the required actions that EPA expects will best lead to the attainment water quality standards. Some of the effluent limits in past MSGPs were written in very general terms, leaving operators wide latitude in interpreting what constituted compliance and often to widely varying levels of stormwater program effectiveness amongst facilities. For all areas at a facility where industrial activities occur, an operator must perform the required activities or implement control measures to meet the effluent limit, as appropriate. EPA has newly included language regarding plastic pellets ("nurdles") to this effluent limit to identify and increase awareness of the potential for this type of pollution to occur. The SWPPP must also contain the necessary documentation of the controls, per Part 5.2 of the permit.

Maintenance (Part 2.1.2.3). Permittees must maintain all stormwater control measures in effective operating condition. Permittees are required to comply with the following maintenance requirements:

- Performing inspections and preventive maintenance of stormwater drainage, source controls, treatment systems, and plant equipment and systems that could fail and result in contamination of stormwater;
- Diligently maintaining nonstructural control measures (e.g., keep spill response supplies available, personnel appropriately trained);

- Inspecting and maintaining bag houses quarterly to prevent the escape of dust from the system and immediately removing accumulated dust at the base of the exterior bag house;*
- Cleaning catch basins when the depth of debris reaches two-thirds (2/3) of the sump depth and keeping the debris surface at least 6 inches below the outlet pipe;*

If a permittee finds that their control measures need to be replaced or repaired, Part 2.1.2.3 requires that they immediately take all reasonable steps to minimize or prevent the discharge of pollutants until a permanent solution is installed and made operational, including cleaning up any contaminated surfaces so that the material will not discharge in subsequent storm events. The permit specifies that "immediately" means that all reasonable steps to minimize or prevent the discharge of pollutants must be taken on the same day the repair or replacement of a stormwater control is identified until a permanent solution is installed and made operational. However, if a problem is identified at a time in the work day when it is too late to take action, the initiation of action must begin on the following work day. EPA clarifies that "all reasonable steps" does not necessitate taking action when it is unsafe to do so (e.g., due to inclement weather).

The new language in this section includes industry-standard catch basin cleaning requirements to prevent this maintenance action from being overlooked. Part 2.1.2.3 has also been clarified to provide specific actions required to maintain a facility's stormwater control measures and timeframes for remediating situations where pollutants could be released.

Spill Prevention and Response Procedures (Part 2.1.2.4). Part 2.1.2.4 requires that the potential for leaks, spills and other releases, which are major sources of stormwater pollution, to be exposed to stormwater be minimized. The purpose of this effluent limit is not only to prevent spills and leaks but, in the event one does occur, to limit environmental damage. Operators should identify potential spill areas and keep an inventory of materials handled, used and disposed of. Based on an assessment of possible spill scenarios, permittees must specify appropriate material handling procedures, storage requirements, containment or diversion equipment, and spill cleanup procedures that will minimize the potential for spills and, in the event of a spill, ensure proper and timely response. Part 2.1.2.4 has been clarified to provide specific actions required to minimize the potential for leaks, spills and other releases that may be exposed to stormwater. To comply with this effluent limit, the permittee must:

- Plainly label containers (e.g., "Used Oil," "Spent Solvents," "Fertilizers and Pesticides") that could be susceptible to spillage or leakage to encourage proper handling and facilitate rapid response if spills or leaks occur;*
- Implement procedures for material storage and handling, including the use of secondary containment and barriers between material storage and traffic areas, or a similarly effective means designed to prevent the discharge of pollutants from these areas;
- Develop training on the procedures for expeditiously stopping, containing, and cleaning up leaks, spills, and other releases. When needed, execute such procedures as soon as possible;
- Keep spill kits on-site, located near areas where spills may occur; and
- Notify appropriate facility personnel, emergency response agencies, and regulatory agencies when a leak, spill, or other release occurs.

Part 2.1.2.4 also specifies that where a leak, spill, or other release containing a hazardous substance or oil in an amount equal to or in excess of a reportable quantity established under either 40 CFR Part 110, 40 CFR Part 117, or 40 CFR Part 302, occurs during a 24-hour period, the permittee must notify the National Response Center (NRC) at (800) 424-8802 or, in the Washington, DC, metropolitan area, call (202) 267-2675 in accordance with the requirements of

40 CFR Part 110, 40 CFR Part 117, and 40 CFR Part 302 as soon as you have knowledge of the discharge. State or local requirements may necessitate reporting spills or discharges to local emergency response, public health, or drinking water supply agencies. Contact information must be in locations that are readily accessible and available.

Part 2.1.2.4 is substantially similar to the 2008 MSGP. EPA has added some specificity regarding the use of secondary containment and barriers between material storage and traffic areas to ensure that pollutants in leaks or spills from these areas are adequately prevented from being discharged. Part 2.1.2.4 also requires that spill kits be kept on-site to ensure that any spills are cleaned-up expeditiously.

Erosion and Sediment Controls (Part 2.1.2.5). Part 2.1.2.5 requires operators to minimize erosion by stabilizing exposed soils at the facility and to place flow velocity dissipation devices at discharge locations and use structural and non-structural controls to prevent the discharge of sediment.

The purpose of this requirement is to prevent discharges of sediment from exposed areas of industrial sites that, due to construction activities, steep slopes, sandy soils or other factors, are prone to soil erosion. Construction activities typically remove grass and other protective ground covers resulting in the exposure of underlying soil to wind and rain. Similarly, steep slopes or sandy soils may not be able to hold plant life so that soils are exposed. Because the soil surface is unprotected, dirt and sand particles are easily picked up by wind or washed away by rain. This erosion process can be controlled or prevented through the use of certain control measures.

To meet this limit, operators must select, design, install and implement controls to address the on-site exposed areas prone to soil erosion. Erosion control practices such as seeding, mulching and sodding prevent soil from becoming dislodged and should be considered first. Sediment control practices such as silt fences, sediment ponds, and stabilized entrances trap sediment after it has eroded. Sediment control practices, such as flow velocity dissipaters and sediment catchers, must be used to back-up erosion control practices. There are many resources available to help operators select appropriate control measures for erosion and sediment, including EPA's Stormwater Discharges from Construction Activities website at: www.epa.gov/npdes/stormwater/construction.

Management of Runoff (Part 2.1.2.6). Part 2.1.2.6 requires operators to divert, infiltrate, reuse, contain or otherwise reduce stormwater runoff to minimize pollutants in the discharge, and to employ practices that direct the flow of stormwater away from areas of exposed materials or pollutant sources. Such practices can also be used to divert runoff that contains pollutants to natural areas or other types of treatment locations.

To meet this effluent limit, operators may consider vegetative swales, collection and reuse of stormwater, inlet controls, snow management, infiltration devices, and wet detention/retention basins. If infiltration is a selected control, permittees should pay special attention to the discussion at the end of this section of the fact sheet entitled: *Stormwater infiltration control measures that meet the definition of a Class V Injection Well could be subject to the Underground Injection Control (UIC) Regulations*.

In selecting, designing, installing, and implementing appropriate control measures, operators are encouraged to consult with EPA's internet-based resources relating to runoff management, including the sector-specific *Industrial Stormwater Fact Sheet Series*, (www.epa.gov/npdes/stormwater/msgp), *National Menu of Stormwater BMPs* (www.epa.gov/npdes/stormwater/menuofbmps), and *National Management Measures to Control Nonpoint Source Pollution from Urban Areas* (www.epa.gov/owow/nps/urbanmm/index.html), and any similar state or tribal publications.

Salt Storage Piles or Pile Containing Salt (Part 2.1.2.7). Part 2.1.2.7 requires that piles of salt or piles containing salt used for deicing or other industrial purposes be enclosed or covered. Operators must also implement appropriate measures to minimize the exposure of the piles during the adding to or removing from processes. Piles do not need to be enclosed or covered if

stormwater runoff from the piles is not discharged or if discharges from the piles are authorized under another NPDES permit.

Options for meeting the salt pile effluent limit include covering the piles or eliminating the discharge from such areas of the facility. Preventing exposure of piles to stormwater or run-on also eliminates the economic loss from materials being dissolved and washed away. A permanent under-roof storage facility is the best way to protect chemicals from precipitation and runoff, but where this is not possible, salt piles can be located on impermeable bituminous pads and covered with a waterproof cover.

Sector-Specific Effluent Limits (Part 2.1.2.8- Deleted). This provision was deleted from the 2008 MSGP and moved to Part 2.1.2 to provide clarification as to what requirements apply to the permittee.

Employee Training (Part 2.1.2.8). Operators must train all employees who work in areas where industrial materials or activities are exposed to stormwater, or who are responsible for implementing activities necessary to meet the conditions of this permit.

Employee training programs should thoroughly educate members of the Stormwater Pollution Prevention Team (see Part 5.2.1) on their roles in implementing the control measures employed to meet the limits in the permit. Part 2.1.2.8 specifies that personnel must be trained in at least the following if related to the scope of their job duties:

- An overview of what is in the SWPPP;
- Spill response procedures, good housekeeping, maintenance requirements, and material management practices;
- The location of all controls on the site required by this permit, and how they are to be maintained;
- The proper procedures to follow with respect to the permit's pollution prevention requirements; and
- When and how to conduct inspections, record applicable findings, and take corrective actions.

Training sessions should be conducted at least annually to assure adequate understanding of the objectives of the control measures and the individual responsibilities of each employee. More frequent training may be necessary at facilities with high employee turnover or where stormwater programs are involved or multi-faceted. Often, training could be a part of routine employee meetings for safety or fire protection. Where appropriate, contractor personnel also must be trained in relevant aspects of stormwater pollution prevention.

Additional specificity was added to the employee training requirements in the MSGP in order to provide clarity to permittees about the requirements of the effluent limit. The requirements for employee training are also consistent with the employee training requirements in EPA's 2012 Construction General Permit.

Non-Stormwater Discharges (Part 2.1.2.9). Part 2.1.2.9 specifies that if non-stormwater discharges requiring NPDES permit coverage other than those specifically authorized in Part 1.1.3 will be discharged, such non-stormwater discharges are not covered by this permit or the permit shield provision of the CWA Section 402(k) and must be covered under another NPDES permit. This limit is intended to reinforce the fact that, with the exception of the exclusive list of allowable non-stormwater discharges listed in Part 1.1.3 of the permit, non-stormwater discharges requiring NPDES permit coverage are ineligible for coverage under the permit, pursuant to Part 1.1.4. Operators needing help in finding and eliminating unauthorized discharges may find the following guidance helpful: *Illicit Discharge Detection and Elimination: A Guidance Manual for*

Program Development and Technical Assessments, Chapters 7, 8, 9 at:
http://www.epa.gov/npdes/pubs/idde_manualwithappendices.pdf

Waste, Garbage, and Floatable Debris (Part 2.1.2.11 – Deleted). This 2008 MSGP provision was deleted as a separate effluent limit in the proposal and these requirements are included in the good housekeeping measures requirements in Part 2.1.2.2.

Dust Generation and Vehicle Tracking of Industrial Materials (Part 2.1.2.10). Part 2.1.2.10 requires operators to minimize generation of dust and off-site tracking of raw, final or waste materials.

Dust control practices can reduce the activities and air movement that cause dust to be generated. Airborne particles pose a dual threat to the environment and human health. Dust carried off-site increases the likelihood of water pollution. Control measures to minimize the generation of dust include:

- *Vegetative Cover.* In areas not expected to handle vehicle traffic, vegetative stabilization of disturbed soil is often desirable. By establishing a vegetative cover, exposed soil is stabilized and wind velocity at ground level can be reduced, thus reducing the potential for dust to become airborne.
- *Mulch.* Mulching can be a quick and effective means of dust control for a recently disturbed area.
- *Wind Breaks.* Wind breaks are barriers (either natural or constructed) that reduce wind velocity through a site which then reduces the possibility of suspended particles. Wind breaks can be trees or shrubs left in place during site clearing or constructed barriers such as a wind fence, snow fence, tarp curtain, hay bale, crate wall or sediment wall.
- *Stone.* Stone can be an effective dust deterrent in areas where vegetation cannot be established.
- *Spray-on Chemical Soil Treatments (Palliatives).* Examples of chemical adhesives include anionic asphalt emulsion, latex emulsion, resin-water emulsions and calcium chloride. Chemical palliatives should be used only on mineral soils. When considering chemical application to suppress dust, determine whether the chemical is biodegradable or water-soluble and what effect its application could have on the surrounding environment, including waterbodies and wildlife.

To reduce vehicle tracking of materials, the operator should keep stored or spilled materials away from all roads within the site. Specific measures such as setting up a wash site or separate pad to clean vehicles prior to their leaving the site may be effective as well.

Stormwater infiltration control measures that meet the definition of a Class V Injection Well could be subject to the Underground Injection Control (UIC) Regulations

Infiltration of stormwater is generally highly recommended because of its pollutant mitigation and hydrological benefits, but care must be taken when using such control measures at industrial sites so as to not degrade underground sources of drinking water. The Safe Drinking Water Act (SDWA) was established to protect drinking water supplies of the U.S. It requires EPA to regulate underground injection of fluids through subsurface disposal systems that discharge wastes or other fluids that may endanger sources of drinking water (see 40 CFR Part 144). These regulations (often referred to as UIC regulations) may apply to industrial operators if their stormwater is treated by an infiltration control measure that can be classified as a Class V Injection Well (e.g., a stormwater drainage well).

By definition an *Injection Well* is any bored, drilled or driven shaft, or dug hole that is deeper than wide at its widest surface dimension; an improved sinkhole; or a subsurface fluid distribution system. *Subsurface fluid distribution system* means an assemblage of perforated pipes, drain tiles or other similar mechanisms intended to distribute fluids below the surface of the ground.

Improved sinkhole means a naturally occurring karst depression or other natural crevice found in volcanic terrain and other geologic settings that has been modified by man for the purpose of directing and emplacing fluids into the subsurface. For example, surface grading to direct stormwater to a naturally occurring sinkhole results in an improved sinkhole. Therefore, a control measure designed to place rain water or snowmelt below the land surface that has been engineered or constructed in any of the ways listed above is a UIC Class V Injection Well.

If an infiltration control measure can be classified as a Class V Injection Well, the operator is required to register it with the proper authority. If an underground source of drinking water is present, a Federal or State subsurface discharge permit may also be required. To avoid possible impacts on underground sources of drinking water, EPA recommends not implementing an infiltration control measure if it meets the definition of a Class V Injection Well. Alternatively, an operator could revise the design of the infiltration control measure to avoid impacts to underground sources of drinking water.

Many States have UIC primary responsibility (or primacy), and thus would perform the registering and permitting of Class V Injection Wells. Some States share responsibility with EPA, and some States' and territories' (and all Indian lands) programs are completely administered by EPA. Operators can find out the status of their State's UIC program at www.epa.gov/safewater/uic/primacy.html.

On June 13, 2008, EPA issued a policy memo that clarified which stormwater infiltration practices have the potential to be regulated as Class V wells by the UIC program and which would likely not be considered Class V wells. A copy of this memo is available on EPA's website at: www.epa.gov/npdes/greeninfrastructure (a copy is also provided in the record for this permit).

VI.B.3. Numeric Effluent Limitations Based on Effluent Limitations Guidelines (Part 2.1.3).

This requirement holds permittees responsible for complying with any applicable Federal effluent limitations guidelines eligible and authorized for coverage under this permit. The following describes where these limits can be found in the permit.

Regulated Activity	40 CFR Part/Subpart	Effluent Limit
Discharges resulting from spray down or intentional wetting of logs at wet deck storage areas	Part 429, Subpart I	See Part 8.A.7
Runoff from phosphate fertilizer manufacturing facilities	Part 418, Subpart A	See Part 8.C.4
Runoff from asphalt emulsion facilities	Part 443, Subpart A	See Part 8.D.4
Runoff from material storage piles at cement manufacturing facilities	Part 411, Subpart C	See Part 8.E.5
Mine dewatering discharges at crushed stone, construction sand and gravel, or industrial sand mining facilities	Part 436, Subparts B, C, or D	See Part 8.J.9
Runoff from hazardous waste landfills	Part 445, Subpart A	See Part 8.K.6
Runoff from non-hazardous waste landfills	Part 445, Subpart B	See Part 8.L.10
Runoff from coal storage piles at steam electric generating facilities	Part 423	See Part 8.O.8
Existing and new primary airports with 1,000 or more annual jet departures that discharge wastewater associated with airfield pavement deicing that contains urea commingled with stormwater	Part 449	See Part 8.S.7

Purpose: To define for the operator the technology-based limits based on Federal effluent limitations guidelines applicable to specific sectors. EPA added the requirements for

existing and new primary airports with 1,000 or more annual jet departures that discharge wastewater associated with airfield pavement deicing that contains urea commingles with stormwater to incorporate the Airport Deicing Effluent Limitation Guideline.

VI.C. Water Quality-Based Effluent Limitations (Part 2.2).

This permit includes water quality-based effluent limits (WQBELs) to control discharges as necessary to meet applicable water quality standards. The provisions of Part 2.2 constitute the WQBELs of this permit, and supplement the permit's technology-based effluent limits in Part 2.1. The following is a list of the permit's WQBELs:

- Control the discharge as necessary to meet applicable water quality standards in the receiving waterbody (See Part 2.2.1);
- Comply with any additional, more stringent requirements that EPA determines are necessary to meet an applicable wasteload allocation or to further control discharges to impaired waters that do not yet have an EPA approved or established TMDL (See Part 2.2.2); and
- Comply with any additional, more stringent requirements that EPA determines are necessary to comply with applicable antidegradation conditions for discharges to Tier 2 waters (see Part 2.2.3).

Prior to or after initial discharge authorization, EPA may require additional WQBELs on a site-specific basis, or require the permittee to obtain coverage under an individual permit, if information in the NOI, required reports, or from other sources indicates that, after meeting the technology-based limits in Part 2.1 and the WQBELs in Part 2.2, the facility is causing or contributing to an exceedance of water quality standards.

Purpose: Part 2.2 includes limits that are as stringent as necessary to meet applicable water quality standards, consistent with 40 CFR 122.44(d)(1). EPA expects that facilities that achieve the permit's technology-based limits through the careful selection, design, installation, and implementation of effective control measures are likely to already be controlling their stormwater discharges to a degree that would make additional water quality-based controls unnecessary. However, to ensure that this is the case, the permit contains additional conditions, which, in combination with the BAT/BPT/BCT limits in this permit, EPA expects to be as stringent as necessary to achieve water quality standards. EPA notes that the WQBELs included in this permit are initially non-numeric. EPA relies on a narrative expression of the need to control discharges as necessary to meet applicable water quality standards, and to employ additional controls where necessary to be consistent with applicable WLAs in an approved or established TMDL or to comply with a state or tribe's antidegradation policies. This is a reasonable approach for this permit, based on the following considerations:

- *Limited waterbody information available about individual dischargers prior to authorization:* EPA will not know prior to receiving NOIs from individual dischargers intending to be covered by this permit where these facilities are located and where they discharge. Facility operators must provide information in their NOIs identifying the receiving water into which they discharge. These questions are designed to help EPA determine what, if any, special protections apply to that water. To assist operators in determining their receiving waters information, EPA intends to integrate a tool into the eNOI system that will automatically determine receiving waters information and impairment status. EPA's receipt of the NOI will then trigger a more detailed screening process within the Agency geared at determining if any waterbody-specific requirements are appropriate. Prior to this time though it is simply impracticable to anticipate these

specific requirements, and include as specific detailed requirements in the general permit, without knowing more about where the facility is discharging.

- *Review of the NOI and applicable watershed documents is the appropriate forum for deriving facility-specific WQBELs:* Once EPA receives the NOI, the Agency will then be in a position to assess whether any more stringent requirements are necessary. For instance, if a particular NOI indicates that the facility will discharge to an impaired waterbody that has an approved or established TMDL, EPA will be able to review the applicable documents to determine if any additional effluent limits are necessary. Among other things, EPA will be analyzing the TMDL for applicable WLAs that were meant to apply to industrial stormwater discharges. After that determination has been made, EPA will determine how those allocations would translate into permit requirements and whether and to what extent the existing effluent limits are already controlling the discharge consistent with the WLA. If more stringent controls are necessary, EPA will notify the effected facility of the need to comply with stricter limits. EPA anticipates that similar assessments will occur if facilities indicate that they are discharging to a waterbody designated as Tier 2 or 2.5 for antidegradation purposes.

Water Quality Standards (Part 2.2.1). Part 2.2.1 specifies that each permittee control their discharge as necessary to meet applicable water quality standards. EPA expects that compliance with the other conditions in this permit (e.g., the technology-based limits, corrective actions, etc.) will result in discharges that are controlled as necessary to meet applicable water quality standards. If the permittee becomes aware, or EPA determines, that the discharge does not meet applicable water quality standards, corrective actions are required. In addition, at any time EPA may impose additional, more stringent WQBELs on a site-specific basis, or require an individual permit, if information suggests that the discharge is not controlled as necessary to meet applicable water quality standards. This includes situations where additional controls are necessary to comply with a wasteload allocation in an EPA established or approved TMDL.

Purpose: The language in Part 2.2.1 affirms the permittee's requirement to control its discharges as necessary to meet applicable water quality standards. EPA reserves the authority to require more stringent requirements where necessary to meet applicable standards, or, alternatively, to require the permittee to apply for an individual permit. The requirement to meet water quality standards was revised to include situations where EPA deems it necessary to mandate additional stormwater controls to comply with a wasteload allocation (WLA) in a TMDL. WLAs can be very difficult to comply with; therefore, EPA may need to provide operators with special requirements to achieve TMDL compliance.

Discharges to Water Quality Impaired Waters (Part 2.2.2). This section includes the requirements applicable to discharges to "impaired waters". Projects will be considered to discharge to an impaired water if the first water of the U.S. discharge to is identified by a state, tribe, or EPA pursuant to Section 303(d) of the CWA as not meeting an applicable water quality standard, or is included in an EPA-approved or established total maximum daily load (TMDL). For discharges that enter a storm sewer system prior to discharge, the first water of the U.S. discharged to is the waterbody that receives the stormwater discharge from the storm sewer system.

Purpose: To include a consistent determination of additional requirements for discharges to "impaired waters" so that the scope of the requirements in Part 2.2.2 can be more readily understood by permittees.

Existing Discharge to an Impaired Water with an EPA Approved or Established TMDL (Part 2.2.2.1). Where an operator indicates on its NOI that the discharge is to one of these waters, EPA will review the applicable TMDL to determine as a threshold matter whether the TMDL includes

requirements that apply to the individual discharger or its industrial sector. EPA will determine whether any more stringent requirements are necessary to comply with the WLA, whether compliance with the existing permit limits is sufficient, or, alternatively, whether an individual permit application is necessary.

Purpose: The purpose of Part 2.2.2.1 is to require compliance with applicable requirements in a TMDL and to clarify for the permittee how they will know when such requirements apply. These provisions are intended to implement the requirements of 40 CFR 122.44(d)(1)(vii)(B), which requires that water quality based effluent limits “are consistent with the assumptions and requirements of any available wasteload allocation for the discharge” Because WLAs for stormwater discharges may be specified in many different formats, EPA believes that it has not always been clear to permittees in the past what they need to do to comply with applicable WLAs. EPA has thus established a new process to ensure that these requirements are properly interpreted and communicated to the permittee in a way that can be implemented.

Existing Discharge to an Impaired Water without an EPA Approved or Established TMDL (Part 2.2.2.2). If the discharge is to an impaired water without a TMDL, the permit reiterates the requirement to comply with the Part 2.2.1 requirement to control its discharge as necessary to meet applicable water quality standards and with the monitoring requirements of Part 6.2.4.

Purpose: The purpose of Part 2.2.2.2 is to clarify that dischargers to impaired waters without an EPA approved or established TMDL are expected to meet water quality standards if they comply with the other requirements in the permit, including monitoring requirements applicable to impaired waters discharges in Part 6.2.4.

New Discharge to an Impaired Water (Part 2.2.2.3). This provision requires new dischargers to impaired waters that have become eligible under Part 1.1.4.8 to implement and maintain any control measures or conditions on the site that enabled the operator to become eligible under that condition, and to modify such measures or conditions as necessary pursuant to Part 4 corrective actions.

Purpose: The purpose of Part 2.2.2.3 is to require the permittee to maintain any control measures in good working order that are necessary to meet the eligibility requirements for new dischargers to impaired waters during the permit term.

Tier 2 Antidegradation Requirements for New or Increased Discharges (Part 2.2.3). This provision requires that any existing permittee determined to have an increased discharge¹, directly to waters designated by a state or tribe as Tier 2 (or 2.5) as defined in Appendix A of the permit, for antidegradation purposes must comply with any additional requirements and procedures that EPA determines are necessary to comply with the applicable state or federal antidegradation requirements. EPA may also notify the permittee that they cannot be covered under the MSGP due to the unique characteristics of the discharge or the receiving waters, in light of the applicable antidegradation policy, and that they must apply for an individual permit. Conversely, if EPA does not notify the permittee that additional antidegradation requirements must be met, the permittee is authorized to discharge under the permit. In the absence of information demonstrating otherwise, EPA expects that compliance with the stormwater control requirements of this permit will result in discharges that will not lower the water quality of the applicable water. New dischargers to waters designated as Tier 3, outstanding national resource waters, as defined in 40 CFR 131.12(a)(3), are not eligible for coverage under this permit (see Part 1.1.4.9).

Purpose: This provision implements applicable antidegradation requirements. For background, state and tribal water quality standards are required to contain an

¹ In general, any existing discharger required to notify EPA of an increased discharge consistent with Part 7.4 (i.e., a “planned changes” report) will be considered to have an increased discharge.

antidegradation policy pursuant to 40 CFR 131.12. In addition, each state and tribe is required to identify implementation methods that, at a minimum, provide a level of protection that is consistent with the federal antidegradation provisions. Waters designated as "Tier 2" by states and tribes can generally be described as follows:

Tier 2 protects "high quality" waters -- water bodies where existing conditions are better than necessary to support CWA § 101(a)(2) "fishable/swimmable" uses. (Note that some states have designated waters using criteria that EPA considers to be more stringent than the federal Tier 2 designation, but less stringent than the federal Tier 3 designation. EPA uses the term "Tier 2.5" to describe such waters.) Water quality may be lowered in such Tier 2 or Tier 2.5 waters where "allowing lower water quality is necessary to accommodate important economic or social development in the area in which the waters are located." 40 CFR 131.12(a)(2). The process for making this determination is what is commonly known as "Tier 2 review." The essence of a Tier 2 review is an analysis of alternatives to the discharge. 63 Fed. Reg. 36,742, 36,784 (col. 1)(July 8, 1998). In no case may water quality be lowered to a level that would interfere with existing or designated uses. 40 CFR 131.12(a)(1), 122.44(d). States have broad discretion in identifying Tier 2 waters. 63 Fed. Reg. at 36,782-83. In addition, states and tribes may adopt what is known as a "significance threshold." A "significance threshold" is a *de minimis* level of lowering of water quality below which the effects on water quality do not require Tier 2 review. *Id.* at 36,783.

Note about alternate antidegradation designations used by some States: Some states have adopted alternative approaches to designating Tier 2 or Tier 3 waters. These are collectively referred to as "Tier 2.5" waters since they fall between Tiers 2 and 3 in terms of characteristics and regulations supporting them. Tier 2.5 waters are commonly described as providing protection more stringent than Tier 2 but allowing some added flexibility that a Tier 3-designated water (Outstanding Natural Resource Water) would not. Refer to *Memorandum from William Diamond* (Former Director, Standards and Applied Science Division) to *Victoria Binetti* (Chief, Region III, Program and Support Branch), June 13, 1991. Examples of Tier 2.5 waters exist in Massachusetts, which designates "outstanding resource waters" (ORWs). These waters have exceptional sociologic, recreational, ecological and/or aesthetic values and are subject to more stringent requirements under both the Massachusetts Water Quality Standards and the Massachusetts Stormwater Management Standards. ORWs include vernal pools certified by the Natural Heritage Program of the Massachusetts Department of Fisheries and Wildlife and Environmental Law Enforcement, all Class A designated public water supplies with their bordering vegetated wetlands, and other waters specifically designated. All of the provisions in the MSGP pertaining to Tier 2 waters apply equally to Tier 2.5 waters. And, where there is a reference in this fact sheet to Tier 2 waters, the reader should infer that EPA intends to include Tier 2.5 waters as well.

VI.D. Requirements Relating to Endangered Species and Historic Properties (Part 2.3).

This requirement holds permittees responsible during the permit term for complying with any agreed-upon requirements that were considered necessary as a condition or prerequisite for becoming eligible under Parts 1.1.4.5 and 1.1.4.6.

Purpose: The purpose of Part 2.3 is to clarify that permittees must continue to meet conditions or prerequisites considered necessary to satisfy eligibility requirements related to protection of endangered species and/or critical habitat, or historic properties. No significant changes were made to this Part from the 2008 MSGP.

VI.E. Requirements Relating to the National Environmental Policy Act (NEPA) Review

EPA removed language requiring facilities subject to New Source Performance Standards (NSPS) to obtain and retain documentation regarding National Environmental Policy Act (NEPA) compliance. 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.

Purpose: The purpose of removing NEPA requirements from the permit for operators subject to NSPS is because the Agency is doing the required environmental assessment on a programmatic basis for all the NSPS industries the MSGP covers. This is in accordance with NEPA requirements per 42 U.S.C 432 *et seq.* Previous permits required individual operators to do the analysis and the results were not subject to EPA review or public participation (i.e., notice and comment). By doing the analysis as part of permit reissuance, these problems will be rectified and burdens on operators will be reduced.

VII. Inspections (Part 3).

VII.A. Routine Facility Inspections (Part 3.1).

The permit's inspection requirements in Part 3.1 require permittees to conduct inspections at least quarterly of all areas of the following areas:

- Areas where industrial materials or activities are exposed to stormwater.
- Areas identified in the SWPPP and those that are potential pollutant sources (see Part 5.2.3).
- Areas where spills and leaks have occurred in the past 3 years.
- Discharge points.
- Control measures used to comply with the effluent limits contained in this permit.

Increased frequency (i.e., more than quarterly) may be appropriate for some types of equipment, processes and stormwater control measures, or areas of the facility with significant activities and materials exposed to stormwater. The relevant inspection schedules must be documented in the SWPPP. For example, inspection of outdoor areas associated with regular industrial activity may require more frequent inspections to ensure that that the site is swept, garbage picked up, drips and spills cleaned, etc., on a regular basis. At least one of the routine inspections must be conducted during a period when a stormwater discharge is occurring, which will enable the permittee to better identify sources of pollutants discharged in stormwater runoff from the facility and to actively observe the effectiveness of control measures.

Qualified personnel must conduct the routine facility inspections with at least one member of the stormwater pollution prevention team participating. Inspectors must consider the results of visual and analytical monitoring (if any) for the past year when planning and conducting inspections. Part 3.1 requires the following be examined during an inspection:

- Industrial materials, residue or trash that may have or could come into contact with stormwater.
- Leaks or spills from industrial equipment, drums, tanks and other containers.
- Offsite tracking of industrial or waste materials, or sediment where vehicles enter or exit the site.
- Tracking or blowing of raw, final or waste materials from areas of no exposure to exposed areas.
- Control measures needing replacement, maintenance or repair.

During an inspection occurring during a stormwater discharge, control measures implemented to comply with effluent limits must be observed to ensure they are functioning correctly. Discharge points, as defined in Appendix A, must also be observed during this inspection. If such discharge locations are inaccessible, nearby downstream locations must be inspected.

Purpose: Routine facility inspections help ensure that stormwater control measures are adequate and are operated and maintained properly. The Comprehensive Site Inspection Procedures and Routine Facility Inspection Procedures in the 2008 MSGP are essentially the same but with different documentation requirements. Therefore for the proposed 2013 permit, these two inspection requirements sections have been consolidated into one, eliminating redundancies. Such streamlining makes the permit briefer and more understandable. The timing, amount and requirements for a yearly cycle of inspections remain the same. The documentation provisions in the proposed MSGP consolidate the separate documentation requirements of the previous permit. In the proposed permit, EPA has added more clarity regarding the areas of the site that should be examined during an inspection.

The routine facility inspection requirement also specifies that certain types of equipment, processes, and stormwater control measures, or areas of the facility with significant activities and materials exposed to stormwater, may need to be inspected more frequently (i.e., more than quarterly) (this provision has not changed from the 2008 MSGP). For instance, because vehicle and equipment maintenance and cleaning are particularly dirty activities, EPA believes they merit a more frequent inspection schedule. In addition, properly functioning BMPs for these activities, such as oil-water separators, are very important for an effective stormwater program, and should also be inspected at the same frequency.

VII.A.1 Exceptions to Routine Facility Inspections for Inactive and Unstaffed Sites (Part 3.1.1).

Operators of inactive and unstaffed sites (Part 3.1.1) may invoke a quarterly exception if they eliminate all exposure of industrial activities and materials to stormwater, and document this in the SWPPP. This waiver is available to all sectors covered under this permit. In addition, inactive and unstaffed mines covered under Sectors G, H, and J are eligible for this waiver even if all exposure has not been eliminated, due to the unique issues affecting such facilities, such as the remoteness of many mining sites. Facilities that make use of this waiver must still implement any necessary control measures and comply with other applicable permit requirements. This provision has not changed from the 2008 MSGP.

VII.A.2 Routine Facility Inspection Documentation (Part 3.1.2).

Part 3.1.2 of the proposed MSGP describes the specific information to be documented for each routine inspection. Additionally, some industry sectors have specific routine inspection requirements, which are described in Part 8 of the permit for the relevant sectors. At a minimum, the permit requires the following documentation for each quarterly inspection:

- The inspection date and time;
- The name(s) and signature(s) of the inspector(s);
- Weather information and a description of any discharges occurring at the time of the inspection;
- Any previously unidentified discharges and/or pollutants from the site;
- Any evidence of, or the potential for, pollutants entering the drainage system;
- Observations regarding the physical condition of and around all outfalls including any flow dissipation devices, and evidence of pollutants in discharges and/or the receiving water;

- Any control measures needing maintenance, repairs, or replacement;
- Any incidents of noncompliance observed; and
- Any additional control measures needed to comply with the permit requirements.

Part 3.1.2 also clarifies that if a discharge visual assessment is performed during a routine facility inspection, the results of this assessment may be included in the same report as the routine facility inspection report.

This provision is substantially similar to the inspection documentation requirements in the 2008 permit for routine and comprehensive inspections.

VII.B. Quarterly Visual Assessment of Stormwater Discharges (Part 3.2).

This permit retains the same requirements from the 2008 MSGP to conduct quarterly visual examinations of stormwater discharges. All industrial sectors covered by this permit are required to conduct these examinations.

Part 3.2 requires that grab samples of stormwater discharges be taken and examined visually for the presence of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of stormwater pollution. No analytical tests are required to be performed on these samples. The grab samples must be taken within the first 30 minutes or as soon as practicable after the occurrence of an actual discharge from your site (including documentation of why sampling was not practicable within the first 30 minutes)

Part 3.2.1 requires permittees to document the results of their visual assessments in a report that includes the sample location, date and time, personnel collecting the sample and performing visual assessments, results of the observations, and probable sources of any observed stormwater contamination. The visual examination reports must be maintained onsite with the SWPPP.

When conducting a stormwater visual examination, the pollution prevention team, or individual team member, should attempt to relate the results of the examination to potential sources of stormwater contamination on the site. For example, should an oil sheen be observed, facility personnel (preferably members of the pollution prevention team) should conduct an inspection of the area of the site draining to the examined discharge to look for obvious sources of spilled oil, leaks, etc. If a source can be located, then this information would allow the facility operator to immediately conduct a clean-up of the pollutant source, and/or to revise control measures to minimize the contaminant source.

Part 3.2.3 of the permit includes the same exceptions from the 2008 MSGP to these requirements in order to account for circumstances during which conducting quarterly visual assessments may not be infeasible, namely during adverse (e.g., dangerous) weather conditions, or in parts of the country subject to climates with irregular stormwater runoff or to large amounts of snowfall. Where these types of conditions prevent a facility from performing these assessments quarterly, permittees have the ability to modify their assessment schedule such that the four assessments are conducted over the course of the year during periods when discharges, be it from rain or snow, actually occur and can be safely observed.

Operators of inactive and unstaffed sites may invoke a visual monitoring exception if they eliminate all exposure of industrial activities and materials to stormwater, and document this in the SWPPP. This waiver is available to all sectors covered under this permit. In addition, inactive and unstaffed mines covered under Sectors G, H, and J are eligible for this waiver even if all exposure has not been eliminated, due to the unique issues affecting such facilities, such as the remoteness of many mining sites. Facilities that make use of this waiver must still implement any necessary control measures and comply with other applicable permit requirements. Inactive and unstaffed sites must still conduct annual inspections.

Operators with two or more essentially identical outfalls may also elect to conduct a visual assessment at just one of these outfalls each quarter, but must perform their quarterly assessments on a rotating basis to ensure that each substantially identical outfall is periodically observed throughout the period of permit coverage. If stormwater contamination is identified through visual monitoring performed at a substantially identical outfall, the operator must assess and modify his/her control measures as appropriate for each outfall represented by the monitored outfall. This approach ensures that operators will assess discharges from the entire site over the term of the permit, and will address any identified problems at all substantially identical outfalls where the problem may be occurring.

Purpose: Visual assessments provide a useful and inexpensive means for permittees to evaluate the effectiveness of their control measures. Although the visual examination cannot assess the chemical properties of the stormwater discharged from the site, the examination will provide meaningful results upon which the permittee may act quickly. No significant changes were made to the provisions from the 2008 MSGP, except language has been included to alert permittees that corrective actions must be initiated for any adverse water quality characteristics observed during the assessment.

VIII. Corrective Actions (Part 4).

VIII.A. Conditions Requiring SWPPP Review and Revision to Eliminate Problem (Part 4.1).

If an operator determines during an inspection, monitoring, or other means, or the EPA, or local, state, or tribal entity informs the operator, that any of the below conditions has occurred, the operator is required to review their SWPPP to determine where revisions may need to be made to eliminate the condition, prevent its reoccurrence and ensure that effluent limits are met. EPA clarifies that the SWPPP review should include sources of pollution, spill and leak procedures, non-stormwater discharges, selection, design, installation and implementation of your control measures. Additionally, for streamlining reasons, EPA has consolidated the requirements from Parts 3.1 (conditions requiring review and revision to elimination problem) and 3.2 (conditions requiring review to determine if modifications are necessary) of the 2008 MSGP, as they are very similar. Part 4.1 of this proposal specifies the following conditions requiring review and revision to eliminate the problem:

- An unauthorized release or discharge (e.g., spill, leak, or discharge of non-stormwater not authorized by this or another NPDES permit) occurs at the facility;
- A discharge violates a numeric effluent limit;
- The control measures are not stringent enough for the discharge to meet applicable water quality standards or the non-numeric effluent limits in the permit;
- A required control measure was never installed, was installed incorrectly, or not in accordance with Parts 2 and/or 8, or is not being properly operated or maintained.
- Visual assessments of the discharge indicate obvious signs of stormwater pollution (e.g., color, odor, floating solids, settled solids, suspended solids, foam).
- The average of four quarterly sampling results exceeds an applicable benchmark. If less than four benchmark samples have been taken, but the results are such that an exceedance of the four quarter average is mathematically certain (i.e., if the sum of quarterly sample results to date is more than four times the benchmark level) this is considered a benchmark exceedance, triggering this review.
- Construction or a change in design, operation, or maintenance at your facility that significantly changes the nature of pollutants discharged in stormwater from your facility, or significantly increases the quantity of pollutants discharged.

Purpose: Part 4.1 specifies conditions that, should they occur, trigger the need to review and modify the SWPPP to resolve any deficiencies. These conditions are substantially similar to the 2008 MSGP. However, in the proposed 2013 MSGP, EPA has added more specificity regarding what types of results from a visual assessment would trigger a required corrective action.

VIII.B. Corrective Action Deadlines (Part 4.2).

The permit includes specific deadlines for permittees to take corrective actions. 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 EPA's expectations for what actions must be taken by the deadlines. The requirement to immediately take action to minimize or prevent pollutant discharges until a permanent solution is implemented is similar to the requirement that corrective actions be documented within 24 hours in the 2008 MSGP. The requirement now requires that steps be taken immediately (i.e., on the same day the condition was found) in order to ensure that pollutant discharges are minimized and a permanent solution is implemented expeditiously. The permit specifies that "immediately" means that all reasonable steps to minimize or prevent the discharge of pollutants must be taken on the same day a corrective action condition is found until a permanent solution is installed and made operational. The permit also clarifies that if a problem is identified at a time in the work day when it is too late to initiate corrective action, the initiation of corrective action must begin on the following work day.

The proposed MSGP requirement that subsequent action must be taken to install a new or modified control and make operational, or complete the repair, by no later than 14 calendar days from the discovery of the condition is similar to the corresponding 2008 MSGP requirement, but includes some additional specificity. While the 2008 MSGP required that within 14 days the corrective action plan be documented, the proposed 2013 MSGP specifies that corrective action must be taken within 14 days (and before the next storm event if possible), unless infeasible (in which case the permit requires that the corrective action be taken as soon as practicable after the 14-day timeframe but no longer than 45 days after discovery). EPA believes the additional specificity regarding the timeframe for completing the corrective action is necessary in order to ensure that corrective actions are taken expeditiously, which will minimize potential pollutant discharges from the site.

Purpose: This provision stipulates time limits for implementing corrective actions to remedy deficiencies. EPA emphasizes that these time frames are not grace periods within which an operator is relieved of any liability for a permit violation. If the original inadequacy triggering a corrective action constitutes a permit violation, then that violation is not deferred by the time frame EPA has allotted for corrective action. The time limits are those that EPA considers reasonable for making the necessary repairs or modifications, and are included specifically so that inadequacies are not allowed to persist indefinitely. Failure to take the necessary corrective action within the stipulated time limit constitutes an additional and independent permit violation. EPA does recognize that there may be circumstances in which immediate action to initiate corrective action may not be possible within the same day a corrective action condition is found. Therefore, the permit specifies that if a problem is identified at a time in the work day when it is too late to initiate corrective action, the initiation of corrective action must begin on the following work day. EPA also clarifies that "all reasonable steps" does not necessitate taking action when it is unsafe to do so (e.g., due to inclement weather). EPA also recognizes that there may be circumstances where it is not possible to install a new or modified control, if necessary, within 14 days, and therefore provides that permittees may modify the schedule for completing the corrective action if infeasible to complete within 14 days, as long as the permittee documents the reason and includes a modified timeframe in the SWPPP.

VIII.C. Corrective Action Documentation (Part 4.3).

For any event described in Part 4.1 of the permit, permittees must document basic information describing the event and the permittees' response to that event. As described above, the permit establishes conditions for both immediate and 14-day response periods. As described elsewhere in the permit, permittees are required to maintain a copy of this documentation with their SWPPP as well as summarize this information in an annual report. EPA notes that permittees are not required to submit corrective action documentation, unless specifically requested to do so.

Purpose: The requirements for reporting following corrective actions, including required documentation timeframes, are substantially similar to the 2008 MSGP, with minor changes to reflect the changes to the corrective action requirements in Part 4.2.1 and 4.2.2. EPA has added also moved documentation requirements for spills or leaks from Part 5.4 of the 2008 MSGP into the corrective action documentation requirements in the proposed 2013 MSGP in order to reduce potential redundant documentation in the SWPPP.

VIII.D. Effect of Corrective Action (Part 4.4).

The permit clarifies that if the condition triggering the corrective action review is a permit violation (e.g., exceedance of an effluent limit), correcting it does not remove the original violation. Additionally, failure to take corrective action in accordance with Part 4 is a separate, additional permit violation. EPA will consider the appropriateness and promptness of corrective action in determining enforcement responses to permit violations.

Purpose: Part 4.4 clarifies EPA's intention with regard to the effects of taking appropriate corrective actions on the underlying violation. This provision is unchanged from the 2008 MSGP.

VIII.E. Substantially Identical Outfalls (Part 4.5).

If the event triggering corrective action is linked to an outfall that represents other substantially identical outfalls, the permittee's review must assess the need for corrective action for each outfall represented by the outfall that triggered the review. Any necessary changes to control measures that affect these other outfalls must also be made before the next storm event if possible, or as soon as practicable following that storm event. Any corrective actions must be conducted within the timeframes set forth in Part 4.2.

Purpose: Part 4.5 clarifies EPA's intention with regard to corrective actions for triggering conditions found at outfalls representing substantially identical outfalls. This provision is unchanged from the 2008 MSGP.

IX. Stormwater Pollution Prevention Plan (SWPPP) (Part 5).

Part 5 of the permit requires the discharger to develop a SWPPP to document the specific control measures dischargers will use to meet the limits contained in Part 2 of the permit, as well as documenting compliance with other permit requirements (e.g., monitoring, recordkeeping, reporting). The SWPPP itself does not contain effluent limits; rather it constitutes a tool to assist both the permittee and inspectors in ensuring and documenting that effluent limits are met. This documentation must be kept up-to-date. Where control measures are modified or replaced, for instance in response to a Part 4.2 corrective action triggering condition, such changes must be documented in the SWPPP, as specified in Part 5.3. If permittees fail to develop and maintain an up-to-date SWPPP, they will have violated the permit. This recordkeeping violation is separate and distinct from a violation of any of the other substantive requirements in the permit (e.g., effluent limits, corrective action, inspections, monitoring, reporting, and sector- or state-specific requirements).

To be covered under the MSGP, the initial SWPPP must be completed prior to submitting an NOI for permit coverage. Doing so helps to ensure that permittees have (1) taken steps to identify all sources of pollutant discharges in stormwater and (2) implemented appropriate control measures to control these discharges in advance of permit coverage. Part 5.1 of the permit contains most of the required elements to be documented in the SWPPP; however, sector-specific requirements are also included in Part 8 of this permit.

Generally, permittees must document the following: (1) the establishment of a stormwater pollution prevention team; (2) a description of the site; (3) summary of potential pollutant sources; (4) description of control measures; (5) monitoring and inspection procedures (including schedules); (6) documentation to support eligibility considerations under other federal laws; and (7) signature requirements.

For permittees covered under a previous MSGP, their existing SWPPP must be reviewed and modified, as necessary, to comply with the permit.

EPA also note that any discharges not expressly authorized under the MSGP are not covered by the MSGP or the permit shield provision of the CWA Section 402(k) and they cannot become authorized or shielded by disclosure to EPA via the SWPPP or by any other means (e.g., during an inspection).

IX.A. Person(s) Responsible for SWPPP Preparation (Part 5.1).

Part 5.1 requires that the SWPPP be prepared in accordance with good engineering practices and to industry standards. The SWPPP may be developed by either a person on the operator's staff or a third party, and it must be certified in accordance with the signature requirements in Part 5.2 of the permit. When EPA determines, upon reviewing a SWPPP, that the SWPPP is not in compliance with the SWPPP content requirements of Part 5.2, EPA may require the SWPPP to be reviewed, amended as necessary, and certified by a Professional Engineer, or for Sector G, H or J, by a Professional Geologist, with the education and experience necessary to prepare an adequate SWPPP.

Purpose: In the 2008 MSGP Part 2.1, EPA included a statement regarding selection of stormwater controls: "The selection, design, installation, and implementation of these control measures must be in accordance with good engineering practices and manufacturer's specifications." Because SWPPPs examined during inspections are often found to be generic / minimal and not site-specific, for the proposed 2013 MSGP, EPA has made a similar requirement applicable to the development of the entire SWPPP, not just the controls. The required certification of the SWPPP in accordance with the Part 5.2.7 signature requirements provides accountability and should increase the chances that SWPPPs are not written (often by contractors) and then shelved and ignored by facility personnel. The professional credentials option that the Agency may mandate for severely and/or persistently deficient SWPPPs is a last resort situation before it is necessary to take other enforcement actions to achieve the permit's goals. This requirement engenders no additional burden when the permit is fully complied with originally.

IX.B. Contents of Your SWPPP (Part 5.2).

The SWPPP prepared under this permit must address specific requirements. Permittees may choose to reference other documents in the SWPPP rather than recreating the same text in the SWPPP; however, when referencing other documents, the permittees are responsible for ensuring their SWPPP and the other documents together contain all the necessary elements for a complete SWPPP, as specified in Part 5.2. In addition, permittees must ensure that a copy of the referenced document is located on-site consistent with the requirement in Part 5.4 of the permit.

For example, if a facility is a member of EPA's National Environmental Performance Track (<http://www.epa.gov/performance-track>), it does not need to include in a separate SWPPP

document components that are already included in its Environmental Management System (EMS) document. See Part 5.2 of the permit. Any EMS activity that fully meets the documentation requirements for a SWPPP (e.g., facility inspections that incorporate and document stormwater inspection requirements) will fulfill the relevant provision of this permit. EPA encourages such a facility to incorporate all required SWPPP components into its EMS, and work from a single plan. Similar allowances apply to other program documents such as Spill Prevention, Control and Countermeasure (SPCC) Plans. EPA strongly recommends that, regardless of whether all required SWPPP components are combined into one document, an index be kept which identifies where individual SWPPP components are addressed.

IX.B.1. Pollution Prevention Team (Part 5.2.1).

Developing a SWPPP requires that a qualified individual or team of individuals be identified as responsible for developing and revising the facility's SWPPP. Additionally, this team is responsible for implementing and maintaining the control measures to meet effluent limits, and taking corrective action where necessary. Team members should be chosen for their expertise in the relevant departments at the facility to ensure that all aspects of facility operations are considered in developing the plan. The SWPPP must clearly describe the responsibilities of each team member to ensure that each aspect of the plan is addressed. EPA expects most permittees will have more than one individual on the team, except for small facilities with relatively simple plans and/or staff limitations. The permit requires that team members have ready access to any applicable portions of the SWPPP and the permit.

Purpose: Identification of a stormwater pollution prevention team ensures that appropriate persons (or positions) are identified as necessary for developing and implementing the plan. Inclusion of the team in the plan provides notice to facility staff and management (i.e., those responsible for signing and certifying the plan) of the responsibilities of certain key staff for following through on compliance with the permit's conditions and limits. This requirement generally is consistent with the 2008 MSGP.

IX.B.2. Site Description (Part 5.2.2).

The SWPPP must describe activities, materials, and physical features of the facility that may contribute significant amounts of pollutants to stormwater runoff or, during periods of dry weather, result in pollutant discharges through the municipal separate storm sewers or stormwater drainage systems that drain the facility. The SWPPP must also contain both a general location map of the site that shows the location of the facility in relationship to receiving waters and other geographical features, and a more detailed site map that contains information on facility/site characteristics that affect stormwater runoff quality and quantity. For areas of the facility that generate stormwater discharges with the potential to contain significant amounts of pollutants, the map must indicate the probable direction of stormwater flow and the pollutants likely to be in the discharge. Flows with a significant potential to cause soil erosion also must be identified. The site map must also include locations of: existing structural control measures; receiving waters; stormwater conveyances, inlets and outfalls; potential pollutant sources; past significant spills or leaks; stormwater monitoring points; municipal separate storm sewer systems; and locations and sources of run-on to the operator's site (see permit language for complete list of required items). To improve readability of the map, some detailed information may be kept as an attachment to the site map and pictures may be included as deemed appropriate.

Purpose: A detailed site description assists permittees in subsequent efforts to identify and set priorities for the selection, design, and implementation of measures taken to meet effluent limits and in identifying necessary changes in materials, materials management practices, or site features. This requirement generally is consistent with the 2008 MSGP.

IX.B.3. Summary of Potential Pollutant Sources (Part 5.2.3).

This permit requires permittees to identify the potential sources of pollutants associated with industrial activities that could result in contaminated stormwater discharges or unauthorized non-stormwater discharges, and potential sources of allowable non-stormwater discharges. The permit and the NPDES regulations at 122.26(b)(14) define "stormwater discharges associated with industrial activities" to include, but not be limited to: stormwater discharges from industrial plant yards; immediate access roads and rail lines used or traveled by carriers of raw materials, manufactured products, waste material, or by-products used or created by the facility; material handling sites; refuse sites; sites used for the application or disposal of process waste waters (as defined at part 401 of this chapter); sites used for the storage and maintenance of material handling equipment; sites used for residual treatment, storage, or disposal; shipping and receiving areas; manufacturing buildings; storage areas (including tank farms) for raw materials, and intermediate and final products; and areas where industrial activity has taken place in the past and significant materials remain and are exposed to stormwater.

Potential pollution sources include a facility's roofs and other surfaces that could accumulate pollutants originating from an industrial process and deposited through the air. Roofs, walls, etc. exposed to emissions from industrial areas can build up over dry periods and be mobilized during a rain event or in snowmelt, so these areas need to be identified and included in SWPPP development. Likewise, industrial structures containing materials that could become pollutants discharged in stormwater (e.g., copper cladding on buildings or zinc from galvanized fences) must also be identified as potential pollutant sources.

The term "stormwater discharges associated with industrial activity" excludes areas located on plant lands separate from the plant's industrial activities, such as office buildings and accompanying parking lots as long as the drainage from the excluded areas is not mixed with stormwater drained from the above described areas.

Additionally, the term "material handling activities" is defined in the permit to include storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, final product, by-product or waste product.

Part 5.2.3 is only applicable to those parts of the site for which the permittee is covered under this permit. For example, a site that discharges stormwater to an area of the site covered by a different NPDES permit, is not required to identify the specific activities occurring in that area. EPA does expect permittees to clearly identify those areas of the site and describe why they need not be covered under this permit.

When identifying potential pollutant sources at the site, permittees must consider industrial stormwater from the following sources:

Activities in the Area (Part 5.2.3.1). This description must include a list of the industrial activities at the facility, including any co-located industrial activities that may be exposed to stormwater.

Pollutants (Part 5.2.3.2). For each of the industrial activities described above, operators must document the associated pollutants or pollutant constituents (e.g., biochemical oxygen demand, suspended solids). The pollutant list must include all significant materials that have been handled, treated, stored or disposed, and that have been exposed to stormwater in the three years prior to the date the permittee prepares or amends its SWPPP as well as any additional significant materials that the permittee plans to use during the life of the permit.

EPA defines "significant materials" at 122.26(b)(12) as including but not limited to: raw materials; fuels; materials such as solvents, detergents, and plastic pellets; finished materials such as metallic products; raw materials used in food processing or production; hazardous substances designated under section 101(14) of CERCLA; any chemical the permittee is required to report pursuant to section 313 of title III or SARA; fertilizers; pesticides; and waste products such as ashes, slag and sludge that have the potential to be released with stormwater discharges.

CERCLA section 101(14) defines "hazardous substance" to include: (A) any substance designated pursuant to section 311(b)(2)(A) of the Federal Water Pollution Control Act (also known as the Clean Water Act (CWA)); (B) any element, compound, mixture, solution, or substance designated pursuant to section 102 of CERCLA; (C) any hazardous waste having the characteristics identified under or listed pursuant to section 3001 of the Solid Waste Disposal Act (also known as the Resource Conservation and Recovery Act or RCRA); (D) any toxic pollutant listed under CWA section 307(a); (E) any hazardous air pollutant listed under section 112 of the Clean Air Act; and (F) any imminently hazardous chemical substance or mixture with respect to which the Administrator has taken action pursuant to section 7 of the Toxic Substances Control Act. The list of CERCLA hazardous substances is provided in 40 CFR 302.4.

Spills and Leaks (Part 5.2.3.3). The SWPPP must document where potential spills and leaks could occur that could contribute pollutants to stormwater discharges, and the corresponding outfall(s) that would be affected by such spills and leaks. The pollutant list must include all significant materials that have been handled, treated, stored, or disposed, and that have been exposed to stormwater in the three years prior to the SWPPP preparation or amendment. New owners/operators of existing facilities should, to the extent practicable, identify any significant spills or leaks attributable to past owners. Significant spills include, but are not limited to, releases of oil or hazardous substances in excess of quantities that are reportable under section 311 of the CWA (see 40 CFR 110.10 and 40 CFR 117.21) or section 102 of CERCLA (see 40 CFR 302.4). Significant spills may also include releases of materials that are not classified as oil or hazardous substances. The list of significant spills and leaks should include a description of the causes of each spill or leak, the actions taken to respond to each release, and the actions taken to prevent similar spills or leaks in the future. This effort will aid operators in developing spill prevention and response procedures and any additional procedures necessary to fulfill the requirements set forth in Part 2.1.2.4 of this permit.

As required in Part 4.3 of the permit, any spills or leaks that occur while covered under this permit must be documented. Documenting spills does not relieve permittees of any reporting requirements established in 40 CFR 110, 40 CFR 117, and 40 CFR 302, or any other statutory requirements relating to spills or other releases of oils or hazardous substances.

Non-Stormwater Discharges (Part 5.2.3.4). Part 5.2.3.4 requires the presence of non-stormwater discharges to be evaluated. If non-stormwater discharges requiring NPDES permit coverage other than those specifically authorized in Part 1.1.3 will be discharged, such non-stormwater discharges are not covered by this permit or the permit shield provision of the CWA Section 402(k) and must be covered under another NPDES permit.

The documentation must include: the date of any evaluation; a description of the evaluation criteria used; a list of the outfalls or onsite drainage points that were directly observed during the evaluation; and the actions taken, such as a list of control measures used to eliminate unauthorized discharge(s), or documentation that a separate NPDES permit was obtained.

This requirement is substantially similar to the 2008 MSGP.

Acceptable test or evaluation techniques include dye testing, television surveillance, visual observation of outfalls or other appropriate locations during dry weather, water balance calculations, and analysis of piping and drainage schematics. A combination of these mechanisms may be necessary to complete a thorough evaluation. In general, smoke tests should not be used for evaluating the discharge of non-stormwater to a municipal separate storm sewer as many sources of non-stormwater typically pass through a trap that may limit the effectiveness of the test. When unauthorized discharges are discovered, the documentation must also include a description of how those discharges were eliminated or documentation that a separate NPDES permit was obtained.

Common unauthorized discharges and common resolutions include: re-routing sanitary wastes (e.g., sinks, drinking fountains, toilets) to sanitary sewer systems; obtaining an appropriate NPDES

permit for cooling water or industrial process wastewater discharges; capping or plugging floor drains; and prohibiting practices such as paint brush washing or wash bucket dumping into storm drain inlets.

Where an allowable non-stormwater discharge has been identified, the permittee must document in the SWPPP the location of that discharge and the appropriate control measures implemented to meet limits. In many cases, the same types of controls for contaminated stormwater would suffice, but the nature and volume of potential pollutants in the non-stormwater discharges must be taken into consideration in selecting controls.

Salt Storage (Part 5.2.3.5). The SWPPP must identify any storage piles containing salt, including piles that only contain salt as a portion of the mixture in the pile, used for deicing or other commercial or industrial purposes. This requirement has not been changed from the 2008 MSGP.

Sampling Data (Part 5.2.3.6). A summary of all existing data on the quality or quantity of stormwater discharges collected from the facility during the previous permit term must be described in the SWPPP. New dischargers must provide a summary of any available stormwater discharge sampling data they may have, including the methods used to collect the data and the sample collection location. These data may be useful for locating sources and causes of stormwater pollutants. This requirement has not been changed from the 2008 MSGP.

Purpose: Identification of sources of pollutants in stormwater is critical for selecting source control practices at the site necessary for meeting permit limits. Information provided in this section of the SWPPP will help facility operators identify potential pollutants of concern on-site through a comprehensive assessment of existing conditions and available information.

IX.B.4. Description of Control Measures to Meet Technology-Based and Water Quality-Based Effluent Limits (Part 5.2.4).

Operators must describe in their SWPPP the control measures implemented at their site to achieve each of the effluent limits in Parts 2.1.2, 2.1.3, 2.2, 2.3, 8 and 9 and to address any stormwater run-on that commingles with discharges covered under this permit. The description of the control measures implemented to meet the effluent limits must include the location and type of control implemented at the site, including how the Part 2.1.1 selection and design considerations were followed and how they address the pollutant sources in Part 5.2.3. The control measures in Part 2.2 flagged with asterisks are not required to be elaborated on in the SWPPP beyond the inclusion of the requirement language verbatim. Further discussion of this relaxed documentation requirement is provided in Section VI.B Control Measures in this Fact Sheet.

Purpose: To demonstrate how the operator specifically plans to meet the applicable technology-based or water quality-based effluent limits. The 2008 MSGP similarly required operators to describe in their SWPPPs any control measures being used to control discharges from areas where industrial materials or activities are exposed to stormwater.

IX.B.5. Schedules and Procedures

Pertaining to Control Measures Used to Comply with the Effluent Limits in Part 2 (Part 5.2.5.1). The permit identifies specific information that must be documented in the SWPPP. EPA emphasizes that all control measures implemented to meet the Part 2 limits must be documented in the SWPPP.

Good Housekeeping (see also Part 2.1.2.2). The SWPPP requirement to document compliance with the good housekeeping effluent limit has been clarified to reflect the information that the revised effluent limit now requires.

Maintenance (see also Part 2.1.2.3). The SWPPP requirement to document compliance with the maintenance effluent limit has been clarified to reflect the information that the revised effluent limit now requires. Additionally, the SWPPP must contain the schedule or frequency for maintaining all control measures used to comply with the effluent limits in Part 2.

Spill Prevention and Response Procedures (see also Part 2.1.2.4). The SWPPP requirement to document compliance with the spill prevention and response effluent limit has been clarified to reflect the information that the revised effluent limit now requires. The SWPPP also needs to include notification procedures and for preventing spills, include in your SWPPP the control measures for material handling and storage, and the procedures for preventing spills that can contaminate stormwater. Also specify cleanup equipment, procedures and spill logs, as appropriate, in the event of spills.

Employee Training (see also Part 2.1.2.9). The SWPPP requirement to document compliance with the employee training effluent limit has been clarified to reflect the information that the revised effluent limit now requires. Additionally, this part specifies the specific elements that must be covered for employee training as well as documentation requirements for the frequency of training and who received training.

Purpose: These documentation requirements are substantially similar to the 2008 MSGP, but have been updated consistent with changes to the corresponding effluent modifications in Part 2.

Pertaining to Inspections (Part 5.2.5.2). This permit requires permittees to document in the SWPPP the inspection procedures that will be followed. Permittees must document procedures for performing the types of inspections specified in the permit, namely, routine facility inspections (Part 3.1), and quarterly visual assessments (Part 3.3). For each of these types of inspections, the SWPPP must include information such as person(s) or position(s) performing inspections, the inspection schedule, and specific items to be covered by the inspection.

If an operator is invoking the exception for inactive and unstaffed sites for quarterly inspections or visual assessments, he/she is required to provide information in the SWPPP to support this claim.

Purpose: The Agency is requiring these documentation provisions to help ensure that appropriate inspection procedures consistent with permit requirements are implemented. EPA believes documenting these activities will help to improve facility compliance with the requirements. This requirement generally is consistent with the 2008 MSGP.

Pertaining to Monitoring (Part 5.2.5.3). This permit also requires permittees to document in the SWPPP the facility's specific monitoring requirements and procedures that will be followed. The permittee must document in the SWPPP information such as locations where samples are to be collected, person(s) or position(s) responsible for collecting those samples, the frequency of sampling and the parameters to be sampled, applicable control values at each sample location, and procedures that will be followed to gather storm event data.

If an operator chooses to use the substantially identical outfall exception in Part 3 for quarterly visual assessments or Part 6.2 for benchmark monitoring, he/she is required to describe in the SWPPP the locations of each of these outfalls, the general industrial activities conducted in the drainage area of each outfall, the control measures being implemented for each outfall, the exposed materials that are likely to be a significant contributor of pollutants to the stormwater discharge, an estimate of the runoff coefficient of the drainage area, and why the outfalls are expected to discharge substantially identical effluents.

Purpose: The Agency is requiring these documentation provisions to help ensure that operators know what must be monitored and how (pollutants, parameters, benchmarks / limits, monitoring frequencies, etc.) and appropriate monitoring procedures consistent

with permit requirements are implemented. EPA believes documenting these activities will help to improve facility compliance with the requirements. This requirement generally is consistent with the 2008 MSGP.

IX.B.8. Documentation to Support Eligibility Considerations Under Other Federal Laws (Part 5.2.6).

Documentation Regarding Endangered Species (Part 5.2.6.1). This permit requires documentation regarding supporting the endangered and threatened species eligibility criterion selected in accordance with Part 1.1.4.5 and Appendix E to be included in the facility's SWPPP, including whether listed endangered or threatened species are found in proximity to the facility, a description of any communication between the permittee and the U.S. Fish & Wildlife Service and the National Marine Fisheries Service (i.e., "the Services"), results of endangered species screening determinations, and, if applicable, a description of the measures the operator implemented to protect the endangered or threatened species. This information must be documented and kept with the SWPPP, and measures must be implemented to be eligible for coverage under this permit.

Purpose: This provision ensures that the permittee properly documents his/her eligibility under Part 1.1.4.5. This requirement generally is consistent with the 2008 MSGP.

Documentation Regarding Historic Properties (Part 5.2.6.2). This permit requires documentation regarding historic properties to be included in the facility's SWPPP. The SWPPP must include information supporting the permittee's determination with regard to Part 1.1.4.6, which includes whether stormwater discharges would have an effect on a property listed or eligible for listing on the National Register of Historic Properties (NRHP), summary of any consultation with the State or Tribal Historic Preservation Officer (SHPO or THPO), results of Appendix F historic property screening investigations, and if applicable, a description of the measures the operator will implement to avoid or minimize adverse impacts on historic properties. This information must be documented and kept with the SWPPP.

Purpose: This provision ensures that the permittee properly documents his/her eligibility under Part 1.1.4.6. This requirement generally is consistent with the 2008 MSGP.

IX.B.9. Signature Requirements (Part 5.2.7).

This permit requires the permittee to sign and date the SWPPP consistent with procedures detailed in Appendix B, Subsection 11 (standard permit condition for signatory requirements).

Purpose: This requirement is consistent with standard NPDES permit conditions described in 40 CFR 122.22 and is intended to ensure that the permittee understands its responsibility to create and maintain a complete and accurate SWPPP. Permittees are allowed to appoint an authorized representative consistent with the regulations. Therefore, if a facility feels it is more appropriate for a member of the stormwater pollution prevention plan team to sign the documentation, that option is available under the permit. The signature requirement includes an acknowledgment that there are significant penalties for submitting false information.

IX.C. Required Modifications (Part 5.3).

This permit requires that the SWPPP be updated whenever any of the triggering conditions for corrective action in Part 3.1 occur, or when a review following the triggering conditions in Part 3.2 indicates that changes to the permittee's control measures are necessary to meet the effluent limits in this permit. The permit requires that the SWPPP be signed and dated by an authorized representative each time it is modified. Changes to the SWPPP must be made in accordance with Parts 3.3 and 3.4.

It is important to note that failure to update the SWPPP in accordance with Part 5.2 is a recordkeeping violation, not a violation of an effluent limit. For example, if operators change their maintenance procedures, but fail to update their SWPPP to reflect these changes, a recordkeeping violation will result. Operators must revise their SWPPP to reflect the new maintenance procedures and include documentation of the corrective action (in accordance with Part 4) to return to full compliance.

Purpose: Part 5.2 requires that the SWPPP document be modified, and signed and dated by the operator, whenever any of the listed scenarios occur. This requirement ensures that the SWPPP document will be kept up to date.

IX.D. SWPPP Availability (Part 5.4).

This permit requires that a complete copy of the current SWPPP be accessible in any format at the facility and must be immediately available to facility employees, EPA, a state or Tribe, the operator of an MS4 receiving discharges from the site; and representatives of the U.S. Fish and Wildlife Service (USFWS) or the National Marine Fisheries Service (NMFS) at the time of an onsite inspection. EPA clarifies in this section what a complete SWPPP entails. Part 5.4.1 provides options for the facility to choose for public availability of the SWPPP. The permittee can either provide an URL for their SWPPP location on the NOI form or provide information in the NOI pursuant to Part 7.3. Confidential Business Information (CBI) and restricted information (as defined in Appendix A) may be withheld from the public, but may not be withheld from EPA or the Services. Note that posting a SWPPP online was an optional permit condition in 2008 (the benefit for new permittees was a shorter waiting period prior to authorization).

Purpose: Increased SWPPP availability is a key component of EPA's Office of Enforcement and Compliance Assurance (OECA) general permit improvement workgroup. Previous MSGPs required an operator to provide a SWPPP to the public or to EPA only upon request. This made it difficult for the public to get information about local industrial stormwater discharges that would help them protect their local resources; plus it reduced opportunities to ensure permit compliance by regulatory agencies. To improve the accessibility of SWPPPs EPA added requirements for operators utilizing their facility's own Internet presence or by submitting information to be accessed via EPA's eNOI system.

Facilities can post their entire SWPPP (with any confidential business information or restricted information redacted) on their own website or on an associated website, i.e., an intuitively relevant website such as a corporate or government website where the facility submitting the SWPPP is identified on the homepage and facility information is presented on and easily accessed at that website. For this option, operators would just submit their SWPPP's universal resource locator (URL) address to EPA with their NOI and then post an updated SWPPP at least once a year.

For those facilities with SWPPPs not in a format that lends itself to being put online or that lack a website to host it, EPA offers an option where salient SWPPP information can be extracted or summarized and input into the NOI form required under Part 7.3, and submitted through the eNOI system. Although not as complete as an entire SWPPP, EPA believes the information required, such as the control measures and BMPs implemented to comply with the non-numeric technology-based effluent limits required in Part 2.1.2, will be sufficient for stakeholders to get a good idea of what a regulated facility is doing to protect local resources and comply with permit provisions.

Operators who object to making SWPPP information widely available may instead apply for an individual NPDES permit.

IX.E. Additional Documentation Requirements (Part 5.5).

Part 5.5 includes a list of documents, findings, activities, and information that must be kept with the permittee's SWPPP. See permit language for details.

Purpose: EPA requires documentation of various implementation activities, such as reports of routine facility inspections and descriptions of corrective actions, after facilities are authorized to discharge. This documentation is useful both for facility personnel and EPA (and other agencies) inspectors to assess overall performance of the control measures selected to meet the technology-based and water quality-based effluent limits in the permit. These documentation requirements are substantially similar to the 2008 MSGP.

X. Monitoring (Part 6).

The permit requires that stormwater samples be collected, analyzed, and documented consistent with the procedures described in Part 6 and Appendix B, Subsections 10 – 12, and any additional sector-specific or state/tribal-specific requirements in Parts 8 and 9, respectively.

X.A. Monitoring Procedures (Part 6.1).

This permit requires certain permittees to sample and analyze their stormwater discharges as a way to assess the effectiveness of control measures in meeting the effluent limitations. Analytical monitoring is a means by which to measure the concentration of a pollutant in a stormwater discharge. Analytical results are quantitative and therefore can be used to compare discharge results and to quantify the effectiveness of stormwater control measures, including identifying pollutants that are not being successfully controlled.

Part 6.1 of the permit identifies procedures for collecting samples and identifies where to sample, when to sample, and what to sample. These requirements are unchanged from those in the 2008 MSGP. These requirements are in addition to the standard permit conditions described in Appendix B, Subsection B.10.

X.A.1. Monitored Outfalls (Part 6.1.1).

The monitoring requirements in the permit apply to each outfall discharging stormwater associated with industrial activity, unless the permittee qualifies for the substantially identical outfalls exemption as described in this section (except for numeric effluent limit monitoring). To be considered substantially identical, outfalls must have generally similar industrial activities, control measures, exposed materials that may significantly contribute pollutants to stormwater, and runoff coefficients of their drainage areas. When a permittee believes its facility has two or more outfalls that qualify as substantially identical, the permittee may monitor one of these outfalls and report that the quantitative data also apply to the other substantially identical outfalls. The permittee must also document the location of each of the outfalls and explain why the outfalls are expected to discharge substantially identical effluent, addressing each of the factors to be considered in this determination (industrial activities, control measures, exposed materials and runoff coefficients). Operators do not need advance EPA approval for this determination; however, EPA may subsequently determine that outfalls are not substantially identical and require sampling of additional outfalls. EPA clarifies in Part 6.1.1 that the allowance for monitoring only one of the substantially identical outfalls is not applicable to any outfalls with the numeric effluent limitations. The permittee is required to monitor each outfall covered by a numeric effluent limit as identified in Part 6.2.2.

Purpose: This substantially identical outfall provision provides facilities that have multiple stormwater outfalls with a means to reduce the number of outfalls that must be sampled and analyzed while still providing monitoring data that are indicative of discharges from each outfall. This may result in a substantial reduction of the resources required for a

facility to comply with analytical monitoring requirements. No significant changes were made to this provision from the 2008 MSGP.

X.A.2. Commingled Discharges (Part 6.1.2).

If stormwater discharges associated with industrial activity commingle with discharges not authorized by the MSGP (e.g., unregulated stormwater or other permitted wastewater), then permittees must sample the stormwater discharge before it mixes with the other discharges when practicable.

Purpose: The commingled discharge provision is intended to ensure that monitoring results are representative of discharges covered under this permit and not indicative of other discharges from the site. EPA acknowledges that in certain instances, such as when authorized discharges are commingled with other waste streams prior to on-site treatment, sampling only authorized waste streams may be inappropriate or infeasible. No significant changes were made to this provision from the 2008 MSGP.

X.A.3. Measurable Storm Events (Part 6.1.3).

This permit specifies the characteristics of a measurable storm event as an event that results in a discharge from the permitted facility. This permit retains the same requirements as the 2008 MSGP. Samples must be collected from the discharge resulting from a storm event that occurs at least 72 hours (3 days) after a previous measurable storm event. The 72-hour (3-day) requirement may be waived by the permittee where the permittee documents that less than a 72-hour (3-day) interval is representative for local storm events during the season when sampling is being conducted. This permit adds a provision that allows for sampling of snowmelt in addition to stormwater runoff. The 72-hour (3-day) requirement does not apply to snowmelt as the actual discharge is not clearly tied to a specific snow event (i.e., may be the accumulation from multiple events). The permit also specifies the type of documentation required to show consistency with this requirement.

Purpose: The measurable storm event provision in the permit specifies that, for the purposes of monitoring under the permit, a measurable storm event is a storm event that *results in a discharge* from the permitted facility, and that follows a period of greater than or equal to 72-hours (3-days) when no stormwater discharge occurred. The 72-hour (3-day) period is included in an attempt to eliminate monitoring discharges soon after a previous storm event washed away residual pollutants. By defining a storm event as one that results in discharge, it affords the permittee flexibility to sample during any storm event that produces a discharge, rather than having to ensure that minimum magnitude is reached. The provision also provides flexibility to address snowmelt discharges when they occur, rather than based on when the storm producing the snowfall occurred. No significant changes were made to this provision from the 2008 MSGP.

X.A.4. Sample Type (Part 6.1.4).

The permit specifies that a minimum of one grab sample must be taken from the measurable storm event being monitored. The grab sample must be taken during the first 30 minutes of the discharge, except for snowmelt monitoring which has no 30 minute requirement. If more than one grab sample is collected, only those samples collected during the first 30 minutes of discharge are to be used for performing any necessary analyses. If the collection of a grab sample during the first 30 minutes is impractical, a grab sample can be taken during the as soon as practicable, but the permittee must document and keep with the SWPPP an explanation of why a grab sample during the first 30 minutes was impractical.

EPA is requiring a sample during the first 30 minutes to account for any first flush effects that may result from a precipitation event. The highest pollutant concentrations generally occur

during these first flush events. The first 30 minutes of the discharge is also the time when receiving stream flows are the lowest during wet weather events and thereby presents the greatest potential pollutant impacts to aquatic species.

Purpose: This permit identifies the type of samples and when these samples are to be collected. This will allow facilities to make accurate comparisons of monitoring results to the corresponding benchmark or effluent limitations. Grab samples of discharges resulting from snowmelt that have been exposed to industrial activities, materials storage, or materials handling areas are to be collected from each outfall for characterization, but they do not have to be collected within 30 minutes of discharge since (1) runoff typically does not occur during a snow event (2) collecting a snowmelt sample within 30 minutes of commencement of discharge is impractical, and (3) the "first flush" effects of snowmelt are not as well defined. No significant changes were made to this provision from the 2008 MSGP.

X.A.5. Adverse Weather Conditions (Part 6.1.5).

When adverse weather conditions make sampling dangerous, storm event monitoring may be postponed until the next runoff event. This provision applies to serious weather conditions such as: lightning, flash flooding, and high winds. This provision should not be used as an excuse for not conducting sampling under conditions associated with more typical storm events. Adverse weather conditions do not exempt the permittee from having to file a benchmark monitoring report in accordance with the corresponding reporting period. In many cases, sampling during a subsequent non-hazardous storm event may still be possible during the reporting period. Where this is not possible, operators are still required to report the inability to monitor indicating the basis for not sampling during the reporting period. This provision applies to all monitoring requirements of this permit.

Purpose: As with the 2008 MSGP, the proposed permit allows the permittee to postpone sampling under conditions immediately hazardous to the life and health of monitoring staff, and offers examples of adverse conditions. If postponement is required, the permittee is afforded the flexibility to collect samples during the next qualifying storm event to ensure the safety of facility personnel. No significant changes were made to this provision.

X.A.6. Climates with Irregular Stormwater Runoff (Part 6.1.6).

This permit provides for development of alternative monitoring schedules for facilities located in arid and semi-arid climates, or in areas subject to snow or prolonged freezing. Incumbent with this flexibility is the operator's responsibility to identify those periods during which discharges are most likely to occur and establish a schedule distributing the required monitoring events during those periods.

Purpose: Alternate monitoring schedules allow facilities the flexibility to allocate their resources effectively to capture the required number of stormwater discharge events during the permit term. This flexibility will provide a more accurate characterization of pollutant concentrations in facility stormwater discharges during times of the year when precipitation is actually occurring, and during snowmelt discharges in areas subject to extended winter seasons and prolonged freezing. This special exception should reduce the number of times permittees report that there was no discharge due to lack of precipitation during a particular quarter during the dry or extremely cold weather season, which in turn will provide EPA with more data which can be used to evaluate facility pollutant levels. The flexibility in the monitoring periods for climatic conditions and the definition of a measurable event (Part 6.1.3) together are more readily adapted to capturing and characterizing stormwater discharges and snowmelt events.

X.A.7. Monitoring Periods (Part 6.1.7).

This section specifies that the monitoring requirements commence during the first full calendar quarter following either January 1, 2014 or following the date of your authorization to discharge, whichever date comes later. For quarterly benchmark monitoring, EPA Part 6.1.7 defines the calendar quarters during which monitoring must occur and also describing when the first monitoring quarter is to commence. Note that permittees in climates with irregular stormwater runoff may define alternate monitoring periods, as described above, provided documentation of the revised schedule is kept with the SWPPP and the new schedule is provided to EPA on the first monitoring report.

Purpose: EPA is standardizing quarterly monitoring periods to clarify this requirement for permittees and to facilitate its tracking of monitoring reports.

X.A.8. Monitoring for Allowable Non-Stormwater Discharges (Part 6.1.8).

This provision clarifies that permittees are only required to monitor allowable non-stormwater discharges in Part 1.1.3 when they are commingled with stormwater discharges associated with industrial activity.

Purpose: To clarify the intent of this permit to only impose monitoring for allowable non-stormwater discharges if they are commingled with other regulated discharges covered under this permit. No changes were made to this provision from the 2008 MSGP.

X.B. Required Monitoring (Part 6.2).

This permit contains five general types of monitoring requirements:

- Benchmark monitoring (Part 6.2.1);
- Effluent limitations monitoring (Part 6.2.2);
- State or tribal provisions monitoring (Part 6.2.3),
- Impaired waters monitoring (Part 6.2.4), and
- Other monitoring required by EPA (Part 6.2.5).

The frequency of monitoring is dependent on the applicability of these five types of monitoring to each permitted facility. The permit does provide that if any of these monitoring requirements overlap, permittees are authorized to use a single sample to comply with those overlapping requirements.

This section describes the monitoring requirements and the rationale for changes from the 2008 MSGP.

X.B.1. Benchmark Monitoring (Part 6.2.1).

EPA is continuing to require benchmark monitoring as an indicator of the performance of the measures undertaken to meet the effluent limitations contained in the permit. Benchmark monitoring requirements described in Part 6.2.1 of the permit require permittees to collect stormwater samples for laboratory chemical analyses.

Because some operators choose to sample more than the required number of times, EPA has included specific language in the permit that the extra samples may be used to calculate their benchmark average. Any additional sampling does not reduce the requirement that the monitoring be completed over a minimum of four calendar quarters. (Note: requirement for four calendar quarters of monitoring is not applicable to airports.) Therefore, additional samples collected in one quarter for this purpose cannot replace sampling required in other quarters.

The draft Multi-Sector General Permit (MSGP) proposes to retain the same benchmark monitoring requirements as the 2008 MSGP and modifies metals benchmarks for discharges to saline waters. Therefore, those facilities that are required to perform benchmark monitoring (approximately half of the regulated entities) must take four quarterly samples. The benchmark monitoring requirements are not effluent limits, but instead are designed to provide an indication to the operator of the performance of their control measures. Accordingly, if the average of the four quarterly samples for any parameter exceeds the benchmark, the facility must review the selection, design, installation, and implementation of its control measures to determine if modifications are necessary to meet the effluent limits of the permit, but the exceedance is not considered a violation of the permit. The facility must make any necessary modifications to the control measures and continue quarterly monitoring until the facility has completed four additional quarters of monitoring for which the average does not exceed the benchmark or make a determination that no further pollutant reductions are technologically available and economically practicable and achievable in light of best industry practice to meet the technology-based effluent limits or are necessary to meet the water quality-based effluent limitations in the permit, in which case the facility must continue monitoring once per year and notify the EPA of this determination. Facilities may discontinue monitoring if the average of the four monitoring samples for any parameter does not exceed the benchmark.

These benchmark monitoring requirements have come under considerable scrutiny since they were established in the 1995 MSGP with some stakeholders voicing support for more intensive monitoring requirements and other stakeholders recommending the replacement of monitoring with a combination of control measures and onsite inspections. EPA has received comments from certain stakeholders that the benchmark monitoring requirements are overly burdensome, and that modifications of control measures in response to exceedances do not reduce future exceedances. EPA has also received feedback that the monitoring requirements do not adequately characterize the pollutant concentrations in stormwater discharges. Specifically, concerns were raised about the variability of stormwater discharges and whether the discharges could be sufficiently characterized from the limited number of grab samples required under the MSGP. In addition, some commenters believed that the benchmarks were not valid indicators of water quality concerns from storm events, in part because the benchmark may not account for the dilution of the discharge that occurs during a storm event, and that 30 minute first flush samples are not representative of the longer term exposures used to derive the water quality criteria that form the basis for most benchmarks. Other commenters expressed concerns that the benchmark levels are not protective enough due to the high levels of contaminants in the first flush. Concerns were also raised about the difficulties in meeting certain benchmark levels.

In July 2006, the EPA requested that the National Research Council (NRC) review the EPA's stormwater program and make associated policy recommendations. As part of this study, the EPA asked NRC to consider how useful monitoring is for both determining the potential of a discharger to contribute to a water quality standards violation and for determining the adequacy of stormwater pollution prevention plans (SWPPPs). NRC completed their study in 2008 and published their findings in a report titled "*Urban Stormwater Management in the United States.*" The report is available on EPA's website at http://www.epa.gov/npdes/pubs/nrc_stormwaterreport.pdf. NRC's finding on monitoring of discharges from industries can be found in Chapter 4.

The NRC offered a suggestion for a monitoring program that is tied to the level of risk posed by the stormwater discharges from each type of facility. A full description of this suggestion is provided in the NRC report under the section entitled "Recommendations for Industrial Stormwater Monitoring". The NRC suggested that sites can be categorized into low, medium, and high risk categories and that monitoring could be tailored to the level of risk. Facilities in the low-risk category (i.e., those with limited stormwater exposure to industrial

operations) would have visual inspections with no monitoring requirements, and could use simple guidance manuals to select and size appropriate stormwater controls. Facilities designated as medium-risk would perform site inspections and modeling supplemented by suitable outfall monitoring to ensure compliance. The facility would develop an “event mean concentration” that would be compared to “allowable discharge conditions”. Exceedances would be allowed for a “small fraction” of the monitored events. High-risk facilities would perform visual inspections and modeling, in conjunction with monitoring every storm event during the permit term.

The EPA is seeking comment on a risk-based monitoring approach to replace the benchmark monitoring requirements under the MSGP. Specifically, how should the risk categories be defined? What should the monitoring frequencies be for medium and high risk facilities? What should the allowable discharge concentrations be? Given the number of monitoring events (dozens or more per year) envisioned by this type of scheme for medium and high risk facilities, would a risk-based approach to monitoring be economically practicable? EPA plans to evaluate this concept and to consider information submitted in response to this request as it considers its proposal for benchmark monitoring requirements for the 2018 permit.

EPA has conducted an analysis of the results of benchmark monitoring and has placed this study in the docket for the permit. This analysis shows that compliance with the monitoring requirements is a significant issue and that mistakes are common. For instance, the record was missing information, the parameter name was not provided, monitoring data was not associated with the benchmark monitoring program, and hardness data was missing for the 6 hardness-dependent metals. EPA also requested a copy of the facility’s SWPPP and discharge monitoring reports (DMRs) from 35 facilities and received SWPPPs and DMRs from 20 facilities. Based on a review of this very limited sample, EPA found that most facilities (89%) are developing complete SWPPPs, but there is significant noncompliance with monitoring requirements. Only 35% of facilities submitted complete monitoring data and all facilities that submitted benchmark monitoring data had at least one benchmark exceedance. Of the facilities that completed benchmark monitoring, 84% identified corrective actions. None of the facilities reviewed had documented a clear reduction in benchmark exceedances after implementing corrective actions; most facilities continued to have benchmark exceedances after the corrective actions. Note that due to the limited number of SWPPPs reviewed (20 out of approximately 2,365) these findings are not statistically significant.

Based on this very limited analysis of benchmark monitoring, EPA is aware that facilities that report exceedances of benchmark values have been unable to find cost-effective modifications to their management practices to eliminate these exceedances. In some cases this may be due to natural background concentrations, or other factors beyond a facility’s reasonable control. EPA requests comment on whether it should provide some type of waiver from benchmark monitoring for facilities covered under the 2008 permit that demonstrate that a past benchmark exceedance was due to factors not under their control, and that there has been no change to these factors since they last conducted benchmark monitoring. EPA welcomes any suggestions on the details of how such a waiver might work.

X.B.1.a.Applicability of Benchmark Monitoring Requirements (Part 6.2.1.1). Facilities must monitor for any benchmark parameters specified for the industrial sector(s), both primary industrial activity and any co-located industrial activities, applicable to their discharge. The industry-specific benchmark concentrations are listed in the sector-specific sections of Part 8.

Derivation of the Benchmark Levels.

For the proposed 2013 MSGP, EPA has retained the same benchmark values from the 2008 permit, but has added 10 benchmark values (arsenic, cadmium, copper, cyanide, lead, mercury, nickel, selenium, silver and zinc) for facilities that discharge into saline waters (saltwater). (For a full discussion of EPA’s approach for the derivation of the benchmarks see the

fact sheet for the 1995 MSGP [60 Fed. Reg. 50825, September 29, 1995] and the 2008 MSGP [73 Fed. Reg. 56572]). Saline waters have a salinity equal or exceed 0.5 parts per thousand (by mass). EPA's 316(b) Rule has proposed a minimum salinity concentration for estuarine waters of 0.5 ppt, so EPA is adopting this value for defining saline waters in this proposal (see § 125.83). These benchmarks represent the available acute ambient water quality criteria for priority toxic and non-priority pollutants in saltwater. These benchmark values reflect the toxicity of these metals in saline waters and replace the freshwater-based criteria in the 2008 permit. In some cases, the saltwater criteria represent significant changes in the benchmarks for facilities discharging into saline waters. The values for arsenic, copper, cyanide, and nickel are lowered by an order of magnitude. The values for cadmium and lead are increased by an order of magnitude, while the value for selenium is increased two orders of magnitude. Benchmark values for the other metals increase (mercury) or decrease (silver, and zinc) by smaller amounts.

Monitoring data suggest that the proposed benchmarks are achievable in general for the industries to which they will apply, although some facilities may need to make improvements to their controls to meet these benchmarks. Facilities may also demonstrate that exceedances are due to natural background, or that discharges cannot be further minimized if they believe this is the case.

Table 1 presents the proposed permit's benchmark values, and the source of those values. In most cases, EPA has not revised benchmarks since they were first published in the MSGP 1995. However, eight of the ten benchmarks that were assigned the freshwater acute water quality criterion value as differentiated from the MSGP 2000's value that was based on the MDL (i.e., arsenic, cadmium, copper, cyanide, mercury, nickel, selenium, and silver) were lowered in the 2008 MSGP based on EPA water quality criteria. Excluding mercury and nickel, the benchmark values were changed from 3.18 times the MDL to the ambient water quality criteria. Mercury and nickel benchmarks were revised based on EPA's updated acute aquatic life criteria. In each case, at least one EPA approved 40 CFR Part 136 analytical method exists with detection limits below these benchmark values.

Table 1. MSGP Benchmark Values and Sources

Pollutant	MSGP Benchmark	MSGP Source	Different
Ammonia*	2.14 mg/L	14	No
Biochemical Oxygen Demand (5 day)	30 mg/L	4	No
Chemical Oxygen Demand	120 mg/L	5	No
Total Suspended Solids	100 mg/L	7	No
Turbidity	50 NTU	9	Yes
Nitrate + Nitrite Nitrogen	0.68 mg/L	7	No
Total Phosphorus	2.0 mg/L	6	No
pH	6.0 – 9.0 s.u.	4	No
Aluminum (T) (pH 6.5 - 9)	0.75 mg/L	1	No
Antimony (T)	0.64 mg/L	12	No
Arsenic (T) (Freshwater)	0.15 mg/L	3	Yes
(Saltwater)	.069 mg/L	15	NA
Beryllium (T)	0.13 mg/L	2	No
Cadmium (T) (Freshwater)†	0.0021 mg/L	1	Yes
(Saltwater)	.04 mg/L	15	

Pollutant	MSGP Benchmark	MSGP Source	Different
Copper (T)* (Freshwater)† (Saltwater)	0.014 mg/L 0.0048 mg/L	1 15	Yes NA
Cyanide (Freshwater) (Saltwater)	0.022 mg/L .001 mg/L	1 15	Yes
Iron (T)	1.0 mg/L	3	No
Lead (T)* (Freshwater)† (Saltwater)	0.082 mg/L 0.21 mg/L	3 15	No
Magnesium (T)	0.064 mg/L	8	No
Mercury (T) (Freshwater) (Saltwater)	0.0014 mg/L 0.0018 mg/L	1 15	No; criteria updated^
Nickel (T) (Freshwater)† (Saltwater)	0.47 mg/L .074 mg/L	1 15	No; criteria updated^
Selenium (T)* (Freshwater) (Saltwater)	0.005 mg/L 0.29 mg/L	3 15	Yes
Silver (T)* (Freshwater)† (Saltwater)	0.0038 mg/L .0019 mg/L	1 15	Yes
Zinc (T) (Freshwater)† (Saltwater)	0.12 mg/L 0.09 mg/L	1 15	No; criteria updated^

(T) Total recoverable

* New criteria are currently under development, but values are based on existing criteria.

† These pollutants are dependent on water hardness where discharged into freshwaters. The freshwater benchmark value listed is based on a hardness of 100 mg/L. When a facility analyzes receiving water samples for hardness, the permittee must use the hardness ranges provided in Table 1 in Appendix J of this permit and in the appropriate tables in Part 8 of this permit to determine applicable benchmark values for that facility. Benchmark values for discharges of these pollutants into saline waters are not dependent on receiving water hardness and do not need to be adjusted.

^ The values for these pollutants do not have a new basis. They are still based on the water quality criteria, but the "National Recommended Water Quality Criteria" was updated in 2002.

Sources:

1. "National Recommended Water Quality Criteria." Acute Aquatic Life Freshwater (EPA-822-F-04-010 2006-CMC)
2. "EPA Recommended Ambient Water Quality Criteria for Beryllium." LOEL Acute Freshwater (EPA-440-5-80-024 October 1980)
3. "National Recommended Water Quality Criteria." Chronic Aquatic Life Freshwater (EPA-822-F-04-010 2006-CCC)
4. Secondary Treatment Regulations (40 CFR 133)
5. Factor of 4 times BOD5 (5 day biochemical oxygen demand) concentration - North Carolina Benchmark
6. North Carolina stormwater Benchmark derived from NC Water Quality Standards
7. National Urban Runoff Program (NURP) median concentration
8. Minimum Level (ML) based upon highest Method Detection Limit (MDL) times a factor of 3.18
9. Combination of simplified variations on Stormwater Effects Handbook, Burton and Pitt, 2001 and water quality standards in Idaho, in conjunction with review of DMR data.
10. "National Ambient Water Quality Criteria." Acute Aquatic Life Freshwater. This is an earlier version of the criteria document that has subsequently been updated. (See source #1)
11. "National Ambient Water Quality Criteria." Chronic Aquatic Life Freshwater. This is an earlier version of the criteria document that has subsequently been updated. (See source #3)
12. "National Ambient Water Quality Criteria. "Human Health for the Consumption of Organism Only (EPA-822-F-01-0102006
13. Consistent with many state numeric Water Quality Criteria. This Benchmark was agreed to in negotiations for the 1998 modification to the 1995 MSGP (63 FR 42534).

14. "Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Organisms and Their Uses." USEPA Office of Water (PB85-227049 January 1985).
15. "National Recommended Water Quality Criteria." Acute Aquatic Life Saltwater (CMC) available at: <http://water.epa.gov/scitech/swguidance/standards/criteria/current/index.cfm#altable>

X.B.1.b. Benchmark Monitoring Schedule (Part 6.2.1.2). Facilities required to conduct benchmark monitoring must do so in each of the first 4 quarters of permit coverage starting January 1, 2014, unless a modified benchmark monitoring schedule is included in the SWPPP for areas with "Climates with Irregular Stormwater Runoff" (see Part 6.1.6). In this case, the modified schedule must be reported to EPA when the first benchmark monitoring report is submitted.

Following the first 12 months (4 quarterly or otherwise consecutive monitoring events) of monitoring, if the average of the 4 monitoring values for any parameter does not exceed the benchmark, the permittee has fulfilled the benchmark monitoring requirements for that parameter for the duration of the permit term for that pollutant.

However, if the average of the 4 quarters of monitoring values exceeds any benchmark for a parameter, the permittee must evaluate his/her control measures to determine if modifications are necessary to meet the effluent limits in the permit. If so, the facility must either:

- Make the necessary modifications and monitor the pollutant for 4 additional quarters. Quarterly sampling must be continued until the discharger has completed 4 quarters of monitoring of that pollutant for which the average does not exceed the benchmark; or
- Make a determination that no further pollutant reductions are technologically available and economically practicable and achievable in light of best industry practice to meet the permit's technology-based effluent limits, or necessary to meet the permit's water quality-based effluent limits. If the permittee makes this determination, the accompanying rationale must be included in the post-SWPPP documentation. No further corrective action is required, but the permittee must monitor annually for the pollutant for the remainder of the permit term and notify EPA in the first monitoring report of the permittee's determination.

EPA is maintaining the option for permittees to justify benchmark exceedances based on local natural background concentrations. Part 6.2.1.2 of the permit allows for an exception from evaluation of control measures and further benchmark monitoring when natural background levels are solely responsible for the exceedance of a benchmark value. This can be determined if (1) natural background pollutant concentrations are greater than the corresponding benchmark value, and (2) there is *no* net facility contribution of the pollutant (i.e., average concentration detected in runoff from all facility outfalls required to be monitored under the MSGP for four separate events minus the average natural concentration of the parameter for four separate events does not exceed zero).

This natural background exception could apply to parameters such as metals derived from natural mineral deposits and nutrients attributable to background soil, vegetation, or wildlife sources. Natural background levels cannot be attributed to run-on from non-natural sources such as other industrial sites or roadways. If background concentrations are not responsible for the benchmark exceedance, the facility will need to review its control measures and take further action where necessary as required in Part 6.2.1.2 of this permit. Facilities must use the same sample collection, preservation, and analysis methods for natural background monitoring as required for benchmark monitoring.

If a permittee experienced average benchmark exceedances for one or more pollutants during coverage under the 2008 MSGP or suspects that the facility might have benchmark exceedances under this permit caused entirely by natural background, he/she can begin monitoring the natural background pollutant concentrations from a non-human impacted reference site concurrently with required benchmark monitoring.

After monitoring for four quarters and adequately determining that exceedances are the result of pollutants present in the natural background, permittees must notify EPA of these findings to claim the natural background exception. The exception allows the permittee to avoid the requirement for further evaluation of the effectiveness of control measures and to discontinue further benchmark sampling after the first year of permit coverage. To do this, the permittee must document the basis for concluding that benchmark exceedances are attributable solely to natural background pollutant levels. This explanation must include any data previously collected by the facility staff or others that describe the levels of natural background pollutants in the facility's receiving waters. The permittee must notify EPA when submitting its monitoring data that it is claiming the exception for natural background pollutant levels and provide a summary of the natural background conditions that justify the exception. The full justification for this exception must be kept on-site with the facility's additional documentation (see Part 5.5), and made available to EPA on request. The same exception may also be available to permittees who attribute their exceedances solely to run-on sources. This exception is only available after discussing the situation and receiving guidance and approval from the appropriate EPA Regional office.

To support a determination that the pollutant's presence is caused solely by natural background sources, the permit requires the following be documented and maintained with the SWPPP, as required by Part 5.5:

- An explanation of why the presence of the pollutant of concern in the discharge is not related to the activities or materials at your facility; and
- Data and/or studies that tie the presence of the pollutant of concern in the discharge to natural background sources in the watershed.

The following is a list of the type of information that should be considered to support a rationale for the natural background exception:

- Map showing the reference site location in relation to facility along with available land cover information;
- Reference site and test site elevation;
- Available geology and soil information for reference and test sites;
- Photographs showing site vegetation;
- Site reconnaissance survey data regarding presence of roads, outfalls, or other human-made structures; and
- Records from relevant state or federal agencies indicating no known mining, forestry, or other human activities upstream of the proposed reference site.

The background concentration of a pollutant in runoff from a non-human impacted reference site in the same watershed should be determined by evaluation of ambient monitoring data or by using information from a peer-reviewed publication or a local, state, or federal government publication specific to runoff or stormwater in the immediate region. Studies that are in other geographic areas, or are based on clearly different topographies or soils, are not eligible. When no data are available, and there are no known sources of the pollutant, the background concentration should be assumed to be zero.

In cases where historic monitoring data from a site are used for generating a natural background value, and the site is no longer accessible or able to meet reference site acceptability criteria, then there must be documentation (e.g., historic land use maps) that the site did meet reference site criteria (indicating absence of human activity) during the time data collection occurred.

EPA may review a permittee's determination that a benchmark exceedance is based solely on natural background concentrations, and disallow the exception if it finds the documentation inadequate.

Purpose: Consistent with the 2008 MSGP, EPA is requiring quarterly monitoring over the course of a year, with the average of the four samples of any parameter to be compared with benchmark values for that pollutant.

Benchmarks are not effluent limits, and exceedances of benchmarks are not permit violations. Rather, exceedance of a benchmark is an indicator to the operator that there may be a problem with his/her control measures, or the discharge may be adversely affecting water quality. Dischargers are thus required to evaluate their control measures when benchmarks are exceeded to determine if further minimization of the pollutant of concern is possible. If so, corrective action must be undertaken, and additional monitoring of the benchmark parameter must be conducted to allow the facility to assess the effectiveness of the revised control measures. However, if the operator determines that no further minimization is possible, this must be documented and benchmark monitoring continued on an annual basis. This will provide EPA with additional data to support its re-evaluation of benchmarks for the next permit cycle. EPA may choose to inspect such facilities to assess the validity of the operator's determination that no further pollutant minimization is possible.

As indicated in the 2008 MSGP natural background levels can be a cause for benchmark exceedances. Therefore, when industrial activity is not contributing to the pollutant concentrations causing these exceedances, EPA is providing permittees an option to discontinue benchmark monitoring. This waiver is not available for effluent limitation monitoring (Part 6.2.2).

X.B.1.c.Exception for Inactive and Unstaffed Sites (Part 6.2.1.3).Part 6.2.1.3 of the permit allows for an exception from benchmark monitoring for facilities that are both inactive and unstaffed, when the facility no longer has industrial activities or materials exposed to stormwater. These facilities could alternatively submit a No Exposure Certification terminating permit coverage. However, EPA realizes that some facilities plan to recommence industrial activity in the future and therefore may wish to keep active permit coverage. To qualify for this exception, permittees must maintain a signed certification with their additional documentation (Part 5.5 of the permit) that indicates that the site is inactive and unstaffed, and that there are no industrial activities or materials exposed to stormwater. Permittees are not required to obtain advance approval for this exception. This permit retains the allowance for inactive and unstaffed sites in the mining industry (i.e., Sectors G, H, and J) to qualify for this exception where some industrial activities or materials are exposed to stormwater. This provision is included for mining sites because of the large number of extremely remote sites in these sectors, and the impracticability/infeasibility of reaching these sites during qualifying storm events. However, these sites must still be identified in the operator's SWPPP, and must still adopt control measures to minimize pollutant discharges.

The permit clarifies that if circumstances change and industrial materials or activities become exposed to stormwater or the facility becomes active and/or staffed, this exception no longer applies and the permittee must immediately begin complying with the applicable benchmark monitoring requirements under Part 6.2 as if he/she was in the first year of permit coverage, and notify EPA of the change in the NOI. In the same way, if the permittee is not qualified for this exception at the time he/she is authorized under this permit, but during the permit term the facility becomes inactive and unstaffed, and there are no industrial materials or activities that are exposed to stormwater, then the permittee must notify EPA of this change the NOI, and may discontinue benchmark monitoring once he/she has done so, and prepared and signed the statement described above concerning the facility's qualification for this special exception.

Purpose: EPA believes that a facility with no industrial activity and no exposed materials will not be contributing pollutants to stormwater discharges. Therefore, in the proposed 2013 MSGP EPA is retaining this same exception, Because discharges of pollutants do not cease when industrial materials remain exposed to stormwater, and because EPA has determined that maintaining permit coverage for inactive and unstaffed sites will be a rare event in most sectors, and monitoring of these sites will not be unduly burdensome if activities and materials remain exposed to stormwater, EPA believes that a requirement for no exposure is a reasonable prerequisite for this monitoring exception for most sectors. EPA has provided a broader exception for inactive and unstaffed mining sites in Sectors H and J for the reasons discussed above, while there is no monitoring for Sector G mining sites if they are not active sites.

X.B.2. Effluent Limitations Monitoring (Parts 6.2.2.).

Numeric effluent limitations have been included in previous versions of the MSGP, based on national effluent limitation guidelines for certain industry-specific discharges (see Part 6.2.2). Consistent with minimum monitoring requirements for NPDES permit limits established at 40 CFR 122.44(i), monitoring for these parameters must be conducted at least once each year for the duration of permit coverage. A facility's numeric effluent limitations are specified in the Part 8 requirements that correspond that that facility's sector. Monitoring for all parameters must be conducted according to the procedures in Part 6.1 of this permit unless otherwise noted.

This permit retains the requirement for corrective action whenever there is an exceedance of a numeric effluent limit. EPA also clarifies that, in contrast to benchmarks, an exceedance of an effluent limit constitutes a violation of the permit. Failure to conduct required corrective action and follow-up monitoring as required in Part 6.2.2.3 of this permit is an additional violation.

For this permit, EPA has updated the requirements for Sector S to incorporate the Airport Deicing Effluent Limitation Guideline. Airlines and airports conduct deicing operations on aircraft and airfield pavement to ensure the safety of passenger and cargo flights. In the absence of controls, deicing chemicals are widely dispersed causing pollutants to enter nearby rivers, lakes, streams, and bays. On May 16, 2012, EPA published the Airport Deicing Effluent Limitation Guidelines (ELGs) in the Federal Register to control the discharge of pollutants from airport deicing operations to surface waters and to publicly owned treatment works under Title III of the Clean Water Act. See also 40 CFR Parts 9 and 449. The requirements generally apply to wastewater associated with the deicing of airfield pavement at primary airports. The rule also established new source performance standards (NSPS) for wastewater discharges associated with aircraft deicing for a subset of new airports. These guidelines are implemented in discharge permits issued by states and EPA regional offices under the NPDES program. Therefore, the 2013 MSGP is incorporating the requirements from the Airport ELG that are appropriate to the kinds of discharges the permit authorizes. These requirements are found in Part 8.S.7 of the permit.

Additionally, facilities that use coal simply for steam generation are also not subject to numeric effluent limitations. Applicable control measures for these facilities must be selected, designed, installed, and implemented consistent with the stormwater control requirements established in Part 2 of the permit.

Part 6.2.2.2 clarifies that permittees subject to effluent limitation guidelines are required to monitor each outfall discharging runoff, and that the flexibility afforded for benchmark monitoring for substantially identical outfalls does not apply to effluent limitation guidelines monitoring.

Part 6.2.2.3 includes follow-up monitoring provisions for pollutants that exceed any effluent limit contained in the permit. EPA added this requirement to ensure that existing control measures are modified as necessary to bring the facility back into compliance with the effluent

limitations contained in the permit. EPA emphasizes in the permit that failure to complete follow-up monitoring and reporting within the stipulated time frames constitutes an additional violation of the permit, in addition to the initial effluent limit violation.

Procedures and timeframes for responding to exceedances of effluent limitations are described in Section XI.F of the fact sheet. In addition to these requirements, permittees are required to continue to monitor at least quarterly until the discharge is in compliance with applicable limits or EPA waives the requirement to continue monitoring. Also, consistent with other types of effluent monitoring, the permit requires that these follow-up monitoring results be reported to EPA (see Part 7).

Purpose: Part 6.2.2 ensures that permittees monitor to determine compliance with any applicable numeric effluent limits.

EPA is maintaining this requirement to conduct follow-up monitoring for effluent limit exceedances as a way to ensure that permittees come back into compliance with applicable effluent limitations as soon as possible. While the NPDES regulations require a minimum of annual monitoring to demonstrate compliance with applicable effluent limitations, the vast majority of NPDES permits for industrial wastewater discharges require more frequent monitoring (up to daily for certain pollutants / sources in some instances). EPA believes that monitoring at the regulatory minimum of once per year is appropriate for stormwater discharges, provided the facility remains in compliance with the numeric effluent limits. However, the Agency believes it is appropriate to require more frequent monitoring once the effluent limitation is exceeded. Otherwise, both EPA and the permittee would have to wait an additional year to confirm that the facility has come back into compliance with the limitation. This is an unacceptably long period for the permittee to be potentially out of compliance with the limit. The proposed permit requires quarterly monitoring (as well as immediate corrective action with appropriate post-SWPPP documentation) when effluent limit exceedances occur, until the facility has come back into compliance.

X.B.3. State or Tribal Provisions Monitoring (Part 6.2.3).

Where a state or tribe has imposed a numeric effluent limitation, has established a wasteload allocation, or has stipulated specific monitoring requirement(s) as a condition for certification under CWA Section 401, a minimum monitoring frequency of once-per-year has been included in the proposed permit. This annual monitoring frequency applies only if a state or tribe does not specify an alternative monitoring frequency.

Purpose: As with previous permits, this permit requires facilities to monitor for a state or tribe imposed numeric effluent limit at a minimum of once-per-year when the state or tribe has not indicated a required monitoring frequency. EPA notes that because this is a proposed permit and 401 certifications have not been completed, state and tribal requirements are not incorporated into the permit. This provision is intended to allow facilities to determine compliance with the numeric effluent limit. Exceedances of state or tribal numeric effluent limits are permit violations in the same way as exceedances of effluent limitation guidelines are violations. Both types of violations require the same corrective action and follow-up monitoring. The minimum frequency also applies to other monitoring required by a state or tribe (even if not associated with a numeric effluent limit) where the state or tribe has not specified a required frequency. No changes were made to this provision.

X.B.4. Discharges to Impaired Waters Monitoring (Part 6.2.4).

Part 6.2.4 of the permit clarifies provisions for discharges to water quality impaired receiving waters. The following is a step-by-step discussion on how permittees should determine appropriate monitoring requirements.

X.B.4.a. Determine Whether the Receiving Waterbody Is Impaired and What Monitoring Requirements Apply

Each operator is required to indicate in his/her NOI whether the facility's discharge is to an impaired water, and, if so, what are the pollutants causing the impairment. Following the submittal of the NOI, EPA will assess each NOI to determine what, if any, monitoring requirements apply under Part 6.2.4.

The first step for the operator is to determine if his/her facility discharges to an impaired water. To assist operators in determining their receiving waters information, EPA intends to integrate a tool into the eNOI system that will automatically determine receiving waters information and impairment status. If the discharge is to an impaired water, the monitoring requirements under Part 6.2.4 are triggered. However, if the discharge is not to an impaired water, the permittee has no obligations under Part 6.2.4 of the permit. In Part 6.2.4.1, EPA specifies that a project will be considered to discharge to an impaired water if the first water of the U.S. to which the project discharges is identified by a state, tribe, or EPA pursuant to Section 303(d) of the CWA as not meeting an applicable water quality standard, or is included in an EPA-approved or established total maximum daily load (TMDL). For discharges that enter a storm sewer system prior to discharge, the first water of the U.S. discharged to is the waterbody that receives the stormwater discharge from the storm sewer system.

When developing TMDLs, EPA and the states evaluate contributions from upstream segments and contributing waterbodies. As such, in some instances, upstream sources may be identified as a contributor to an impairment. Where EPA has reason to believe that a permitted facility has the potential to cause or contribute to an impairment in a downstream water, notwithstanding the permittee's indication in his/her NOI that the facility does not discharge to an impaired water, EPA may require the permittee to perform additional monitoring and/or adopt additional control measures to address the potential contribution to the impairment. In these instances, EPA will notify the permittee, in writing, of the additional obligations, including any monitoring requirements.

X.B.4.b. Determine the Pollutant(s) of Concern

After determining that a discharge is to an impaired water, the permittee must identify the pollutant(s) identified as causing the impairment, and provide a list of such pollutants in the NOI. *[Note: as of the time of proposal, this information is intended to be provided automatically when an operator fills out the eNOI form.]* This information should be readily accessible from the state or tribal 303(d) list. The permit requires permittees to monitor for all of these pollutants, with a few noteworthy exceptions as discussed below. For impaired waters without a TMDL, monitoring is required only for those parameters for which a standard analytical test method in 40 CFR Part 136 exists. If a TMDL has been approved or established that applies to the discharge, EPA will determine whether there are any other monitoring specifications that are contained in the TMDL and that apply to the facility, and notify the permittee of any additional requirements. If the pollutant for which the waterbody is impaired is suspended solids, turbidity, or sediment/sedimentation, Total Suspended Solids (TSS) must be monitored. If the pollutant of concern is an indicator or surrogate pollutant, than the pollutant indicator (e.g., dissolved oxygen) must be monitored. No monitoring is required when a waterbody's biological communities are impaired but no pollutant is specified as causing the impairment, or when a waterbody's impairment is related to hydrologic modification, impaired hydrology, or other non-pollutant (e.g., exotic species, habitat alterations, objectionable deposits).

X.B.4.c. Determine Monitoring Frequency (Part 6.2.4.2)

Next, the appropriate frequency is determined based on whether the state has an approved or established a TMDL for the impaired water.

i. Discharges to impaired waters without a TMDL. For those permittees discharging to impaired waters without an approved or established TMDL, monitoring is required for the pollutant(s) of concern annually. Following the first year, impaired waters monitoring is no longer required if the pollutant of concern is not detected above natural background levels, and the pollutant of concern is not expected to be present above natural background levels in the facility's discharge. If the permittee determines that the presence of the pollutant of concern is caused solely by the natural background levels of that pollutant, he/she must notify EPA of this finding and retain documentation of the basis for the determination with the SWPPP.

EPA notes that, as with all five types of monitoring in this permit, permittees can combine monitoring activities where requirements are duplicative (e.g., effluent limitation guideline and impaired water monitoring both require testing for the same parameter at the same outfall).

ii. Discharges to impaired waters with an EPA approved or established TMDL. If the permittee discharges to an impaired water with an approved or established TMDL, monitoring is not required for the pollutant causing the impairment unless EPA informs the permittee that it is subject to such a requirement consistent with the goals of the applicable TMDL and/or WLA. Where applicable, EPA's notice will include specifications on which pollutant to monitor and the required monitoring frequency. EPA believes the previous MSGP monitoring requirements for permittees discharging into waters with an approved TMDL relied on operators to interpret their requirements to too great an extent. Consequently, EPA has removed the language describing when monitoring must continue and when it may cease and instead has required the operator to contact EPA for monitoring instructions.

Purpose: Part 6.2.4 is intended to provide the states and EPA with further information on the impacts permitted industrial facilities have on impaired waters, and to help ensure that the facilities are not causing or contributing to the impairment. For discharges to impaired waters that do not yet have TMDLs developed, these monitoring data are important when developing the TMDL in the future to identify potential sources of the pollutants causing the impairment as well as to identify sources that do not contribute the pollutant and thus should not be included in the TMDL. They are also important for assessing whether additional water-quality based effluent limits, either numeric or qualitative, are necessary on a site specific basis to ensure that the facility does not cause or contribute to a water quality standards violation. For discharges to waters for which a TMDL is applicable to the permittee, monitoring data provides a means of ensuring that the permittee is consistent with TMDL, as well as a useful tool to assess progress in meeting the goals of the TMDL.

To help operators with compliance regarding impaired waters, the monitoring requirements have been clarified with resource information or, when questions persist, the option to contact the appropriate Region office. In addition, EPA has also clarified the impaired waters monitoring requirements to end an operator's obligation to continue monitoring for situations where high levels of pollutants of concern are the result of naturally occurring sources. Operators are advised to follow the same guidance in determining if the natural background is applicable as provided in Section X.B.1.b of this fact sheet. An operator should consult their EPA Regional office for help, if needed. The same exception may also be available to discharges of pollutants attributed solely to

run-on sources. This exception is only available after discussing the situation and receiving guidance and approval from the appropriate EPA Regional office.

X.B.5. Additional Monitoring Required by EPA (Part 6.2.5).

EPA may determine that additional discharge monitoring is required to ensure the protection of receiving water quality. In this case, EPA will provide the appropriate facility with a brief description of why additional monitoring is needed, locations and parameters to be monitored, frequency and period of monitoring, sample types, and reporting requirements.

Purpose: As with the 2008 MSGP, this permit requires facilities to perform additional discharge monitoring in those instances when EPA determines it is necessary to ensure the protection of receiving water quality. Such monitoring serves as a tool for EPA and the permittee to evaluate whether additional control measures are needed to protect receiving water quality.

XI. Reporting and Recordkeeping (Part 7).

XI.A. Electronic Reporting Requirement (Part 7.1).

Part 7.1 requires all industrial operators to submit all NOIs, NOTs, NOEs, annual reports, Discharge Monitoring Reports (DMRs), and other reporting information as appropriate electronically, unless the industrial owner/operator has received one of the following waivers from the EPA Regional Office: (1) If the owner/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) If the industrial owner/operator has issues regarding available computer access or computer capability. In the past, operators were encouraged to use the eNOI system, but were given the option to submit paper NOIs. Due to the expansion in internet availability, greater efficiency in administrative processing, and reductions in cost to manage the system as compared to paper NOIs, it is required that the eNOI system be the primary mechanism by which industrial facilities obtain permit coverage. If it is not possible for a permittee to make use of the eNOI system, then permittees must obtain a waiver approval from the appropriate EPA Region after which they may submit a paper NOI or other form to the Region.

Purpose: Electronic reporting (e-Reporting) of required information is an EPA priority to reduce paper and the time and burden for generating and processing paper. EPA will allow the use of paper for those operators who absolutely need it, based on the reasons given in Part 7.1, provided they request a waiver from electronic reporting to their appropriate EPA Region. This new requirement is based on the Electronic Reporting Rule and language from the Agency's Vessel General Permit.

Request for Comment Electronic Reporting Waivers

EPA requests comment on whether the Agency should consider allowing long-term waivers from electronic reporting (i.e., one waiver request can be used to waive electronic reporting for the permit term), and if so, under what conditions long-term waivers should be granted.

XI.B. Submitting Information to EPA (Part 7.2).

Permittees must comply with a number of different reporting requirements described throughout this permit. Part 7.2 includes a summary of all of the required information that must be submitted through the eNOI system or directly to the appropriate EPA Regional office. For this permit, all information must be submitted electronically via EPA's eNOI system. However, where an operator is unable to submit information electronically, EPA has included a waiver option.

Purpose: Submitting information to EPA is now required to be electronic per Part 7.1 unless extenuating circumstances preclude doing so, in which case you must contact the

appropriate EPA Region to obtain a waiver. Recognizing there may be cases that make electronic submittals of information not possible; EPA has included a waiver that an operator can receive after they ask an EPA Region for the waiver and the Region grants it. In such cases, the operator would submit the paper copy to the Region. These requirements are intended to reduce burden of submitting and processing paper.

XI.C. Additional SWPPP Information Required in Your NOI

For those facilities with SWPPPs not in a format that lends itself to being put online or that lack a website to host it, EPA offers an option where salient SWPPP information can be extracted or summarized and input into the NOI form required and submitted through the eNOI system. Although not as complete as an entire SWPPP, EPA believes the information required, such as the control measures and BMPs implemented to comply with the non-numeric technology-based effluent limits required in Part 2.1.2, will be sufficient for stakeholders to get a good idea of what a regulated facility is doing to protect local resources and comply with permit provisions. If the operator does not provide a SWPPP URL then the NOI form must include:

- a. Onsite industrial activities and other potential sources of pollutants, including potential spill and leak areas (see Parts 5.1.3.1, 5.1.3.3 and 5.1.3.5);
- b. Pollutants or pollutant constituents associated with each industrial activity exposed to stormwater that could be discharged in stormwater and/or any authorized non-stormwater discharges listed in Part 1.1.3 (see Part 5.2.3.2) (see Part 5.1.3.2);
- c. Stormwater control measures you employ to comply with the non-numeric technology-based effluent limits required in Part 2.1.2 and Part 8, and any other measures taken to comply with the requirements in Part 2.2 Water Quality -Based Effluent Limitations (see Part 5.2.4.1).
- d. Schedule for good housekeeping and maintenance (see Part 5.2.5.1) and schedule for all inspections required in Part 4 (see Part 5.2.5.2).

Purpose: Part 5.4 provides options for the facility to choose for public availability of the SWPPP or salient SWPPP information. One option remains as in the 2008 MSGP, and this option can be used by operators who post their SWPPP on the Internet, per Part 5.4.1. The second option requires the inclusion of extra facility information in the NOI and must be used by those operators who do not post their SWPPPs online. The goal is to better inform the public and regulatory agencies about the nature of a facility's activities and permitted discharges that could impact receiving waters and the facility's compliance with the permit. This information can be extracted verbatim from the facility's SWPPP or summarized as the operator sees fit.

XI.D. Reporting Monitoring Data to EPA (Part 7.4).

All monitoring data must be submitted to EPA using EPA's online eNOI system (www.epa.gov/npdes/stormwater/eNOI) (unless a waiver from electronic reporting has been granted) no later than 30 days after a permittee has received their complete laboratory results for all monitored outfalls for the reporting period.

Purpose: Monitoring data must be submitted to document stormwater quality and identify potential water quality concerns to EPA, states, and others.

XI.E. Annual Report (Part 7.5).

The proposed MSGP requires all permittees to submit an annual report to EPA that contains a summary of the routine site inspection and visual assessment findings, corrective action documentation, the rationale for why it is believed that no further pollutant reductions are achievable when a four quarter average benchmark is exceeded, and any noncompliance

observed. Permittees must also annually verify that the eligibility criterion selected under Part 1.1.4.5 with respect to the protection of endangered and threatened species and critical habitat is still applicable, and that any mitigation measures or controls implemented are working as intended. These are the minimum reporting elements with which an outside entity could reasonably make an assessment regarding permit compliance. The requirement to certify that a permittee is in compliance with the permit that was in the 2008 MSGP (as part of the comprehensive site assessment requirements) has been retained in Part 7.5 of the proposed permit. Annual reports must be submitted electronically (unless a waiver from electronic reporting has been granted) by January 30th for each year of permit coverage.

Purpose: EPA is retaining the requirement to submit an annual report to gather information from permittees to identify potential water quality concerns and to assess compliance with permit provisions. This provision along with SWPPP / SWPPP information being made accessible will provide citizens and other stakeholders with more information about activities and discharges that could affect their receiving waters.

XI.F. Exceedance Report for Numeric Effluent Limits (Part 7.6).

As described in Part 6.2.2.3, permittees must conduct follow-up monitoring any time a monitoring event identifies an exceedance of a numeric effluent limit, such as a limited based on an effluent limitation guideline. Part 7.6 specifies that these data must be submitted to EPA no later than 30 days after receiving lab results. Part 7.6 also identifies the specific information to be included in this report, which is necessary for EPA to assess the potential impact of this discharge on water quality and the adequacy of the permittees response in addressing the exceedance.

Purpose: EPA is requiring submission of exceedance reporting information as a way to assess the potential impact of these discharges on water quality and also as a way to assess the adequacy of the permittees response to the exceedance.

XI.G. Additional Reporting (Part 7.7).

Permittees must comply with a number of different reporting requirements described throughout this permit. Specific reporting requirements are included in Part 7; however, additional reporting requirements are described in Part 9 applicable to certain states or tribes as well as standard reporting requirements detailed in Appendix B, Subsection 12. Part 7.7 includes a summary of all of the required reports from Appendix B, Subsection 12, and specifies which reports are to be submitted to the appropriate EPA Regional Office and which ones must be submitted to EPA Headquarters.

Purpose: This section provides notice to the permittee of applicable reporting requirements not elsewhere described in Part 7.

XI.E. Recordkeeping (Part 7.5).

Part 7.5 of this permit describes recordkeeping requirements associated with activities covered under this permit. These include the original SWPPP and any modifications, so as to provide a traceable historical record of the SWPPP and its evolution, additional documentation, all reports and certifications required by the permit, monitoring data, and records of all data used to complete the NOI to be covered by this permit. Permittees must retain copies of these documents for a period of at least three years from the date that the permittee's coverage under this permit expires or is terminated. The recordkeeping requirements in Appendix B, Subsection B.12 include a more general statement of the NPDES standard condition for records retention, but does not impose additional requirements on the permittee above what is required in Part 7.8.

Purpose: This permit requires permittees to maintain certain records to help them assess performance of control measures and as a way to document compliance with permit

conditions. These requirements are consistent with Federal regulations at 40 CFR 122.41 (j), but have been tailored to more closely reflect requirements of the MSGP.

XII. Special Requirements for Discharges Associated with Specific Industrial Activities (Part 8).

Except for the changes to the monitoring requirements described in Section X.B.1 of this fact sheet and the changes to individual sectors listed below, the general format and requirements in the sector-specific parts of the permit (Part 8) are similar to the 2008 MSGP.

XII.A. Technology-Based Effluent Limit Clarifications

The proposed 2013 MSGP contains minor changes to some of the technology-based effluent limits in Sectors E, F, K, L, M, N, O, P, Q, R, S, V, X, Y, Z, AA to further clarify the effluent limit.

XII.B. Sector G – Metal Mining (Ore Mining and Dressing)

For this permit, EPA has modified the requirements for Sector G to include specific requirements for discharges from exploration and construction activities that are consistent with EPA's Construction General Permit (CGP) and the Construction and Development Effluent Limitation Guidelines.

Technology-Based Effluent Limits for Clearing Grading and Excavation Activities (Part 8.G.4). This section of the permit addresses requirements for the exploration and construction phase, which were activities that could result in discharges covered under EPA's 2012 CGP but instead are covered under the MSGP. Part 8.G.4 includes required management practices, inspection procedures, maintenance and corrective action protocols, and final stabilization provisions.

Purpose: For new mining dischargers engaging in earth disturbing activities prior to active mining, EPA has included the salient provisions of the 2012 CGP for Sector G. This allows new mining dischargers to only have to obtain coverage under the MSGP to cover all their activities. The construction requirements in this permit are both increased and more prescriptive because the CGP was extensively revised to incorporate the new Construction and Development effluent limitation guideline.

XII.C. Sector H – Coal Mines and Coal Mining-Related Facilities

For this permit, EPA has modified the requirements for Sector H to include specific requirements for discharges from exploration and construction activities that are consistent with EPA's 2012 CGP and the Construction and Development Effluent Limitation Guidelines.

Technology-Based Effluent Limits for Clearing Grading and Excavation Activities (Part 8.H.4). This section of the permit addresses requirements for the exploration and construction phase, which were activities that could result in discharges covered under EPA's 2012 CGP but instead are covered under the MSGP. Part 8.H.4 includes required management practices, inspection procedures, maintenance and corrective action protocols, and final stabilization provisions.

Purpose: For new mining dischargers engaging in earth disturbing activities prior to active mining, EPA has included the salient provisions of the 2012 CGP for Sector H. This allows new mining dischargers to only have to obtain coverage under the MSGP to cover all their activities. The construction requirements in this permit are both increased and more prescriptive because the CGP was extensively revised to incorporate the new Construction and Development effluent limitation guideline.

XII.D. Sector J – Non-Metallic Mineral Mining and Dressing

For this permit, EPA has modified the requirements for Sector H to include specific requirements for discharges from exploration and construction activities that are consistent with EPA's 2012 Construction General Permit and the Construction Effluent Limitation Guidelines.

Technology-Based Effluent Limits for Clearing Grading and Excavation Activities (Part 8.H.4). This section of the permit addresses requirements for the exploration and construction phase, which were activities that could result in discharges covered under EPA's 2012 CGP but instead are covered under the MSGP P. Part 8.H.4 includes required management practices, inspection procedures, maintenance and corrective action protocols, and final stabilization provisions.

Purpose: For new mining dischargers engaging in earth disturbing activities prior to active mining, EPA has included the salient provisions of the CGP for Sector J. This allows new mining dischargers to only have to obtain coverage under the MSGP to cover all their activities. The construction requirements in this permit are both increased and more prescriptive because the CGP was extensively revised to incorporate the new Construction and Development effluent limitation guideline.

XII.E. Sector N – Scrap Recycling Facilities

Scrap and Recyclable Waste Processing Areas (Part 8.N.3.2.5). This section identifies requirements for scrap and recyclable waste processing areas for facilities in Sector N.

Purpose: Under this section, control measure requirements are specified for processing areas at Sector N facilities. Language clarifications have been made but requirements are unchanged from the 2008 MSGP.

XII.F. Sector O – Steam Electric Power

Industrial Activities Covered by Sector O (Part 8.O.2). This section identifies the applicable industrial activities covered under Sector O. EPA has modified the permit to exclude geothermal power generation.

Purpose: In the initial rulemaking, the definition of "stormwater discharge associated with industrial activity" did not address nor consider geothermal power generation in 40 CFR 122.26(b)(14)(vii) Steam electric power generating facilities, including coal piles. However, since the promulgation of the definition, the geothermal power industry has become significant enough to make it necessary for EPA to clarify this industry was not within the scope of the original industrial definition.

XII.G. Sector S – Air Transportation Facilities

For this permit, EPA has updated the requirements for Sector S to incorporate the Airport Deicing Effluent Limitation Guideline. Airlines and airports conduct deicing operations on aircraft and airfield pavement to ensure the safety of passenger and cargo flights. In the absence of controls, deicing chemicals are widely dispersed causing pollutants to enter nearby rivers, lakes, streams, and bays. On May 16, 2012, EPA published the Airport Deicing Effluent Limitation Guidelines (ELGs) in the Federal Register to control the discharge of pollutants from airport deicing operations to surface waters and to publicly owned treatment works under Title III of the Clean Water Act. See also 40 CFR Parts 9 and 449. The requirements generally apply to wastewater associated with the deicing of airfield pavement at primary airports. The rule also established new source performance standards (NSPS) for wastewater discharges associated permits issued by states and EPA regional offices under the National Pollutant Discharge Elimination System. Therefore, the 2013 MSGP is incorporating the requirements from the Airport ELG that are appropriate to the kinds of discharges the permit authorizes. These requirements are found in Part 8.S.7 of the permit.

Effluent Limitations Based on Effluent Limitations Guidelines (Part 8.S.7). In 8.S.7.1 of the 2013 MSGP are requirements applicable to discharges from airfield pavement deicing commingled with stormwater at both existing and new airports, providing the airports have at least 1,000 or more annual jet departures ("non-propeller aircraft"). Operators of such airports must either use non-urea-containing deicers, or, alternatively, meet the ELG's effluent limit for "Ammonia as

Nitrogen", 14.7 mg/L, daily maximum. The 2013 MSGP contains, as did previous versions, sector-specific effluent limit requirements to consider the use of non-urea-based pavement deicers (see Part 8.S.3.1.6 Source Reduction). Currently, only about 10 percent of chemical pavement deicers applied nationwide contain urea.

The other major part of the ELG concerns aircraft deicing at new airports (i.e., those meeting the definition of a new source at 40 CFR 449.11) with 10,000 annual departures located in cold climate zones. See Part 8.S.7.2 in the 2013 MSGP. The ELG incorporated a geographically based component that is closely aligned with a 30,000 gallon annual aircraft deicing fluid (ADF) usage threshold (see 40 CFR 449.11 for instructions on determining whether your airport is in a cold climate zone). The requirement is for capturing 60 percent of available aircraft deicing fluid after deicing. The ELG further applies a numeric discharge requirement for chemical oxygen demand for those airports that discharge the collected aircraft deicing fluid directly to waters of the U.S. However, collected aircraft deicing fluid is not authorized for discharge under the MSGP and, therefore, the numeric limit is not included here. Such a limit would only be incorporated into an individual permit that covers an airport's wastewater discharges.

In addition to establishing the requirement to collect 60 percent of available ADF for new airports with 10,000 or more annual departures located in cold climate zones, the record for the ELG also states that a 20 percent available ADF collection goal is achievable for all existing primary airports that have 10,000 or more annual departures. EPA estimates that glycol recovery vehicles (GRVs) typically collect at least 20 percent of the available ADF when properly operated and maintained, and that GRV technology is affordable at the targeted airports. EPA strongly recommends such airports adopt, at a minimum, the collection of 20 percent of available glycol after application.

There are also monitoring, reporting and recordkeeping requirements for those new airports subject to the 60 percent collection requirements in Part 8.S.7.3. These requirements are outlined in 40 CFR 449.20(a)(1) and (2) and are included in the 2013 MSGP by reference. Providing further details on the requirements in 8.S.7.2 and 8.S.7.3 are not necessary in this permit because in 2011 the Federal Aviation Authority indicated that there were no pending or planned airports in the U.S. that would be subject to NSPS in the ELG.

Purpose: This section of the permit addresses requirements that are added by the Airport Deicing Effluent Limitation Guideline.

XIII. Permit Conditions Applicable to Specific States, Indian Country or Territories (Part 9).

This part of the permit will be completed as the states, Indian Country Lands, and U.S. territories complete their Section 401 certifications for this permit.

Purpose: Section 401 of the CWA (See also 40 CFR §122.44(d)(3) and §124.53(a)) provides that no Federal license or permit, including NPDES permits, to conduct any activity that may result in any discharge into navigable waters shall be granted until the State/Tribe in which the discharge originates certifies that the discharge will comply with the applicable provisions of sections 301, 302, 303, 306, and 307 of the CWA. The states, Indian Country lands, and U.S. territories will document the completion of their Section 401 certifications for this permit in this section.

XIV. Appendices

XIV.A. Definitions and Acronyms (Appendix A).

Definitions (Appendix A). Appendix A of this permit provides definitions for permit-specific terms and a list of acronyms used throughout the permit.

Purpose: To provide a reference tool for terms and acronyms used throughout the permit

The following definitions were added in the proposed permit:

- "Antidegradation Policy or Antidegradation Requirements"
- "Bypass"
- "CERCLA Site"
- "Corrective Action"
- "Critical Habitat"
- "Discharge Point"
- "Discharge to an Impaired Water"
- "Effective Operation Condition"
- "Effluent Limitations"
- "Effluent Limitations Guideline (ELG)"
- "Electronic Notice of Intent"
- "Eligible"
- "Endangered Species"
- "Federal, State, or Tribal Cleanup Site"
- "Hazardous Materials or Hazardous Substances or Hazardous or Toxic Waste"
- "Historic Property"
- "Infeasible"
- "Minimize"
- "National Pollutant Discharge Elimination System (NPDES)"
- "Non-Stormwater Discharges"
- "Notice of Intent"
- "Notice of Termination"
- "Outfall"
- "Permitting Authority"
- "Restricted Information"
- "Run-On"
- "Saline Water or Saltwater"
- "Spill"
- "Stormwater Controls"
- "Stormwater Team"
- "Storm Event"
- "Threatened Species"
- "Toxic Waste"
- "Upset"
- "Waters of the United States"

In addition to the changes mentioned above, the following definitions were also revised to more accurately reflect their regulatory counterparts or current EPA policy:

- "Arid Areas"
- "Drought-Stricken Area"
- "Federal Operator"
- "Impaired Water"

- "Indian Country or Indian Country Lands"
- "Municipal Separate Storm Sewer (MS4)"
- "Operator"
- "Pollutant"
- "Semi-Arid Areas"
- "Stormwater Discharges Associated with Construction Activities"
- "Tier 2.5 Waters"
- "Total Maximum Daily Loads"
- "Water Quality Standards"

EPA notes that it has changed the term "federal facility" to "Federal Operator" to clarify what entities need to obtain coverage under this general permit where the state permitting authority is not authorized to administer the federal facility program (i.e., in Vermont, Washington, Delaware and Colorado). The revised definition makes clear that where the operator is a department, agency or instrumentality of the Federal government (a "federal entity"), or another party engaging in industrial activity for any such federal entity, the operator is a "Federal Operator" that must obtain coverage under this permit.

The following definitions were deleted from the proposed permit:

- "Best Management Practices"
- "EPA Approved or Established Total Maximum Daily Loads (TMDLs)"
- "You" and "Your"

The following acronyms were added to the list that appears in the 2008 MSGP:

- "CFR" – Code of Federal Regulations
- "ELG" – Effluent Limitation Guideline
- "eNOI" – Electronic Notice of Intent

XIV.B. Standard Permit Conditions (Appendix B).

Standard Permit Conditions (Appendix B). Appendix B includes the standard NPDES permit conditions consistent with 40 CFR 122.41.

Purpose: To include as part of the permit the required standard permit conditions for all NPDES permits. EPA updated the 2008 MSGP's standard permit conditions to add the following conditions which are consistent 40 CFR 122.41:

1. Validity of electronic signatures (Appendix B, Part 11.F).
2. Retention of Records (Appendix B, Part 15).
3. Reopener Clause (Appendix B, Part 16).
4. Standard Severability Clause (Appendix B, Part 17)

XIV.C. Areas Covered (Appendix C).

Areas Covered (Appendix C). Appendix C specifies in what areas of the country the permit would apply, and includes specific corresponding permit numbers.

Purpose: To specify the areas where the permit is effective. In contrast to the 2008 MSGP the permit is now available for areas in the state of Colorado, subject to industrial activity by a Federal Operator and Indian country, as well as Indian country in Iowa, Kansas, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming. The permit is not

available in Region 4 and in Alaska (except for areas the Denali National Park and Preserve subject to industrial activity by a Federal Operator and Indian country) because the state has been delegated NPDES program responsibilities.

XIV.D. Activities Covered (Appendix D).

Activities Covered (Appendix D). Appendix D describes the types of activities covered by this permit by subsector, SIC or Activity Code, and activity represented. There have not been any substantive changes to this from the 2008 MSGP.

Purpose: To specify the types of activities covered by this permit by subsector, SIC or Activity Code, and activity.

XIV.E. Procedures relating to Endangered Species (Appendix E).

Procedures Relating to Endangered Species Protection (Appendix E). Appendix E specifies the Part 1.1.4.5 eligibility criteria related to the protection of endangered and threatened species and critical habitat and the procedures operators must follow to meet the criteria. As described in Part V.A.3 of this fact sheet, EPA is proposing to make changes to Appendix E. The most substantial proposed change to Appendix E is the requirement for permit applicants that are establishing eligibility under criterion C (i.e., facilities with species in their action area that are making a determination that their discharges and discharge-related activities are not likely to adversely affect listed species and critical habitats) to submit a worksheet to EPA and the Services 30 days prior to submitting the NOI. EPA believes the type of information required for filling out the worksheet and the process involved in generating the information is consistent with the requirements and expectations of the prior permit, because the types of conclusions that must be reached are similar. The Services feel greater rigor regarding documentation of the Criterion C selection process is needed to assure accuracy and to show proper due diligence. While EPA does not believe the burden has substantially changed with the introduction of the worksheet in the 2013 MSGP, EPA is requesting specific comment on whether the new worksheet requirements do represent a substantial increase in burden.

As described in Part V.A.3 of this fact sheet, EPA has made minor modifications to the other criteria, and in Appendix E, EPA has provided greater specificity regarding how operators can establish their eligibility under the criteria.

Purpose: For background, the Services are responsible for developing and maintaining the list of protected species and critical habitat. Once listed as endangered or threatened, a species is afforded the full range of protections available under the ESA, including prohibitions on killing, harming or otherwise taking a species. In certain instances, the Services may establish a critical habitat for a threatened or endangered species as a means to further protect those species. Critical habitat is an area determined to be essential for the conservation of a species and need not be in an area currently occupied by the species. Some, but not all, listed species have designated critical habitat. Exact locations of such designated critical habitat are provided in the Services regulations at 50 CFR Parts 17 and 226.

Consistent with Section 7(a)(2) of the Endangered Species Act (ESA), EPA has initiated and is in the process of consulting with the U.S. Fish and Wildlife Service (FWS) and NOAA Fisheries (previously referred to as the National Marine Fisheries Service), both collectively known as the "Services." Appendix E provides the draft procedures operators must follow to establish their Part 1.1.4.5 eligibility. These proposed changes to the Part 1.1.4.5 eligibility criteria and Appendix E were developed in consultation with the Services to ensure that the endangered and threatened species eligibility criteria in Part 1.1.4.5 are adequately protective of species, and to ensure the operators are making accurate determinations of which eligibility criterion they qualify under.

XIV.F. National Historic Preservation Act Procedures (Appendix F).

As Appendix F describes, Section 106 of the National Historic Preservation Act (NHPA) requires Federal agencies to take into account the effects of Federal “undertakings” on historic properties that are listed on, or eligible for listing on, the National Register of Historic Places. The term Federal “undertaking” is defined in the NHPA regulations to include a project, activity, or program under the direct or indirect jurisdiction of a Federal agency including those requiring a Federal permit, license or approval. See 36 CFR 800.16(y). EPA’s Federal undertaking is the issuance of this permit (not an individual industrial operator’s authorization to discharge following submittal of an NOI). Generally, when an agency determines that its Federal undertaking has no potential to cause an adverse effect on historic properties, the agency’s obligations under section 106 of the NHPA are fulfilled. See 36 CFR 800.3(a)(1).

Historic properties are defined in the NHPA regulations to include prehistoric or historic districts, sites, buildings, structures, or objects that are included in or eligible for inclusion in the National Register of Historic Places, including artifacts, records, and remains that are related to and located within such properties. See 36 CFR 800.16(l).

Pursuant to fulfilling its obligations under the NHPA, the Agency met / discussed with certain historic preservation authorities, i.e., representatives of the Advisory Council on Historic Preservation (ACHP), several State Historic Preservation Officers (SHPOs), and Tribal Historic Preservation Officers (THPOs), the provisions that should be included in the MSGP to mitigate or eliminate potential adverse effects on historic properties. To address historic properties in connection with issuance of the permit, EPA has included a screening process in Appendix F for all applicants to follow to ensure that potential impacts of their covered activities on historic properties have been appropriately considered and addressed. Although individual applications for coverage under the general permit do not constitute separate Federal undertakings, the screening process and related NOI questions provide an appropriate site-specific means of addressing historic property issues in connection with EPA’s issuance of the permit.

The screening process for NHPA purposes that EPA developed as a result of inputs from ACHP, SHPOs / THPOs may require operators to correspond and/or engage more directly with those historic preservation authorities. Regarding THPOs, there may be no actual THPO, so the historic preservation authority in this case would be a representative designated by the Tribe for NHPA purposes. Operators must also be aware that historic properties could have significance to more than one Indian tribe; therefore, all Indian tribes that attach religious and cultural significance to a historic property must be identified and included in the historic properties screening process.

EPA has reason to believe that the vast majority of activities occurring at MSGP covered facilities authorized have no potential to cause effects on historic properties. The purpose of the MSGP is to control pollutants that may be discharged in stormwater to waters of the United States from certain industrial facilities. EPA does not believe pollutants in stormwater and allowable non-stormwater discharges will have any effects on historic properties. Thus, to the extent EPA’s issuance of this general permit authorizes discharges of such constituents, confined to existing stormwater channels or natural drainage areas; the permitting action does not have the potential to cause effects on historic properties.

Additionally, where the site is not installing stormwater controls that involve subsurface earth disturbance, EPA similarly finds that the issuance of this permit does not have the potential to cause effects on historic properties.

EPA believes this permit may have some potential to cause effects on historic properties as a result of an operator’s “discharge-related activities,” i.e., subsurface earth disturbance that occurs to comply with permit requirements. Typically, subsurface earth disturbances are

associated with the construction, installation or alteration of the following types of stormwater controls (non-inclusive):

- catch basins, drainage inlets;
- pipes, culverts;
- dikes;
- ponds;
- bioretention areas;
- ditches, trenches, channels, swales;
- land manipulation: contouring, sloping and grading;
- perimeter drains;
- stormwater injection wells; and
- manufactured treatment devices (e.g., particle separators, oil/water separators).

Where the operator has to disturb the land through the construction and/or installation of such controls, there is a possibility that artifacts, records, or remains associated with historic properties could be impacted. Any operators who are installing controls to manage their stormwater that will involve subsurface ground disturbance will need to consider the potential for effects to historic properties and may need to contact the applicable SHPO / THPO or other tribal representative to determine the likelihood that these controls will impact historic properties. The screening process in Appendix F, developed as a result of discussions with the ACHP and SHPOs / THPOs, are intended to aid operators in their historic properties compliance.

The screening process may require operators to correspond and/or engage more directly with the SHPOs / THPOs and, in some cases, with the ACHP. Regarding THPOs, certain Indian Tribes may not have an actual THPO, so the historic preservation authority in this case would be a representative designated by the Tribe for NHPA purposes. Operators must also be aware that historic properties could have significance to more than one Indian tribe; therefore, all Indian tribes that attach religious and cultural significance to a historic property must be identified and included in the historic properties screening process. Some Tribes may wish to only engage directly with EPA rather than on an individual basis (i.e., government-to-government interaction), or some SHPOs or Tribes may not have the time for such individual operator interaction, so EPA has included itself as a potential participant in the screening process. In addition, some Tribes may wish to only engage directly with EPA rather than on an individual operator basis, or some SHPOs or Tribes may not have the time for such individual operator interaction, so EPA has included itself as a potential participant in the screening process.

Historic Properties Eligibility Criteria (Part F.2)

Regarding the four proposed historic properties eligibility criteria that an operator must choose from to be eligible for permit coverage, two have been revised based on consultations with historic preservation authorities. The first two criteria have been slightly reworded for clarity and agreement with NHPA language but are otherwise unchanged.

Criterion C in the 2008 MSGP indicated operators would either have an agreement with SHPOs / THPOs on how to mitigate any impacts on historic properties or that such an agreement was not able to be reached. The 2013 proposal specifies that operators must contact the EPA and the appropriate SHPO / THPO in order to obtain either a written notification of a no adverse impacts conclusion, or an agreement regarding measures required to mitigate or prevent adverse effects on historic properties. EPA agrees with the historic preservation authorities that it should be a participant in this process as the Agency is the final arbiter on eligibility issues. As stated before, some Tribal historic preservation authorities may believe it appropriate for them to

first coordinate with EPA on historic properties matters rather than individual operators. The option for “no agreement” was removed from this criterion and folded into Criterion D.

The previous permit's eligibility Criterion D gave operators the option of acknowledging that a 30-day window of opportunity to receive feedback from SHPPOs / THPOs had been passed, after which they could claim eligibility. Historic preservation authorities felt this was inappropriate given time constraints and some Tribal government-to-government interaction requirements, and EPA concurs. Therefore, EPA has for this proposal made eligibility contingent upon EPA providing the requirements, if any, for establishing eligibility in the absence of obtaining the conclusions or agreements in Criterion C. This ensures some level of consideration was made by EPA as to potential adverse impacts to historic properties instead of potentially no consideration as a result of the 30-day waiting period being surpassed, with the end result still being eligibility.

Steps for Establishing Eligibility Regarding Protection of Historic Properties (Part F.3)

Step One in the proposal, regarding operators seeking reauthorization for permit coverage, requires operators to consider whether they have stayed eligible and compliant with the 2008 MSGP before determining current eligibility. If operators constructed, installed or altered any subsurface controls during the permit term without the necessary historic property screening beforehand, they could not answer the Step One question “yes.”

Step Two is a straightforward question regarding whether operators intend to construct, install or alter any subsurface controls to comply with the new permit. If no subsurface disturbance will occur, operators do not need to follow any more steps. Any time operators decide to replace any planned subsurface stormwater control with controls that do not disturb the earth; they can immediately choose Criterion A.

Step Three requires operators who will create a subsurface disturbance for stormwater controls to consider whether there is evidence that historic properties exist within the area of potential effect (APE; the NHPA term for the relevant area an entity must consider). This evidence could be from an operator's facility being associated with a site listed in the National Register of Historic Places or it could be from any historic surveys or excavations that revealed the existence of historic properties.

Step Four applies to operators who will create a subsurface disturbance for stormwater controls but have none of the evidence listed in Step Three about the presence or absence of historic properties or properties eligible for listing in the National Register. These operators must undertake a historic survey of their APE in conjunction with the appropriate SHPO / THPO and/or a qualified professional consultant.

EPA believes that identifying potential historic properties and determining whether they are eligible for listing in the National Register of Historic Places can be challenging and can involve significant technical analysis that would benefit from specialized expertise. This is particularly true in areas that have not been surveyed for such properties. In these circumstances, both EPA and the historic properties authorities EPA consulted with believe it is appropriate to require operators seeking coverage under this permit to engage qualified professional assistance in making these determinations. Operators may elect to initially contact the appropriate SHPO, THPO or authorized tribal representative to enlist their aid in identifying potential historic properties and determining eligibility for listing in the National Register of Historic Places. If, however, the SHPO, THPO or an authorized tribal representative is unavailable to provide all relevant analysis, you must retain the services of a qualified professional consultant in the historic architecture and/or archaeological fields to conclusively determine the presence or absence of historic properties. If you need help in finding a qualified professional consultant, you can contact your SHPO, THPO or tribal representative. Also, some states maintain lists of professionals who are experienced in conducting historical surveys on their websites.

The Secretary of the Interior (SOI) promulgates the basic professional requirements to conduct survey work in the cultural resources management field (36 CFR Part 61). If you need help in finding a qualified professional consultant, you can contact your SHPO, THPO or tribal representative. Also, some states list professionals who are experienced in conducting historical surveys on appropriate state websites.

Step Five applies to operators who will create a subsurface disturbance for stormwater controls and they have determined that a property within their APE is listed or is eligible for listing in the National Register of Historic Places. Such operators must contact in writing both the EPA and the relevant SHPO, THPO or an authorized tribal representative at least 30 days before NOI submittal to enable appropriate actions to be taken and requirements to be developed by the historic preservation authorities in coordination with EPA as described in Appendix F.

Requirements that mitigate or eliminate potential adverse effects on historic properties must be fully complied with before submitting an NOI. When disputes arise over any new eligibility requirements, EPA will coordinate with the historic preservation authorities to determine a solution and the Agency will then provide the final requirements, decide no further actions are needed, or require operators to obtain coverage under an individual permit.

Following an NOI submittal, the standard 30-day waiting period applies, during which operators' NOI and SWPPP information may be reviewed. If EPA is notified of that there are issues relating to historic properties, operators may have a hold placed on their NOIs until the legitimacy of the notification can be established in coordination with the historic preservation authorities. EPA will determine an appropriate response which could include additional requirements, no extra requirements, or denial of coverage under the general permit.

EPA does not believe this screening process will be burdensome for the great majority of industrial facilities, most of who are repeat permittees and have all subsurface controls already in place. Changes to SWPPPs usually involve pollution prevention activities rather than built controls. For operators who do need built controls, they have the option of substituting surface controls that do not involve land disturbance.

Purpose: This appendix details the eligibility procedures relating to historic properties.

XIV.G. Notice of Intent (Appendix G).

Notice of Intent (Appendix G). Parts 1.2.1.1 and 7.1 require operators to use the electronic NOI system, or "eNOI" system, to prepare and submit NOIs. However, where an operator requests and receives approval from his/her EPA Regional Office, the operator is authorized use the paper NOI form included in Appendix G.

The NOI form has been updated and expanded from previous versions. Permittees must provide the following types of information on the NOI form: (1) Permit Information, (2) Facility Operator Information, (3) Facility Information, (4) Discharge Information, (5) Stormwater Pollution Prevention Plan (SWPPP) Information, (6) Endangered Species Protection, (7) Historic Preservation, and (8) Certification Information.

New questions on the form include:

- Operator point of contact (name, address, phone)
- "Ownership type" of facility (e.g., federal facility, privately owned, city government)
- Latitude/longitude for each stormwater outfall
- The hardness of the receiving water (only if required to monitor for hardness-dependent metal)
- Whether the facility discharges to saltwater receiving waters

- Whether the facility discharges to a Federal CERCLA site listed in Appendix P
- A SWPPP URL OR selected SWPPP information (pollutants of concern; a schedule for good housekeeping and maintenance; a schedule for all inspections required in Part 3; and a description of control measures employed to comply with the non-numeric technology-based effluent limits required in Part 2.1.2, and any other measures taken to comply with the requirements in Part 2.2
- Summary of the basis for ESA criterion selected
- Whether the facility is located on a property of religious or cultural significance to an Indian tribe

Purpose: The NOI form provides EPA with the information necessary to determine an industrial operator's eligibility to discharge under this permit, and enables EPA to better match up permittees with their respective monitoring requirements and to prioritize oversight activities. Changes are to correct previous oversight (e.g., hardness dependent and saltwater information) , to reflect new or changed permit requirements (e.g., CERCLA provision), or to increase transparency of information (e.g., SWPPP questions).

XIV.H. Notice of Termination (Appendix H).

Notice of Termination (Appendix H). Parts 1.3.2 and 7.1 requires the permittee to use the electronic NOI system, or "eNOI" system, to prepare and submit the NOT when any of the conditions in Part 1.3.3 have been met. However, where the EPA Regional Office specifically authorizes the permittee to use a paper NOT form, that permittee is required to complete and submit the paper form included in Appendix H.

Purpose: To provide pre-approved operators with a paper NOT form to use for seeking coverage under the CGP if the Regional EPA Office approves, and to provide potential operators with an idea of what types of questions to anticipate when completing the NOT. No significant changes were made to this form from the 2008 MSGP.

XIV.I. Annual Reporting Form (Appendix I).

Dischargers must use the electronic Annual Report Form or, for operators who have received a waiver, the paper form provided in Appendix I. This information required consists of general information on the facility, summary findings from the routine facility inspections and quarterly visual assessments, and a description of corrective actions taken and the status of follow-up repairs, maintenance activities, or new BMP installations for the previous year.

Purpose: To establish a consistent reporting form for permittees to use for the annual report.

XIV.J. Calculating Hardness in Receiving Waters for Hardness-Dependent Metals (Appendix J).

Appendix J describes the alternatives for establishing the hardness level for an operator's receiving water.

Purpose: To provide guidance to operators for determining their receiving water's hardness level.

XIV.K. No Exposure Certification (Appendix K).

7.1 require operators to use the electronic NOI system, or "eNOI" system, to prepare and submit an No Exposure certification. However, where an operator requests and receives approval from his/her EPA Regional Office, the operator is authorized use the paper NOE form included in Appendix K.

Purpose: The NOI form provides EPA with the information necessary to determine an industrial operator's eligibility for no exposure.

XIV.L. List of Tier 3, Tier 2, and Tier 2.5 Waters (Appendix L).

Appendix L provides a list of Tier 3, Tier 2, and Tier 2.5 waters to assist industrial operators in determining eligibility for coverage under Parts 1.1.4.9, and in complying with any applicable requirements in Part 2.2.

Purpose: To provide information to operators to support their compliance with applicable antidegradation requirements.

XIV.M. Discharger Monitoring Report Form (Appendix M).

Part 7.1 requires operators to use the electronic NOI system, or “eNOI” system, to prepare and submit their Discharge Monitoring Reports. However, where an operator requests and receives a waiver from his/her EPA Regional Office, the operator is authorized use the paper DMR form included in Appendix M.

Purpose: The DMR form provides EPA with the information necessary to determine compliance with monitoring requirements.

XIV.N. North American Industrial Classification Codes (Appendix N).

For informational purposes only, this Appendix O contains all the 1987 Standard Industrial Classification (SIC) codes which are regulated under stormwater regulations, and matches them up with corresponding North American Industrial Classification System (NAICS) codes. NAICS codes have been in use since the SIC codes were replaced in 1997. There is not a one-to-one correspondence between the two systems, so a comprehensive list of regulated codes for both systems was generated. Such a list of codes and how these codes fit into the MSGP’s sectors is believed to be of interest to stakeholders.

XIV.O. Summary of Permit Reports and Submittals (Appendix O).

Appendix O provides a list of reporting and recordkeeping information that must be generated and, in many cases, submitted to the Agency.

XIV.P. List of CERCLA Sites (Appendix P).

Appendix P provides a list of receiving waters associated with CERCLA sites to assist industrial operators in determining eligibility for coverage under Part 1.1.4.10. These receiving waters have been identified by the EPA Regional offices as the ones most likely to experience contamination / recontamination due to toxic pollutants (particularly pollutants for which the site became associated with CERCLA clean ups) being introduced / reintroduced into the receiving water.