

**Region IX**

Signed this 24th day of August, 1995.  
 Felicia Marcus,  
*Water Management Division Director.*

Areas of coverage	Permit No.
Arizona .....	AZR05*###
Federal Indian Reservations.	AZR05*##F
Federal Facilities .....	AZR05*##F
California:	
Federal Indian Reservations.	CAR05*##F
Idaho:	
Duck Valley Reservation	NVR05*##F
Nevada Federal Indian Reservations.	NVR05*##F
New Mexico:	
Navajo Reservation .....	AZR05*##F
Oregon:	
Fort McDermitt Reservation.	NVR05*##F
Utah:	
Goshute Reservation .....	NVR05*##F
Navajo Reservation .....	AZR05*##F
Johnston Atoll .....	JAR05*###
Federal Facilities .....	JAR05*##F
Midway Island and Wake Island.	
Federal Facilities .....	MWR05*##F

**Region X**

Signed this 12th day of September, 1995.  
 David H. Teeter,  
*Acting Water Management Division Director.*

Areas of coverage	Permit No.
Alaska Federal Indian Reservations.	AKR05*##F
Idaho .....	IDR05*###
Federal Indian Reservations (except Duck Valley Reservation lands).	IDR05*##F
Federal Facilities .....	IDR05*##F
Oregon Federal Indian Reservations (except for Fort McDermitt Reservation lands).	ORR05*##F
Washington Federal Indian Reservations.	WAR05*##F
Washington Federal Facilities.	WAR05*##F

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- I. Coverage Under This Permit
  - A. *Permit Area*

The permit is being issued in the following areas:

    - Region I—the States of Maine, Massachusetts, and New Hampshire; Federal Indian Reservations located in Connecticut, Massachusetts, New Hampshire, Maine, Rhode Island, and Vermont; and Federal facilities located in Vermont.
    - Region II—the Commonwealth of Puerto Rico; and Federal facilities located in Puerto Rico.
    - Region III—the District of Columbia and Federal facilities located in Delaware and the District of Columbia.
    - Region IV—the State of Florida.
    - Region V—no areas.

- Region VI—the States of Louisiana, New Mexico, Oklahoma, and Texas and Federal Indian Reservations located in Louisiana, New Mexico (except Navajo Reservation lands, which are handled by Region IX, and Ute Mountain Reservation lands, which are handled by Region VIII and are not being covered by this permit), Oklahoma, and Texas.
  - Region VII—no areas.
  - Region VIII—no areas.
  - Region IX—the State of Arizona; the Territories of Johnston Atoll, and Midway and Wake Island; all Federal Indian Reservations located in Arizona, California, and Nevada; those portions of the Duck Valley, Fort McDermitt, and Goshute Reservations located outside Nevada, those portions of the Navajo Reservation located outside Arizona; and Federal facilities located in Arizona, Johnston Atoll, and Midway and Wake Islands.
  - Region X—the State of Idaho; Federal Indian Reservations located in Alaska, Oregon (except for Fort McDermitt Reservation lands which are handled by Region IX), Idaho (except Duck Valley Reservation lands which are handled by Region IX), and Washington; and for Federal facilities located in Alaska, Idaho and Washington.
- B. Eligibility*
  - 1. *Discharges Covered.* Except for storm water discharges identified under paragraph I.B.3., this permit may cover all new and existing point source discharges of storm water to waters of the United States that are associated with industrial activity identified under the coverage sections contained in Part XI. (see Table 1). Military installations must comply with the permit and monitoring requirements for all sectors that describe industrial activities that such installations perform.

TABLE 1

Storm water discharges from	Are covered if listed in part
Timber Products Facilities .....	XI.A.1.
Paper and Allied Products Manufacturing Facilities .....	XI.B.1.
Chemical and Allied Products Manufacturing Facilities .....	XI.C.1.
Asphalt Paving, Roofing Materials, and Lubricant Manufacturing Facilities .....	XI.D.1.
Glass, Clay, Cement, Concrete, and Gypsum Product Manufacturing Facilities .....	XI.E.1.
Primary Metals Facilities .....	XI.F.1.
Metal Mines (Ore Mining and Dressing) .....	XI.G.1.
Coal Mines and Coal Mine-Related Facilities .....	XI.H.1.
Oil or Gas Extraction Facilities .....	XI.I.1.
Mineral Mining and Processing Facilities .....	XI.J.1.
Hazardous Waste Treatment Storage or Disposal Facilities .....	XI.K.1.
Landfills and Land Application Sites .....	XI.L.1.
Automobile Salvage Yards .....	XI.M.1.
Scrap Recycling and Waste and Recycling Facilities .....	XI.N.1.
Steam Electric Power Generating Facilities .....	XI.O.1.

TABLE 1—Continued

Storm water discharges from	Are covered if listed in part
Vehicle Maintenance or Equipment Cleaning areas at Motor Freight Transportation Facilities, Passenger Transportation Facilities, Petroleum Bulk Oil Stations and Terminals, the United States Postal Service, or Railroad Transportation Facilities.	XI.P.1.
Vehicle Maintenance Areas and Equipment Cleaning Areas of Water Transportation Facilities .....	XI.Q.1.
Ship or Boat Building and Repair Yards .....	XI.R.1.
Vehicle Maintenance Areas, Equipment Cleaning Areas or From Airport Deicing Operations located at Air Transportation Facilities.	XI.S.1.
Wastewater Treatment Works .....	XI.T.1.
Food and Kindred Products Facilities .....	XI.U.1.
Textile Mills, Apparel and other Fabric Product Manufacturing Facilities .....	XI.V.1.
Furniture and Fixture Manufacturing Facilities .....	XI.W.1.
Printing and Publishing Facilities .....	XI.X.1.
Rubber and Miscellaneous Plastic Product Manufacturing Facilities .....	XI.Y.1.
Leather Tanning and Finishing Facilities .....	XI.Z.1.
Facilities That Manufacture Metal Products including Jewelry, Silverware and Plated Ware .....	XI.AA.1.
Facilities That Manufacture Transportation Equipment, Industrial or Commercial Machinery .....	XI.AB.1.
Facilities That Manufacture Electronic and Electrical Equipment and Components, Photographic and Optical Goods .....	XI.AC.1.

2. *Construction.* This permit may authorize storm water discharges associated with industrial activity that are mixed with storm water discharges associated with industrial activity from construction activities provided that the storm water discharge from the construction activity is authorized by and in compliance with the terms of a different NPDES general permit or individual permit authorizing such discharges.

3. *Limitations on Coverage.* The following storm water discharges associated with industrial activity are not authorized by this permit:

a. Storm water discharges associated with industrial activities that are not listed under the coverage sections contained in Part XI. (see Table 1).

b. Storm water discharges subject to New Source Performance Standards except as provided in Part I.B.7. below.

c. Storm water discharges associated with industrial activity that are mixed with sources of non-storm water other than non-storm water discharges that are:

(1) In compliance with a different NPDES permit; or

(2) Identified by and in compliance with Part III.A. (Prohibition of Non-storm Water Discharges) of this permit.

d. Storm water discharges associated with industrial activity that are subject to an existing NPDES individual or general permit (except storm water discharges subject to the NPDES General Permit for Storm Water Discharges Associated With Industrial Activity published September 9, 1992 [57 FR 41297], or September 25, 1992 [57 FR 44438]).

e. Are located at a facility where an NPDES permit has been terminated (other than at the request of the permittee) or denied, or that are issued

a permit in accordance with Part VII.M (Requirements for Individual or Alternative General Permits) of this permit;

f. Storm water discharges associated with industrial activity that the Director [U.S. Environmental Protection Agency (EPA)] has determined to be or may reasonably be expected to be contributing to a violation of a water quality standard.

g. Discharges subject to storm water effluent guidelines, not described under Part XI.

h. Storm water discharges associated with industrial activity from inactive mining, inactive landfills, or inactive oil and gas operations occurring on Federal lands where an operator cannot be identified.

4. *Storm Water Not Associated With Industrial Activity.* Storm water discharges associated with industrial activity that are authorized by this permit may be combined with other sources of storm water that are not classified as associated with industrial activity pursuant to 40 CFR 122.26(b)(14).

5. *Endangered Species Protection.*

a. Permit Coverage Restrictions: In order to be eligible for coverage under this permit, the applicant must comply with the Endangered Species Act. A discharge of storm water associated with industrial activity may be covered under this permit only if either:

(1) The storm water discharge(s), and the construction of BMPs to control storm water runoff, are not likely to adversely affect species identified in Addendum H of this permit; or

(2) The applicant's activity has received previous authorization under the Endangered Species Act and established an environmental baseline that is unchanged; or,

(3) The applicant is implementing appropriate measures as required by the Director to address adverse affects.

b. All dischargers applying for coverage under this multi-sector storm water general permit must certify that their storm water discharge(s), and the construction of BMPs to control storm water runoff, are not likely to adversely affect species identified in Addendum H of this permit.

6. *National Historic Preservation Act.* In order to be eligible for coverage under this permit, the applicant must be in compliance with the National Historic Preservation Act. A discharge of storm water associated with industrial activity may be covered under this permit only if:

(i) The discharge does not affect a property that is listed or is eligible for listing in the National Historic Register maintained by the Secretary of Interior; or,

(ii) The applicant has obtained and is in compliance with a written agreement between the applicant and the State Historic Preservation Officer (SHPO) that outlines all measures to be undertaken by the applicant to mitigate or prevent adverse effects to the historic property.

7. *Discharges Subject to New Source Performance Standards.* Operators of facilities with storm water discharges subject to New Source Performance Standards<sup>1</sup> shall have documentation of

<sup>1</sup> Storm water discharges subject to New Source Performance Standards (NSPS) and that may be covered under this permit include: runoff from material storage piles at cement manufacturing facilities [40 CFR Part 411 Subpart C (established February 23, 1977)]; contaminated runoff from phosphate fertilizer manufacturing facilities [40 CFR Part 418 Subpart A (established April 8, 1974)]; coal pile runoff at steam electric generating facilities [40 CFR Part 423 (established November 19, 1982)]; and runoff from asphalt emulsion

a final EPA decision indicating that the Agency has determined that the storm water discharge has no direct or indirect impact. This documentation shall be obtained and retained on site prior to the submittal of the Notice of Intent. Operators of these facilities shall not be authorized under the terms and conditions of this permit until the submittal of a Notice of Intent to gain coverage under this permit. Where documentation of the Agency's decision has not been obtained for a facility subject to New Source Performance Standards, the operator must obtain such documentation prior to submitting a NOI. The permittee may use the format in Addendum E to submit information to EPA to initiate the process of the environmental review. The information shall be sent to the appropriate address listed in Part VI.B. of this permit. In order to maintain eligibility, the permittee must implement any mitigation required of the facility as a result of the National Environmental Policy Act (NEPA) review process. Failure to implement mitigation measures upon which the Agency's NEPA finding is based is grounds for termination of permit coverage.

### C. Authorization

Dischargers of storm water associated with industrial activity must submit a complete NOI in accordance with the requirements of Part II of this permit, using an NOI form as found in Addendum B (or photocopy thereof), to be authorized to discharge under this general permit. Unless notified by the Director to the contrary, owners or operators who submit such notification are authorized to discharge storm water associated with industrial activity under the terms and conditions of this permit 2 days after the date that the NOI is postmarked. The Director may deny coverage under this permit and require submittal of an application for an individual NPDES permit based on a review of the NOI or other information.

### D. Overview of the Multisector General Permit

Parts I.–X. apply to all facilities. Parts I. and II. describe eligibility requirements and the process for obtaining permit coverage. Parts III.–X. contain "basic" permit requirements.

facilities [40 CFR Part 443 Subpart A (established July 24, 1975)]. NSPS apply only to discharges from those facilities or installations that were constructed after the promulgation of NSPS. For example, storm water discharges from areas where the production of asphalt paving and roofing emulsions occurs are subject to NSPS only if the asphalt emulsion facility was constructed after July 24, 1975.

Part XI. provides additional requirements for particular sectors of industrial activity. For example, primary metal facilities add Part XI.F., to the "universal" Parts I.–X. requirements.

Some facilities may have "co-located" activities that are described in more than one sector and need to comply with applicable conditions of each sector. For example, a chemical manufacturing facility could have a land application site and be subject to Part XI.C.—Chemical and Allied products Manufacturing sector (primary activity), with runoff from the land application site (co-located activity) also subject to conditions in the Part XI.L.—Landfills and Land Application Sites sector.

Part XII of the permit contains conditions (e.g., effluent limitations or special reporting requirements) that only apply to facilities located in a particular State, EPA Region, or other area. Those special conditions are in addition to, or in lieu of, the "generic" Parts I.–XI. permit requirements.

Part XII of the permit also contains differences in permit eligibility and availability. For example, only the permits for Louisiana, New Mexico, Oklahoma, and Texas allow coverage of certain mine dewatering discharges from construction sand and gravel, industrial sand, and crushed stone mines (subject to additional permit conditions) under Sector J.—Mineral Mining and Processing.

Addendum D. lists large and medium municipal separate storm sewer systems (MS4s). Facilities located in these jurisdictions have special responsibilities (described in the permit) with regard to compliance with local requirements and providing information to the operator of the MS4).

## II. Notification Requirements

### A. Deadlines for Notification

1. *Existing Facility.* Except as provided in paragraphs II.A.4. (New Operator), and II.A.5. (Late Notification), individuals who intend to obtain coverage for an existing storm water discharge associated with industrial activity under this general permit shall submit an NOI in accordance with the requirements of this part on or before [insert date 90 days after permit finalization];

2. *New Facility.* Except as provided in paragraphs II.A.3. (Oil and Gas Operations), II.A.4. (New Operator), and II.A.5. (Late Notification), operators of facilities that begin industrial activity after [insert date 90 days after permit finalization] shall submit an NOI in accordance with the requirements of

this part at least 2 days prior to the commencement of the industrial activity at the facility;

3. *Oil and Gas Operations.* Operators of oil and gas exploration, production, processing, or treatment operations or transmission facilities, that are not required to submit a permit application as of [insert date 90 days after permit finalization] in accordance with 40 CFR 122.26(c)(1)(iii), but that after [insert date 90 days after permit finalization] have a discharge of a reportable quantity of oil or a hazardous substance for which notification is required pursuant to either 40 CFR 110.6, 40 CFR 117.21, or 40 CFR 302.6, must submit an NOI in accordance with the requirements of Part II.C. of this permit within 14 calendar days of the first knowledge of such release.

4. *New Operator.* Where the operator of a facility with a storm water discharge associated with industrial activity that is covered by this permit changes, the new operator of the facility must submit an NOI in accordance with the requirements of this part at least 2 days prior to the change.

5. *Late Notification.* An operator of a storm water discharge associated with industrial activity is not precluded from submitting an NOI in accordance with the requirements of this part after the dates provided in Parts II.A.1., 2., 3., or 4. (above) of this permit.

6. *Part II.A.6 Facilities Previously Subject to the Baseline General Permit.* Eligible facilities previously covered by EPA's 1992 Baseline General Permits for Storm Water Discharges Associated with Industrial Activity (57 FR 41297 or 57 FR 44438) may elect to be covered by this permit by submitting an NOI in accordance with the requirements of this Part within [insert date 90 days after permit finalization]. To avoid a lapse in permit coverage should reissuance or termination of the 1992 Baseline General Permits eliminate coverage for certain industries under those permits, NOIs from eligible facilities may also be submitted during the period 90 days prior to the expiration date of the applicable Baseline General Permit.

### B. Contents of Notice of Intent

The NOI shall be signed in accordance with Part VII.G. (Signatory Requirements) of this permit and shall include the following information:

1. *Permit.* An indication of which NPDES storm water general permit is being applied for (either baseline general, baseline construction, or multi-sector);

2. *Name.* The operator's name, address, telephone number, and status

as Federal, State, private, public, or other entity;

3. *Location.* The street address of the facility for which the notification is submitted. Also describe the location of the approximate center of the facility in terms of the latitude and longitude to the nearest 15 seconds, or the quarter section, township and range (to the nearest quarter section);

4. *Federal Indian Reservations.* An indication of whether the facility is located on Federal Indian Reservations;

*Receiving Water.* The name of the receiving water(s), or if the discharge is through a municipal separate storm sewer, the name of the municipal operator of the storm sewer and the ultimate receiving water(s) for the discharge through the municipal separate storm sewer;

6. *Co-permittee.* The storm water general permit number if such a number has been issued to a co-permittee;

7. *Monitoring.* The monitoring status of the facility;

8. *SIC Code.* Up to four 4-digit Standard Industrial Classification (SIC) codes that best represent the principal products produced or services rendered, or for hazardous waste treatment, storage or disposal facilities, land/disposal facilities that receive or have received any industrial waste, steam electric power generating facilities, or treatment works treating domestic sewage, a narrative identification of those activities;

9. *Other Permits.* The permit number(s) of additional NPDES permit(s) for any discharge(s) (including non-storm water discharges) from the site that are currently authorized by an NPDES permit;

10. *Presence of Endangered Species.* Based on the instructions in Addendum H, no species identified in Addendum H are in proximity to the storm water discharges to be covered under this permit, or the areas of BMP construction to control those storm water discharges.

11. *National Historic Preservation Act Compliance.* A yes or no response to the following statement: Applicant has obtained and is in compliance with Historic Preservation Agreement.

12. *Eligibility Certification.* The following certifications shall be signed in accordance with Part VII.G.

I certify under penalty of law that I have read and understand the Part I.B. eligibility requirements for coverage under the multi-sector storm water general permit including those requirements relating to the protection of species identified in Addendum H.

To the best of my knowledge the discharges covered under this permit, and the construction of BMPs to control storm water runoff, are not likely and will not

likely, adversely affect any species identified in Addendum H of this permit, or are otherwise eligible for coverage due to previous authorization under the Endangered Species Act.

To the best of my knowledge, I further certify that such discharges, and construction of BMPs to control storm water runoff, do not have an effect on properties listed or eligible for listing on the National Register of Historic Places under the National Historic Preservation Act, or are otherwise eligible for coverage due to a previous agreement under the National Historic Preservation Act.

I understand that continued coverage under the multi-sector storm water general permit is contingent upon maintaining eligibility as provided for in Part I.B.

13. *Pollution Prevention Plan Certification.* For any facility that begins to discharge storm water associated with industrial activity after [insert date 270 days after permit finalization], a certification that a storm water pollution prevention plan has been prepared for the facility in accordance with Part IV. of this permit must be included on the NOI. (Do not include a copy of the plan with the NOI submission.)

#### C. Where To Submit

Facilities that discharge storm water associated with industrial activity must use an NOI form provided by the Director (or photocopy thereof). NOIs must be signed in accordance with Part VII.G. (Signatory Requirements) of this permit. NOIs are to be submitted to the Director of the NPDES program at the following address: Storm Water Notice of Intent (4203), 401 M Street, S.W., Washington, D.C. 20460.

#### D. Additional Notification

Facilities that discharge storm water associated with industrial activity through large or medium municipal separate storm sewer systems (systems located in an incorporated city with a population of 100,000 or more, or in a county identified as having a large or medium system (see definition in Part X. of this permit and Addendum D of this notice)), or into a municipal separate storm sewer that has been designated by the permitting authority shall, in addition to filing copies of the NOI in accordance with paragraph II.C., submit signed copies of the NOI to the operator of the municipal separate storm sewer through which they discharge in accordance with the deadlines in Part II.A. (Deadlines for Notification) of this permit.

### III. Special Conditions

#### A. Prohibition of Non-storm Water Discharges

1. *Storm Water Discharges.* Except as provided in paragraph III.A.2 (below),

all discharges covered by this permit shall be composed entirely of storm water.

2. *Non-storm Water Discharges. a.* Except as provided in paragraph III.A.2.b (below), discharges of material other than storm water must be in compliance with an NPDES permit (other than this permit) issued for the discharge.

b. The following non-storm water discharges may be authorized by this permit provided the non-storm water component of the discharge is in compliance with Part IV and Part XI: discharges from fire fighting activities; fire hydrant flushings; potable water sources including waterline flushings; drinking fountain water, uncontaminated compressor condensate, irrigation drainage; lawn watering; routine external building washdown that does not use detergents or other compounds; pavement washwaters where spills or leaks of toxic or hazardous materials have not occurred (unless all spilled material has been removed) and where detergents are not used; air conditioning condensate; compressor condensate; uncontaminated springs; uncontaminated ground water; and foundation or footing drains where flows are not contaminated with process materials such as solvents.

#### B. Releases in Excess of Reportable Quantities

1. *Hazardous Substances or Oil.* The discharge of hazardous substances or oil in the storm water discharge(s) from a facility shall be prevented or minimized in accordance with the applicable storm water pollution prevention plan for the facility. This permit does not relieve the permittee of the reporting requirements of 40 CFR Part 117 and 40 CFR Part 302. Except as provided in paragraph III.B.2 (Multiple Anticipated Discharges) of this permit, where a release containing a hazardous substance in an amount equal to or in excess of a reporting quantity established under either 40 CFR Part 117 or 40 CFR Part 302, occurs during a 24-hour period:

a. The discharger is required to notify the National Response Center (NRC) (800-424-8802; in the Washington, DC metropolitan area 202-426-2675) in accordance with the requirements of 40 CFR Part 117 and 40 CFR Part 302 as soon as he or she has knowledge of the discharge;

b. The storm water pollution prevention plan required under Part IV. (Storm Water Pollution Prevention Plans) of this permit must be modified within 14 calendar days of knowledge of the release to: provide a description of

the release, the circumstances leading to the release, and the date of the release. In addition, the plan must be reviewed by the permittee to identify measures to prevent the reoccurrence of such releases and to respond to such releases, and the plan must be modified where appropriate; and

c. The permittee shall submit within 14 calendar days of knowledge of the release a written description of: the release (including the type and estimate of the amount of material released), the date that such release occurred, the circumstances leading to the release, and steps to be taken in accordance with paragraph III.B.1.b. (above) of this permit to the appropriate EPA Regional Office at the address provided in Part VI.B. (Reporting: Where to Submit) of this permit.

**2. Multiple Anticipated Discharges.** Facilities that have more than one anticipated discharge per year containing the same hazardous substance in an amount equal to or in excess of a reportable quantity established under either 40 CFR Part 117 or 40 CFR Part 302, that occurs during a 24-hour period, where the discharge is caused by events occurring within the scope of the relevant operating system shall:

a. Submit notifications in accordance with Part III.B.1.b. (above) of this permit for the first such release that occurs during a calendar year (or for the first year of this permit, after submittal of an NOI); and

b. Shall provide in the storm water pollution prevention plan required under Part IV. (Storm Water Pollution Prevention Plans) a written description of the dates on which all such releases occurred, the type and estimate of the amount of material released, and the circumstances leading to the releases. In addition, the plan must be reviewed to identify measures to prevent or minimize such releases and the plan must be modified where appropriate.

**3. Spills.** This permit does not authorize the discharge of hazardous substances or oil resulting from an onsite spill.

### C. Co-located Industrial Activity

In the case where a facility has industrial activities occurring onsite which are described by any of the activities in other sections of Part XI, those industrial activities are considered to be co-located industrial activities. Storm water discharges from co-located industrial activities are authorized by this permit, provided that the permittee complies with any and all additional pollution prevention plan and monitoring requirements from other

sections of Part XI applicable to the co-located industrial activity. The operator of the facility shall determine which additional pollution prevention plan and monitoring requirements are applicable to the co-located industrial activity by examining the narrative descriptions of each coverage section (Discharges Covered Under This Section) in Part XI of this permit.

### IV. Storm Water Pollution Prevention Plans

A storm water pollution prevention plan shall be developed for each facility covered by this permit. Storm water pollution prevention plans shall be prepared in accordance with good engineering practices and in accordance with the factors outlined in 40 CFR 125.3(d)(2) or (3) as appropriate. The plan shall identify potential sources of pollution that may reasonably be expected to affect the quality of storm water discharges associated with industrial activity from the facility. In addition, the plan shall describe and ensure the implementation of practices that are to be used to reduce the pollutants in storm water discharges associated with industrial activity at the facility and to assure compliance with the terms and conditions of this permit. Facilities must implement the provisions of the storm water pollution prevention plan required under this part as a condition of this permit.

#### A. Deadlines for Plan Preparation and Compliance

**1. Existing Facilities.** Except as provided in paragraphs 3., 4., and 5. (below), all existing facilities and new facilities that begin operation on or before [insert date 270 days after permit finalization] shall prepare and implement the plan by [insert date 270 days after permit finalization].

**2. New Facilities.** Facilities that begin operation after [insert date 270 days after permit finalization] shall prepare and implement the plan prior to submitting the Notice of Intent.

**3. Oil and Gas Facilities.** Oil and gas exploration, production, processing or treatment facilities that are not required to submit a permit application on or before [insert date 90 days after permit finalization] in accordance with 40 CFR 122.26(c)(1)(iii), but after [insert date 270 days after permit finalization] have a discharge of a reportable quantity of oil or a hazardous substance for which notification is required pursuant to either 40 CFR 110.6 or 40 CFR 302.6, shall prepare and implement the plan on or before the date 60 calendar days after first knowledge of such release.

**4. Facilities Switching From the Baseline General Permit to This Permit.** Facilities previously subject to the NPDES General Permit for Storm Water Discharges Associated With Industrial Activity (57 FR 41297 or 57 FR 44438) that switch to coverage under this permit shall continue to implement the storm water pollution prevention plan required by that permit. The plan shall be revised as necessary to address requirements under Part XI. of this permit no later than [insert date 270 days after permit finalization]. The revisions made to the plan shall be implemented on or before [insert date 270 days after permit finalization].

**5. Facilities Electing Multi-Sector General Permit Upon Expiration of the Baseline General Permit.** Facilities electing to obtain coverage under this permit during the period 90 days prior to expiration of the Baseline General Permit shall revise the pollution prevention plan required by that permit as necessary to address requirements under Part X.I. of this permit and implement the revised plan prior to submittal of the NOI.

**6. Measures That Require Construction.** In cases where construction is necessary to implement measures required by the plan, the plan shall contain a schedule that provides compliance with the plan as expeditiously as practicable, but no later than [insert date 3 years after permit finalization]. Where a construction compliance schedule is included in the plan, the schedule shall include appropriate non-structural and/or temporary controls to be implemented in the affected portion(s) of the facility prior to completion of the permanent control measure.

**7. Extensions.** Upon a showing of good cause, the Director may establish a later date in writing for preparing and compliance with a plan for a storm water discharge associated with industrial activity.

#### B. Signature and Plan Review

**1. Signature/Location.** The plan shall be signed in accordance with Part VII.G. (Signatory Requirements), and be retained onsite at the facility that generates the storm water discharge in accordance with Part VII.P.2. (Retention of Records) of this permit. For inactive facilities, the plan may be kept at the nearest office of the permittee.

**2. Availability.** The permittee shall make the storm water pollution prevention plan, annual site compliance inspection report, or other information available upon request to the Assistant Administrator for Fisheries for the National Oceanic and Atmospheric

Administration; the U.S. Fisheries and Wildlife Service Regional Director; or authorized representatives of these officials.

3. *Required Modifications.* The Director, or authorized representative, may notify the permittee at any time that the plan does not meet one or more of the minimum requirements of this part. Such notification shall identify those provisions of the permit that are not being met by the plan, and identify which provisions of the plan requires modifications in order to meet the minimum requirements of this part. Within 30 days of such notification from the Director, (or as otherwise provided by the Director), or authorized representative, the permittee shall make the required changes to the plan and shall submit to the Director a written certification that the requested changes have been made.

*C. Keeping Plans Current*

The permittee shall amend the plan whenever there is a change in design, construction, operation, or maintenance, that has a significant effect on the potential for the discharge of pollutants to the waters of the United States or if the storm water pollution prevention plan proves to be ineffective in eliminating or significantly minimizing pollutants from sources identified under Part IV.D. (Contents of the Plan) of this permit, or in otherwise achieving the general objectives of controlling pollutants in storm water discharges associated with industrial activity. New owners shall review the existing plan and make appropriate changes: Amendments to the plan may be reviewed by EPA in the same manner as Part IV.B. (above).

*D. Contents of the Plan*

The contents of the pollution prevention plan shall comply with the requirements listed in the appropriate section of Part XI. (Specific Requirements for Industrial Activities). Table 2 lists the location of the plan requirements for the respective industrial activities. These requirements are cumulative. If a facility has co-located activities that are covered in more than one section of Part XI., that facility's pollution prevention plan must comply with the requirements listed in all applicable sections of this permit.

TABLE 2.—POLLUTION PREVENTION PLAN REQUIREMENTS

	Are subject to pollution prevention plan requirements listed in part
Storm water discharges from	
Timber Products Facilities .....	XI.A.3
Paper and Allied Products Manufacturing Facilities.	XI.B.3
Chemical and Allied Products Manufacturing Facilities.	XI.C.4
Asphalt Paving, Roofing Materials, and Lubricant Manufacturing Facilities.	XI.D.3
Glass, Clay, Cement Concrete and Gypsum Product Manufacturing Facilities.	XI.E.3
Primary Metals Facilities .....	XI.F.3.
Metal Mines (Ore Mining and Dressing).	XI.G.3
Coal Mines and Coal Mine-Related Facilities.	XI.H.3
Oil or Gas Extraction Facilities	XI.I.3
Mineral Mining and Processing Facilities.	XI.J.3
Hazardous Waste Treatment Storage or Disposal Facilities.	XI.K.3
Landfills and Land Application Sites.	XI.L.3
Automobile Salvage Yards .....	XI.M.2
Scrap and Waste Recycling Facilities.	XI.N.3
Steam Electric Power Generating Facilities.	XI.O.3
Vehicle Maintenance or Equipment Cleaning areas at Motor Freight Transportation Facilities, Passenger Transportation Facilities, Petroleum Bulk Oil Stations and Terminals, the United States Postal Service, or Railroad Transportation Facilities.	XI.P.3
Vehicle Maintenance Areas and Equipment Cleaning Areas of Water Transportation Facilities.	XI.Q.3
Ship or Boat Building and Repair Yards.	XI.R.3
Vehicle Maintenance Areas, Equipment Cleaning Areas or From Airport Deicing Operations located at Air Transportation Facilities.	XI.S.3
Wastewater Treatment Works	XI.T.3
Food and Kindred Products Facilities.	XI.U.3
Textile Mills, Apparel and other Fabric Product Manufacturing Facilities.	XI.V.3
Furniture and Fixture Manufacturing Facilities.	XI.W.3
Printing and Publishing Facilities.	XI.X.3
Rubber and Miscellaneous Plastic Product Manufacturing Facilities.	XI.Y.3
Leather Tanning and Finishing Facilities.	XI.Z.3

TABLE 2.—POLLUTION PREVENTION PLAN REQUIREMENTS—Continued

	Are subject to pollution prevention plan requirements listed in part
Storm water discharges from	
Facilities That Manufacture Metal Products including Jewelry, Silverware and Plated Ware.	XI.AA.3
Facilities That Manufacture Transportation Equipment, Industrial or Commercial Machinery.	XI.AB.3
Facilities That Manufacture Electronic and Electrical Equipment and Components, Photographic and Optical Goods.	XI.AC.3.

*E. Special Pollution Prevention Plan Requirements*

In addition to the minimum standards listed in Part XI. of this permit (Specific Requirements for Industrial Activities), the storm water pollution prevention plan shall include a complete discussion of measures taken to conform with the following applicable guidelines, other effective storm water pollution prevention procedures, and applicable State rules, regulations and guidelines:

1. *Additional Requirements for Storm Water Discharges Associated With Industrial Activity that Discharge Into or Through Municipal Separate Storm Sewer Systems Serving a Population of 100,000 or More.* a. In addition to the applicable requirements of this permit, facilities covered by this permit must comply with applicable requirements in municipal storm water management programs developed under NPDES permits issued for the discharge of the municipal separate storm sewer system that receives the facility's discharge, provided the discharger has been notified of such conditions.

b. Permittees that discharge storm water associated with industrial activity through a municipal separate storm sewer system serving a population of 100,000 or more, or a municipal system designated by the Director shall make plans available to the municipal operator of the system upon request.

2. *Additional Requirements for Storm Water Discharges Associated With Industrial Activity From Facilities Subject to EPCRA Section 313 Requirements.* In addition to the requirements of Part XI. of this permit and other applicable conditions of this permit, storm water pollution prevention plans for facilities subject to

reporting requirements under EPCRA Section 313 for chemicals that are classified as 'Section 313 water priority chemicals' in accordance with the definition in Part X. of this permit, except as provided in paragraph IV.E.2.c.(below), shall describe and ensure the implementation of practices that are necessary to provide for conformance with the following guidelines:

a. In areas where Section 313 water priority chemicals are stored, processed or otherwise handled, appropriate containment, drainage control and/or diversionary structures shall be provided unless otherwise exempted under Part IV.E.2.c. At a minimum, one of the following preventive systems or its equivalent shall be used:

(1) Curbing, culverting, gutters, sewers, or other forms of drainage control to prevent or minimize the potential for storm water runoff to come into contact with significant sources of pollutants; or

(2) Roofs, covers or other forms of appropriate protection to prevent storage piles from exposure to storm water and wind.

b. In addition to the minimum standards listed under Part IV.E.2.a. (above) of this permit, except as otherwise exempted under Part IV.E.2.c (below) of this permit, the storm water pollution prevention plan shall include a complete discussion of measures taken to conform with other effective storm water pollution prevention procedures, and applicable State rules, regulations, and guidelines:

(1) *Liquid Storage Areas Where Storm Water Comes Into Contact With Any Equipment, Tank, Container, or Other Vessel Used for Section 313 Water Priority Chemicals.* (a) No tank or container shall be used for the storage of a Section 313 water priority chemical unless its material and construction are compatible with the material stored and conditions of storage such as pressure and temperature, etc.

(b) Liquid storage areas for Section 313 water priority chemicals shall be operated to minimize discharges of Section 313 chemicals. Appropriate measures to minimize discharges of Section 313 chemicals may include secondary containment provided for at least the entire contents of the largest single tank plus sufficient freeboard to allow for precipitation, a strong spill contingency and integrity testing plan, and/or other equivalent measures.

(2) *Material Storage Areas for Section 313 Water Priority Chemicals Other Than Liquids.* Material storage areas for Section 313 water priority chemicals other than liquids that are subject to

runoff, leaching, or wind shall incorporate drainage or other control features that will minimize the discharge of Section 313 water priority chemicals by reducing storm water contact with Section 313 water priority chemicals.

(3) *Truck and Rail Car Loading and Unloading Areas for Liquid Section 313 Water Priority Chemicals.* Truck and rail car loading and unloading areas for liquid Section 313 water priority chemicals shall be operated to minimize discharges of Section 313 water priority chemicals. Protection such as overhangs or door skirts to enclose trailer ends at truck loading/unloading docks shall be provided as appropriate. Appropriate measures to minimize discharges of Section 313 chemicals may include: the placement and maintenance of drip pans (including the proper disposal of materials collected in the drip pans) where spillage may occur (such as hose connections, hose reels and filler nozzles) for use when making and breaking hose connections; a strong spill contingency and integrity testing plan; and/or other equivalent measures.

(4) *Areas Where Section 313 Water Priority Chemicals Are Transferred, Processed, or Otherwise Handled.* Processing equipment and materials handling equipment shall be operated so as to minimize discharges of Section 313 water priority chemicals. Materials used in piping and equipment shall be compatible with the substances handled. Drainage from process and materials handling areas shall minimize storm water contact with Section 313 water priority chemicals. Additional protection such as covers or guards to prevent exposure to wind, spraying or releases from pressure relief vents from causing a discharge of Section 313 water priority chemicals to the drainage system shall be provided as appropriate. Visual inspections or leak tests shall be provided for overhead piping conveying Section 313 water priority chemicals without secondary containment.

(5) *Discharges From Areas Covered by Paragraphs (1), (2), (3), or (4).* (a)

Drainage from areas covered by paragraphs (1), (2), (3), or (4) of this part should be restrained by valves or other positive means to prevent the discharge of a spill or other excessive leakage of Section 313 water priority chemicals. Where containment units are employed, such units may be emptied by pumps or ejectors; however, these shall be manually activated.

(b) Flapper-type drain valves shall not be used to drain containment areas. Valves used for the drainage of containment areas should, as far as is

practical, be of manual, open-and-closed design.

(c) If facility drainage is not engineered as above, the final discharge of all in-facility storm sewers shall be equipped to be equivalent with a diversion system that could, in the event of an uncontrolled spill of Section 313 water priority chemicals, return the spilled material to the facility.

(d) Records shall be kept of the frequency and estimated volume (in gallons) of discharges from containment areas.

(6) *Facility Site Runoff Other Than From Areas Covered By (1), (2), (3), or (4).* Other areas of the facility (those not addressed in paragraphs (1), (2), (3), or (4)), from which runoff that may contain Section 313 water priority chemicals or spills of Section 313 water priority chemicals could cause a discharge shall incorporate the necessary drainage or other control features to prevent discharge of spilled or improperly disposed material and ensure the mitigation of pollutants in runoff or leachate.

(7) *Preventive Maintenance and Housekeeping.* All areas of the facility shall be inspected at specific intervals identified in the plan for leaks or conditions that could lead to discharges of Section 313 water priority chemicals or direct contact of storm water with raw materials, intermediate materials, waste materials or products. In particular, facility piping, pumps, storage tanks and bins, pressure vessels, process and material handling equipment, and material bulk storage areas shall be examined for any conditions or failures that could cause a discharge. Inspection shall include examination for leaks, wind blowing, corrosion, support or foundation failure, or other forms of deterioration or noncontainment. Inspection intervals shall be specified in the plan and shall be based on design and operational experience. Different areas may require different inspection intervals. Where a leak or other condition is discovered that may result in significant releases of Section 313 water priority chemicals to waters of the United States, action to stop the leak or otherwise prevent the significant release of Section 313 water priority chemicals to waters of the United States shall be immediately taken or the unit or process shut down until such action can be taken. When a leak or noncontainment of a Section 313 water priority chemical has occurred, contaminated soil, debris, or other material must be promptly removed and disposed in accordance with Federal, State, and local requirements and as described in the plan.

(8) *Facility Security.* Facilities shall have the necessary security systems to prevent accidental or intentional entry that could cause a discharge. Security systems described in the plan shall address fencing, lighting, vehicular traffic control, and securing of equipment and buildings.

(9) *Training.* Facility employees and contractor personnel that work in areas where Section 313 water priority chemicals are used or stored shall be trained in and informed of preventive measures at the facility. Employee training shall be conducted at intervals specified in the plan, but not less than once per year. Training shall address: pollution control laws and regulations, the storm water pollution prevention plan and the particular features of the facility and its operation that are designed to minimize discharges of Section 313 water priority chemicals. The plan shall designate a person who is accountable for spill prevention at the facility and who will set up the necessary spill emergency procedures and reporting requirements so that spills and emergency releases of Section 313 water priority chemicals can be isolated and contained before a discharge of a Section 313 water priority chemical can occur. Contractor or temporary personnel shall be informed of facility operation and design features in order to prevent discharges or spills from occurring.

c. Facilities subject to reporting requirements under EPCRA Section 313 for chemicals that are classified as "Section 313 water priority chemicals" in accordance with the definition in Part X. of this permit that are handled and stored onsite only in gaseous or non-soluble liquid or solid (at atmospheric pressure and temperature) forms may provide a certification as such in the pollution prevention plan in lieu of the additional requirements in Part IV.E.2. Such certification shall include a narrative description of all water priority chemicals and the form in which they are handled and stored, and shall be signed in accordance with Part VII.G. (Signatory Requirements) of this permit.

d. The storm water pollution prevention plan shall be certified in accordance with Section VII.G (Signatory Requirements) of this permit.

3. *Additional Requirements for Salt Storage.* Storage piles of salt used for deicing or other commercial or industrial purposes and that generate a storm water discharge associated with industrial activity that is discharged to waters of the United States shall be enclosed or covered to prevent exposure to precipitation, except for exposure

resulting from adding or removing materials from the pile. Dischargers shall demonstrate compliance with this provision as expeditiously as practicable, but in no event later than [insert date 3 years after permit finalization]. Dischargers with previous coverage under the Baseline general permit for storm water shall be compliant with this provision upon submittal of the NOI. Piles do not need to be enclosed or covered where storm water from the pile is not discharged to waters of the United States.

4. *Consistency With Other Plans.* Storm water pollution prevention plans may reference the existence of other plans for Spill Prevention Control and Countermeasure (SPCC) plans developed for the facility under Section 311 of the CWA or Best Management Practices (BMP) Programs otherwise required by an NPDES permit for the facility as long as such requirement is incorporated into the storm water pollution prevention plan.

#### V. Numeric Effluent Limitations

##### A. *Discharges Associated With Specific Industrial Activity*

Numeric effluent limitations for storm water discharges associated with a specific industrial activity are described in Part XI. of this permit.

##### B. *Coal Pile Runoff*

Any discharge composed of coal pile runoff shall not exceed a maximum concentration for any time of 50 mg/L total suspended solids. Coal pile runoff shall not be diluted with storm water or other flows in order to meet this limitation. The pH of such discharges shall be within the range of 6.0 to 9.0. Runoff from coal piles located at steam electric generating facilities shall be in compliance with these limits upon submittal of the Notice of Intent (NOI). Runoff from coal piles at all other types of facilities shall comply with these limitations as expeditiously as practicable, but in no case later than [insert date 3 years after permit finalization]. Dischargers with previous coverage under the Baseline general permit for storm water shall be compliant with this provision upon submittal of the NOI. Any untreated overflow from facilities designed, constructed and operated to treat the volume of coal pile runoff that is associated with a 10-year, 24-hour rainfall event shall not be subject to the 50 mg/L limitation for total suspended solids.

#### VI. Monitoring and Reporting Requirements

##### A. *Monitoring Requirements*

1. *Limitations on Monitoring Requirements.* a. Except as required by paragraph b., only those facilities with discharges or activities identified in Part VI.C. and Part XI. are required to conduct sampling of their storm water discharges associated with industrial activity. Monitoring requirements under parts VI.C. and XI. are additive. Facilities with discharges or activities described in more than one monitoring section are subject to all applicable monitoring requirements from each section.

b. The Director can provide written notice to any facility otherwise exempt from the sampling requirements of Parts VI.C. and XI. that it shall conduct discharge sampling for a specific monitoring frequency for specific parameters.

##### B. *Reporting: Where To Submit*

1. *Location.* Signed copies of discharge monitoring reports required under Parts XI. and VI.C., individual permit applications, and all other reports required herein, shall be submitted to the Director of the NPDES program at the address of the appropriate Regional Office:

a. *CT, MA, ME, NH, RI, VT*  
EPA, Region I, Water Management Division, (WCP), Storm Water Staff, JFK Federal Building, Boston, MA 02203

b. *PR*  
EPA, Region II, Water Management Division, (2WM-WPC), Storm Water Staff, 290 Broadway, New York, NY 10007-1866

c. *DE, DC*  
EPA, Region III, Water Management Division, (3WM55), Storm Water Staff, 841 Chestnut Building, Philadelphia, PA 19107

d. *FL*  
EPA, Region IV, Water Management Division, Permits Section (WPEB-7), 345 Courtland Street, NE., Atlanta, GA 30365

e. *LA, NM (except see Region IX for Navajo lands), OK, TX*  
EPA, Region VI, Enforcement and Compliance Assurance Division (GEN-WC), EPA SW MSGP, First Interstate Bank Tower at Fountain Place, P.O. Box 50625, Dallas, TX 75205

f. *AZ, CA, NV, Johnson Atoll, Midway Island, Wake Island, the Goshute Reservation in UT and NV, the Navajo Reservation in UT, NM, and AZ, the Fort McDermitt Reservation*

in OR, the Duck Valley Reservation in NV and ID

EPA, Region IX, Water Management Division, (W-5-3), Storm Water Staff, 75 Hawthorne Street, San Francisco, CA 94105

g. AK Indian Reservations, ID (except see Region IX for Duck Valley Reservation lands), OR (except see Region IX for Fort McDermitt Reservation lands), WA

EPA, Region X, Water Division, (WD-134), Storm Water Staff, 1200 Sixth Avenue, Seattle, WA 98101

For each outfall, one Discharge Monitoring Report form must be submitted per storm event sampled.

2. *Additional Notification.* In addition to filing copies of discharge monitoring reports in accordance with Part VI.B. (Reporting: Where to Submit), facilities with at least one storm water discharge associated with industrial activity through a large or medium municipal separate storm sewer system (systems serving a population of 100,000 or more) or a municipal system designated by the Director must submit signed copies of discharge monitoring reports to the operator of the municipal separate storm sewer system in accordance with the dates provided in Part XI. Facilities not required to report monitoring data under Part XI. and facilities that are not otherwise required to monitor their discharges, need not comply with this provision.

### C. Special Monitoring Requirements for Coal Pile Runoff

During the period beginning on the effective date and lasting through the expiration date of this permit, permittees with storm water discharges containing coal pile runoff shall monitor such storm water for: pH and TSS (mg/l) at least annually (1 time per year). Permittees with discharges containing coal pile runoff must report in accordance with Part V.B (Numeric Effluent Limitations) and Part VI.B. (Reporting: Where to Submit). In addition to the parameters listed above, the permittee shall provide the date and duration (in hours) of the storm event(s) samples; rainfall measurements or estimates (in inches) of the storm event that generated the sampled runoff; the duration between the storm event samples and the end of the previous measurable (greater than 0.1 inch rainfall) storm event; and an estimate of the total volume (in gallons) of the discharge samples.

1. *Sample Type.* For discharges containing coal pile runoff from holding ponds or other impoundments with a retention period greater than 24 hours (estimated by dividing the volume of the

detention pond by the estimated volume of water discharged during the 24 hours previous to the time that the sample is collected), a minimum of one grab sample may be taken. For all other discharges containing coal pile runoff, data shall be reported for a grab sample. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. The required 72-hour storm event interval is waived where the preceding measurable storm event did not result in a measurable discharge from the facility. The required 72-hour storm event interval may also be waived where the permittee documents that less than a 72-hour interval is representative for local storm events during the season when sampling is being conducted. The grab sample shall be taken during the first 30 minutes of the discharge. If the collection of a grab sample during the first 30 minutes is impracticable, a grab sample can be taken during the first hour of the discharge, and the discharger shall submit with the monitoring report a description of why a grab sample during the first 30 minutes was impracticable.

2. *Sampling Waiver.* When a discharger is unable to collect samples of coal pile runoff due to adverse climatic conditions, the discharger shall collect a substitute sample from a separate qualifying event in the next period and submit this data along with the data for the routine sample in that period. Adverse weather conditions that may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).

3. *Representative Discharge.* When a facility has two or more outfalls containing coal pile runoff that, based on a consideration of the other industrial activity, and significant materials, and upon management practices and activities within the area drained by the outfall, and the permittee reasonably believes substantially identical effluents are discharged, the permittee may test the effluent of one of such outfalls and report that the quantitative data also applies to the substantially identical outfalls provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explains in detail why the outfalls are expected to discharge

substantially identical effluents. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area (e.g., low (under 40 percent), medium (40 to 65 percent) or high (above 65 percent)) shall be provided in the plan. Permittees required to submit monitoring information under Part VIII. of this permit shall include the description of the location of the outfalls, explanation of why outfalls are expected to discharge substantially identical effluents, and estimate of the size of the drainage area and runoff coefficient with the Discharge Monitoring Report. This representative discharge provision is not applicable to storm water discharges from coal piles regulated under the national effluent limitations guidelines.

4. *Alternative Certification.* Facilities with storm water discharges containing coal pile runoff may not submit alternative certification in lieu of the required monitoring data.

5. *When to Submit.* Permittees with discharges containing coal pile runoff shall submit monitoring results annually no later than the 28th day of [insert month following permit finalization].

## VII. Standard Permit Conditions

### A. Duty to Comply

1. *Permittee's Duty to Comply.* The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act (CWA) and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

2. *Penalties for Violations of Permit Conditions.*

#### a. Criminal.

(1) *Negligent Violations.* The CWA provides that any person who negligently violates permit conditions implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a fine of not less than \$2,500 nor more than \$25,000 per day of violation, or by imprisonment for not more than 1 year, or both.

(2) *Knowing Violations.* The CWA provides that any person who knowingly violates permit conditions implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a fine of not less than \$5,000 nor more than \$50,000 per day of violation, or by imprisonment for not more than 3 years, or both.

(3) *Knowing Endangerment.* The CWA provides that any person who

knowingly violates permit conditions implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act and who knows at that time that he is placing another person in imminent danger of death or serious bodily injury is subject to a fine of not more than \$250,000, or by imprisonment for not more than 15 years, or both.

(4) *False Statement.* The CWA provides that any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under the Act or who knowingly falsifies, tampers with, or renders inaccurate, any monitoring device or method required to be maintained under the Act, shall upon conviction, be punished by a fine of not more than \$10,000 or by imprisonment for not more than 2 years, or by both. If a conviction is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than 4 years, or by both. (See Section 309(c)(4) of the Clean Water Act).

*b. Civil Penalties.* The CWA provides that any person who violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a civil penalty not to exceed \$25,000 per day for each violation.

*c. Administrative Penalties.* The CWA provides that any person who violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to an administrative penalty, as follows:

(1) *Class I Penalty.* Not to exceed \$10,000 per violation nor shall the maximum amount exceed \$25,000.

(1) *Class II Penalty.* Not to exceed \$10,000 per day for each day during which the violation continues nor shall the maximum amount exceed \$125,000.

#### *B. Continuation of the Expired General Permit*

This permit expires on [insert date 5 years after permit finalization]. However, an expired general permit continues in force and effect until a new general permit is issued. Permittees that choose, or are required, to obtain an individual permit must submit an application (Forms 1 and 2F and any other applicable forms) 180 days prior to expiration of this permit. Permittees that are eligible and choose to be covered by a new general permit must submit an NOI by the date specified in that permit.

#### *C. Need to Halt or Reduce Activity Not a Defense*

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

#### *D. Duty to Mitigate*

The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit that has a reasonable likelihood of adversely affecting human health or the environment.

#### *E. Duty to Provide Information*

The permittee shall furnish to the Director, within a time specified by the Director, any information that the Director may request to determine compliance with this permit. The permittee shall also furnish to the Director upon request, copies of records required to be kept by this permit.

#### *F. Other Information*

When the permittee becomes aware that he or she failed to submit any relevant facts or submitted incorrect information in the NOI or in any other report to the Director, he or she shall promptly submit such facts or information.

#### *G. Signatory Requirements*

All Notices of Intent, Notices of Termination, storm water pollution prevention plans, reports, certifications or information either submitted to the Director (and/or the operator of a large or medium municipal separate storm sewer system), or that this permit requires be maintained by the permittee, shall be signed.

*1. Signature.* All reports required by the permit and other information requested by the Director shall be signed as follows:

*a.* For a corporation: by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means: (1) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or (2) the manager of one or more manufacturing, production or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25,000,000 (in second-quarter 1980 dollars) if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

*b.* For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or

*c.* For a municipality, State, Federal, or other public facility: by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes (1) the chief executive officer of the agency, or (2) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of EPA).

*2. Authorized Representative.* All reports required by the permit and other information requested by the Director shall be signed by a person described in Section VII.G.1. above or be signed by a duly authorized representative of that person. A person is a duly authorized representative only if:

*a.* The authorization is made in writing by a person described above and submitted to the Director.

*b.* The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of manager, operator, superintendent, or position of equivalent responsibility or an individual or position having overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position).

*c. Changes to Authorization.* If an authorization under paragraph VII.G.2. is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new NOI satisfying the requirements of paragraph II.B. (Contents of NOI) must be submitted to the Director prior to or together with any reports, information, or applications to be signed by an authorized representative.

*d. Certification.* Any person signing documents under this section shall make the following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

#### H. Penalties for Falsification of Reports

Section 309(c)(4) of the Clean Water Act provides that any person who knowingly makes any false material statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including reports of compliance or noncompliance shall, upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than 2 years, or by both.

#### I. Penalties for Falsification of Monitoring Systems

The CWA provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by fines and imprisonment described in Section 309 of the CWA.

#### J. Oil and Hazardous Substance Liability

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under Section 311 of the CWA or Section 106 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA).

#### K. Property Rights

The issuance of this permit does not convey any property rights of any sort, nor any exclusive privileges, nor does it authorize any injury to private property nor any invasion of personal rights, nor any infringement of Federal, State, or local laws or regulations.

#### L. Severability

The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit shall not be affected thereby.

#### M. Requiring an Individual Permit or an Alternative General Permit

1. *Director Designation.* The Director may require any person authorized by this permit to apply for and/or obtain either an individual NPDES permit or an alternative NPDES general permit. Any interested person may petition the Director to take action under this paragraph. The Director may require any owner or operator authorized to discharge under this permit to apply for an individual NPDES permit only if the

owner or operator has been notified in writing that a permit application is required. This notice shall include a brief statement of the reasons for this decision, an application form, a statement setting a deadline for the owner or operator to file the application, and a statement that on the effective date of issuance or denial of the individual NPDES permit or the alternative general permit as it applies to the individual permittee, coverage under this general permit shall automatically terminate. Individual permit applications shall be submitted to the address of the appropriate Regional Office shown in Part VI.B. (Reporting: Where to Submit) of this permit. The Director may grant additional time to submit the application upon request of the applicant. If an owner or operator fails to submit in a timely manner an individual NPDES permit application as required by the Director, then the applicability of this permit to the individual NPDES permittee is automatically terminated at the end of the day specified for application submittal.

2. *Individual Permit Application.* Any owner or operator authorized by this permit may request to be excluded from the coverage of this permit by applying for an individual permit. The owner or operator shall submit an individual application (Form 1 and Form 2F) with reasons supporting the request to the Director. Individual permit applications shall be submitted to the address of the appropriate Regional Office shown in Part VI.B. of this permit. The request may be granted by the issuance of any individual permit or an alternative general permit if the reasons cited by the owner or operator are adequate to support the request.

3. *Individual/Alternative General Permit Issuance.* When an individual NPDES permit is issued to an owner or operator otherwise subject to this permit, or the owner or operator is authorized for coverage under an alternative NPDES general permit, the applicability of this permit to the individual NPDES permittee is automatically terminated on the effective date of the individual permit or the date of authorization of coverage under the alternative general permit, whichever the case may be. When an individual NPDES permit is denied to an owner or operator otherwise subject to this permit, or the owner or operator is denied for coverage under an alternative NPDES general permit, the applicability of this permit to the individual NPDES permittee is automatically terminated on the date of

such denial, unless otherwise specified by the Director.

#### N. State/Environmental Laws

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable State law or regulation under authority preserved by Section 510 of the Act.

No condition of this permit shall release the permittee from any responsibility or requirements under other environmental statutes or regulations.

#### O. Proper Operation and Maintenance

The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) that are installed or used by the permittee to achieve compliance with the conditions of this permit and with the requirements of storm water pollution prevention plans. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. Proper operation and maintenance requires the operation of backup or auxiliary facilities or similar systems, installed by a permittee only when necessary to achieve compliance with the conditions of the permit.

#### P. Monitoring and Records

1. *Representative Samples/Measurements.* Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

##### 2. Retention of Records.

a. The permittee shall retain records of all monitoring information, copies of all reports required by this permit, and records of all data used to complete the application of this permit for a period of at least three (3) years from the date of sample, measurement, evaluation or inspection, report, or application. This period may be extended by request of the Director at any time. Permittees must submit any such records to the Director upon request.

b. The permittee shall retain the pollution prevention plan developed in accordance with Parts IV. and XI. of this permit until a date 3 years after the last modification or amendment is made to the plan, and at least 1 year after coverage under this permit terminates.

3. *Records Contents.* Records of monitoring information shall include:

a. The date, exact place, and time of sampling or measurements;

b. The initials or name(s) of the individual(s) who performed the sampling or measurements;

c. The date(s) analyses were performed;

d. The time(s) analyses were initiated;

e. The initials or name(s) of the individual(s) who performed the analyses;

f. References and written procedures, when available, for the analytical techniques or methods used; and

g. The results of such analyses, including the bench sheets, instrument readouts, computer disks or tapes, etc., used to determine these results.

#### 4. *Approved Monitoring Methods.*

Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in this permit.

#### Q. *Inspection and Entry*

The permittee shall allow the Director or an authorized representative of EPA, the State environmental agency, or, in the case of a facility that discharges through a municipal separate storm sewer, an authorized representative of the municipal operator or the separate storm sewer receiving the discharge, upon the presentation of credentials and other documents as may be required by law, to: enter upon the permittee's premises where a regulated facility or activity is located or conducted or where records must be kept under the conditions of this permit; have access to and copy at reasonable times, any records that must be kept under the conditions of this permit; and inspect at reasonable times any facilities or equipment (including monitoring and control equipment).

#### R. *Permit Actions*

This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

#### S. *Bypass of Treatment Facility*

##### 1. *Notice.*

a. *Anticipated Bypass.* If a permittee subject to the numeric effluent limitations of Parts V. and XI. of this permit knows in advance of the need for a bypass, he or she shall submit prior notice, if possible, at least 10 days before the date of the bypass; including an evaluation of the anticipated quality and effect of the bypass.

b. *Unanticipated Bypass.* The permittee subject to the numeric

effluent limitations of Parts V. and XI. of this permit shall submit notice of an unanticipated bypass. Any information regarding the unanticipated bypass shall be provided orally within 24 hours from the time the permittee became aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee became aware of the circumstances. The written submission shall contain a description of the bypass and its cause; the period of the bypass; including exact dates and times, and if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the bypass.

##### 2. *Prohibition of Bypass.*

a. Bypass is prohibited and the Director may take enforcement action against a permittee for a bypass. Unless:

(1) The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(2) There were no feasible alternatives to the bypass, such as the use of auxiliary facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if the permittee should, in the exercise of reasonable engineering judgement, have installed adequate backup equipment to prevent a bypass that occurred during normal periods of equipment downtime or preventive maintenance; and

(3) The permittee submitted notices of the bypass.

b. The Director may approve an anticipated bypass after considering its adverse effects, if the Director determines that it will meet the three conditions listed in Part VII.S.2.a.

#### T. *Upset Conditions*

1. *Affirmative Defense.* An upset constitutes an affirmative defense to an action brought for noncompliance with technology-based numeric effluent limitations in Parts V. and XI. of this permit if the requirements of paragraph 2 below are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

2. *Required Defense.* A permittee who wishes to establish the affirmative defense of an upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence, that:

a. An upset occurred and that the permittee can identify the specific cause(s) of the upset;

b. The permitted facility was at the time being properly operated; and

c. The permittee provided oral notice of the upset to EPA within 24 hours from the time the permittee became aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee became aware of the circumstances. The written submission shall contain a description of the upset and its cause; the period of the upset; including exact dates and times, and if the upset has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the upset.

3. *Burden of Proof.* In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

#### VIII. *Reopener Clause*

##### A. *Potential or Realized Impacts on Water Quality*

If there is evidence indicating potential or realized impacts on water quality or on a listed endangered species due to any storm water discharge associated with industrial activity covered by this permit, the owner or operator of such discharge may be required to obtain an individual permit or an alternative general permit in accordance with Part VII.M. (Requiring an Individual Permit or an Alternative General Permit) of this permit or the permit may be modified to include different limitations and/or requirements.

##### B. *Applicable Regulations*

Permit modification or revocation will be conducted according to 40 CFR 122.62, 122.63, 122.64, and 124.5.

#### IX. *Termination of Coverage*

##### A. *Notice of Termination*

Where all storm water discharges associated with industrial activity that are authorized by this permit are eliminated, or where the operator of storm water discharges associated with industrial activity at a facility changes, the operator of the facility may submit a Notice of Termination that is signed in accordance with Part VII.G. (Signatory Requirements) of this permit. The Notice of Termination shall include the following information:

1. *Facility Information.* Name, mailing address, and location of the facility for which the notification is submitted. Describe the location of the approximate center of the site in terms of the latitude and longitude to the nearest 15 seconds, or the section,

township and range to the nearest quarter section;

2. *Operator Information.* The name, address, and telephone number of the operator addressed by the Notice of Termination;

3. *Permit Number.* The NPDES permit number for the storm water discharge associated with industrial activity identified by the Notice of Termination;

4. *Reason for Termination.* An indication of whether the storm water discharges associated with industrial activity have been eliminated or the operator of the discharges has changed; and

5. *Certification.* The following certification signed in accordance with Part VII.G. (Signatory Requirements) of this permit:

I certify under penalty of law that all storm water discharges associated with industrial activity from the identified facility that are authorized by an NPDES general permit have been eliminated or that I am no longer the operator of the industrial activity. I understand that by submitting this notice of termination, that I am no longer authorized to discharge storm water associated with industrial activity under this general permit, and that discharging pollutants in storm water associated with industrial activity to waters of the United States is unlawful under the Clean Water Act where the discharge is not authorized by an NPDES permit. I also understand that the submittal of this notice of termination does not release an operator from liability for any violations of this permit or the Clean Water Act.

#### B. Addresses

All Notices of Termination are to be sent, using the form provided by the Director (or a photocopy thereof),<sup>2</sup> to the Director of the NPDES program at the following address: Storm Water Notice of Termination (4203), 401 M Street, S.W., Washington, D.C. 20460.

#### X. Definitions

*Best Management Practices* ("BMPs") means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the United States. BMPs also include treatment requirements, operating procedures, and practices to control facility site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

*Bypass* means the intentional diversion of waste streams from any portion of a treatment facility.

*Coal pile runoff* means the rainfall runoff from or through any coal storage pile

*Co-located industrial activity* means when a facility has industrial activities being conducted onsite that are described under more than one of the coverage sections of Part XI in this permit (Discharges Covered Under This Section). Facilities with co-located industrial activities shall comply with all applicable monitoring and pollution prevention plan requirements of each section in which a co-located industrial activity is described.

*CWA* means Clean Water Act (formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972).

*Commercial Treatment and Disposal Facilities* means facilities that receive, on a commercial basis, any produced hazardous waste (not their own) and treat or dispose of those wastes as a service to the generators. Such facilities treating and/or disposing exclusively residential hazardous wastes are not included in this definition.

*Director* means the Regional Administrator or an authorized representative.

*Flow-weighted composite sample* means a composite sample consisting of a mixture of aliquots collected at a constant time interval, where the volume of each aliquot is proportional to the flow rate of the discharge.

*Landfill* means an area of land or an excavation in which wastes are placed for permanent disposal, and that is not a land application unit, surface impoundment, injection well, or waste pile.

*Land application unit* means an area where wastes are applied onto or incorporated into the soil surface (excluding manure spreading operations) for treatment or disposal.

*Large and medium municipal separate storm sewer system* means all municipal separate storm sewers that are either:

(i) located in an incorporated place (city) with a population of 100,000 or more as determined by the latest Decennial Census by the Bureau of Census (these cities are listed in Appendices F and G of 40 CFR Part 122); or

(ii) located in the counties with unincorporated urbanized populations of 100,000 or more, except municipal separate storm sewers that are located in the incorporated places, townships or towns within such counties (these counties are listed in Appendices H and I of 40 CFR Part 122); or

(iii) owned or operated by a municipality other than those described in paragraph (i) or (ii) and that are designated by the Director as part of the

large or medium municipal separate storm sewer system.

*NOT* means notice of termination (see Part IX.A. of this permit.)

*Point source* means any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural storm water runoff.

*Section 313 water priority chemical* means a chemical or chemical categories that: (1) Are listed at 40 CFR 372.65 pursuant to Section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA) (also known as Title III of the Superfund Amendments and Reauthorization Act (SARA) of 1986); (2) are present at or above threshold levels at a facility subject to EPCRA Section 313 reporting requirements; and (3) meet at least one of the following criteria: (i) are listed in Appendix D of 40 CFR Part 122 on either Table II (organic priority pollutants), Table III (certain metals, cyanides, and phenols) or Table V (certain toxic pollutants and hazardous substances); (ii) are listed as a hazardous substance pursuant to Section 311(b)(2)(A) of the CWA at 40 CFR 116.4; or (iii) are pollutants for which EPA has published acute or chronic water quality criteria. See Addendum A of this permit. This addendum was revised based on final rulemaking EPA published in the Federal Register November 30, 1994.

*Significant materials* includes, but is 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 facility is required to report pursuant to EPCRA Section 313; fertilizers; pesticides; and waste products such as ashes, slag and sludge that have the potential to be released with storm water discharges.

*Significant spills* includes, but is not limited to: releases of oil or hazardous substances in excess of reportable quantities under Section 311 of the Clean Water Act (see 40 CFR 110.10 and CFR 117.21) or Section 102 of CERCLA (see 40 CFR 302.4).

*Storm water* means storm water runoff, snow melt runoff, and surface runoff and drainage.

<sup>2</sup> A copy of the approved NOT form is provided in Addendum C of this notice.

*Storm water associated with industrial activity* means the discharge from any conveyance that is used for collecting and conveying storm water and that is directly related to manufacturing, processing or raw materials storage areas at an industrial plant. The term does not include discharges from facilities or activities excluded from the NPDES program. For the categories of industries identified in paragraphs (i) through (x) of this definition, the term includes, but is not limited to, storm water 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 40 CFR Part 401); 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 finished products; and areas where industrial activity has taken place in the past and significant materials remain and are exposed to storm water. For the categories of industries identified in paragraph (xi) of this definition, the term includes only storm water discharges from all areas (except access roads and rail lines) listed in the previous sentence where material handling equipment or activities, raw materials, intermediate products, final products, waste materials, by-products, or industrial machinery are exposed to storm water. For the purposes of this paragraph, material handling activities include the storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, finished product, by-product or waste product. The term 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 storm water drained from the above described areas. Industrial facilities (including industrial facilities that are Federally, State, or municipally owned or operated that meet the description of the facilities listed in paragraphs (i) to (xi) of this definition) include those facilities designated under 122.26(a)(1)(v). The following categories of facilities are considered to be engaging in "industrial activity" for purposes of this subsection:

(i) Facilities subject to storm water effluent limitations guidelines, new source performance standards, or toxic pollutant effluent standards under 40 CFR Subchapter N (except facilities with toxic pollutant effluent standards that are exempted under category (xi) of this definition);

(ii) Facilities classified as Standard Industrial Classifications 24 (except 2434), 26 (except 265 and 267), 28 (except 283 and 285), 29, 311, 32 (except 323), 33, 3441, 373;

(iii) Facilities classified as Standard Industrial Classifications 10 through 14 (mineral industry) including active or inactive mining operations (except for areas of coal mining operations no longer meeting the definition of a reclamation area under 40 CFR 434.11(l) because the performance bond issued to the facility by the appropriate SMCRA authority has been released, or except for areas of noncoal mining operations that have been released from applicable State or Federal reclamation requirements after December 17, 1990) and oil and gas exploration, production, processing, or treatment operations, or transmission facilities that discharge storm water contaminated by contact with or that has come into contact with, any overburden, raw material, intermediate products, finished products, byproducts or waste products located on the site of such operations; inactive mining operations are mining sites that are not being actively mined, but that have an identifiable owner/operator;

(iv) Hazardous waste treatment, storage, or disposal facilities, including those that are operating under interim status or a permit under Subtitle C of RCRA;

(v) Landfills, land application sites, and open dumps that have received any industrial wastes (waste that is received from any of the facilities described under this subsection) including those that are subject to regulation under Subtitle D of RCRA;

(vi) Facilities involved in the recycling of materials, including metal scrapyards, battery reclaimers, salvage yards, and automobile junkyards, including but limited to those classified as Standard Industrial Classification 5015 and 5093;

(vii) Steam electric power generating facilities, including coal handling sites;

(viii) Transportation facilities classified as Standard Industrial Classifications 40, 41, 42 (except 4221-25), 43, 44, 45 and 5171 that have vehicle maintenance shops, equipment cleaning operations, or airport deicing operations. Only those portions of the facility that are either involved in

vehicle maintenance (including vehicle rehabilitation, mechanical repairs, painting, fueling, and lubrication), equipment cleaning operations, airport deicing operations, or that are otherwise identified under paragraphs (i) to (vii) or (ix) to (xi) of this subsection are associated with industrial activity;

(ix) Treatment works treating domestic sewage or any other sewage sludge or wastewater treatment device or system, used in the storage treatment, recycling, and reclamation of municipal or domestic sewage, including land dedicated to the disposal of sewage sludge that are located within the confines of the facility, with a design flow of 1.0 mgd or more, or required to have an approved pretreatment program under 40 CFR Part 403. Not included are farm lands, domestic gardens or lands used for sludge management where sludge is beneficially reused and that are not physically located in the confines of the facility, or areas that are in compliance with 40 CFR Part 503;

(x) Construction activity including clearing, grading and excavation activities except: operations that result in the disturbance of less than 5 acres of total land area that are not part of a larger common plan of development or sale;

(xi) Facilities under Standard Industrial Classifications 20, 21, 22, 23, 2434, 25, 265, 267, 27, 283, 285, 30, 31 (except 311), 323, 34 (except 3441), 35, 36, 37 (except 373), 38, 39, 4221-25, (and that are not otherwise included within categories (i) to (x)).<sup>3</sup>

*Time-weighted composite* means a composite sample consisting of a mixture of equal volume aliquots collected at a constant time interval.

*Upset* means an exceptional incident in which there is unintentional and temporary noncompliance with the numeric effluent limitations of Parts V. and XI. of this permit because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

*Waste pile* means any noncontainerized accumulation of solid, nonflowing waste that is used for treatment or storage.

*Waters of the United States* means:

<sup>3</sup>On June 4, 1992, the United States Court of Appeals for the Ninth Circuit remanded the exclusion for manufacturing facilities in category (xi) that do not have materials or activities exposed to storm water to the EPA for further rulemaking. (Nos. 90-70671 and 91-70200.)

a. All waters that are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters that are subject to the ebb and flow of the tide;

b. All interstate waters, including interstate wetlands;

c. All other waters such as interstate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:

1. That are or could be used by interstate or foreign travelers for recreational or other purposes;

2. From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or

3. That are used or could be used for industrial purposes by industries in interstate commerce;

d. All impoundments of waters otherwise defined as waters of the United States under this definition;

e. Tributaries of waters identified in paragraphs (a) through (d) of this definition;

f. The territorial sea; and

g. Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs (a) through (f) of this definition.

(Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of CWA are not waters of the United States.)