

**ACTION:** Notice of information collection and request for comments.

**SUMMARY:** In compliance with the requirements of the Paperwork Reduction Act of 1995, the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the currently approved information collection, FERC-552, (Annual Report of Natural Gas Transactions).

**DATES:** Comments on the collection of information are due July 12, 2021.

**ADDRESSES:** You may submit copies of your comments (identified by Docket No. IC21-25-000) by one of the following methods:

Electronic filing through <http://www.ferc.gov>, is preferred.

- *Electronic Filing:* Documents must be filed in acceptable native applications and print-to-PDF, but not in scanned or picture format.

- For those unable to file electronically, comments may be filed by USPS mail or by hand (including courier) delivery:

- *Mail via U.S. Postal Service Only:* Addressed to: Federal Energy

Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.

- *Hand (including courier) Delivery:* Deliver to: Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852.

*Instructions:* All submissions must be formatted and filed in accordance with submission guidelines at: <http://www.ferc.gov>. For user assistance, contact FERC Online Support by email at [ferconlinesupport@ferc.gov](mailto:ferconlinesupport@ferc.gov), or by phone at (866) 208-3676 (toll-free).

*Docket:* Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at <http://www.ferc.gov>.

**FOR FURTHER INFORMATION CONTACT:** Ellen Brown may be reached by email at [DataClearance@FERC.gov](mailto:DataClearance@FERC.gov), telephone at (202) 502-8663.

**SUPPLEMENTARY INFORMATION:**

*Title:* FERC Form No. 552, Annual Report of Natural Gas Transactions.

*OMB Control No.:* 1902-0242.

*Type of Request:* Three-year extension of the FERC Form No. 552 information

collection requirements with no changes to the current reporting requirements.

*Abstract:* The Commission uses the information collected in the FERC Form No. 552<sup>1</sup> to provide greater transparency into the size of the physical natural gas market and the use of physical fixed-price and index-based natural gas transactions. This information assists the Commission and the public in assessing whether index prices are the result of a robust market of fixed-price transactions.

FERC Form No. 552 had its genesis in the Energy Policy Act of 2005,<sup>2</sup> which added section 23 of the Natural Gas Act (NGA). Section 23 of the NGA, among other things, directs the Commission “to facilitate price transparency in markets for the sale or transportation of physical natural gas in interstate commerce, having due regard for the public interest, the integrity of those markets, and the protection of consumers.”<sup>3</sup>

*Type of Respondents:* Wholesale natural gas market participants.

*Estimate of Annual Burden:*<sup>4</sup> The Commission estimates the average annual burden and cost<sup>5</sup> for this information collection as follows.

**FERC FORM NO. 552—ANNUAL REPORT OF NATURAL GAS TRANSACTIONS**

Category	Number of respondents	Annual number of responses per respondent	Total number of responses	Average burden hours and cost per response	Total annual burden hours and cost (\$)	Annual cost per respondent (\$)(rounded)
	(1)	(2)	(1) * (2) = (3)	(4)	(3) * (4) = (5)	(5) ÷ (1)
Wholesale natural gas market participants.	688	1	688	20 hrs.; \$1,702.60 .....	13,760 hrs.; \$1,171,388.80 .....	\$1,702.60

*Comments:* Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency’s estimate of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: May 6, 2021.  
**Debbie-Anne A. Reese,**  
*Deputy Secretary.*  
 [FR Doc. 2021-10009 Filed 5-11-21; 8:45 am]  
**BILLING CODE 6717-01-P**

**ENVIRONMENTAL PROTECTION AGENCY**  
**[EPA-HQ-OW-2021-0169; FRL-10023-19-OW]**

**National Pollutant Discharge Elimination System (NPDES) 2022 Issuance of General Permit for Stormwater Discharges From Construction Activities**

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

**ACTION:** Notice; request for public comment.

**SUMMARY:** All ten Environmental Protection Agency (EPA) Regions are

<sup>1</sup> FERC Form No. 552 is prescribed in 18 CFR 260.401.

<sup>2</sup> Energy Policy Act of 2005, Public Law 109-58, sections 1261 *et seq.*, 119 Stat. 594 (2005).

<sup>3</sup> 15 U.S.C. 7171-2(a)(1)(2006).

<sup>4</sup> Burden is defined as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide

information to or for a Federal agency. Refer to 5 CFR 1320.3 for additional information.

<sup>5</sup> Costs (for wages and benefits) are based on wage figures from the Bureau of Labor Statistics (BLS) for May 2020 (at [https://www.bls.gov/oes/current/naics2\\_22.htm](https://www.bls.gov/oes/current/naics2_22.htm)) and benefits information (issued March 2020, <https://www.bls.gov/news.release/ecec.nr0.htm>). The staff estimates that 75% of the

work is done by a financial analyst (code 13-2098) at an hourly cost of \$66.09 (for wages plus benefits), and 25% of the work is done by legal staff members (code 23-0000) at an hourly cost of \$142.25 (for wages plus benefits). Therefore, the weighted cost (for wages plus benefits) is calculated to \$85.13/hour [or (\$66.09/hour \* 0.75) + (\$142.25/hour \* 0.25)].

proposing for public comment on the proposed 2022 National Pollutant Discharge Elimination System (NPDES) general permit for stormwater discharges from construction activities, also referred to as the “proposed 2022 Construction General Permit (CGP)” or the “proposed permit.” The proposed permit, once finalized, will replace the existing 2017 CGP that will expire on February 16, 2022. EPA proposes to issue this permit for five (5) years, and to provide permit coverage to eligible operators in all areas of the country where EPA is the NPDES permitting authority, including Massachusetts, New Hampshire, New Mexico, most Indian country lands, the District of Columbia, U.S. territories and protectorates except for the U.S. Virgin Islands, and certain federal facilities. EPA seeks comment on the proposed permit and on the accompanying fact sheet, which contains supporting documentation. This **Federal Register** document describes the proposed permit in general and includes specific topics on which the Agency is particularly seeking comment. EPA encourages the public to read the fact sheet to better understand the proposed permit. The fact sheet and proposed permit can be found at <https://www.epa.gov/npdes/stormwater-discharges-construction-activities>.

**DATES:** Comments on the proposed permit must be received on or before July 12, 2021. EPA will host at least one webcast during the week of June 14, 2021 that will provide an overview of the proposed 2022 CGP and an opportunity for participants to ask questions. EPA will announce details of all webcasts and post webcast recordings at <https://www.epa.gov/npdes/stormwater-discharges-construction-activities>.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–HQ–OW–2021–0169 to the *Federal eRulemaking Portal*: <http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or withdrawn. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** For further information on the proposed permit, contact the appropriate EPA Regional office listed in Section I.F of this document, or Greg Schaner, EPA Headquarters, Office of Water, Office of Wastewater Management at 202–564–0721 or email: [schaner.greg@epa.gov](mailto:schaner.greg@epa.gov).

**SUPPLEMENTARY INFORMATION:** This section is organized as follows:

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- XII. Compliance With the National Environmental Policy Act (NEPA) for the National Pollutant Discharge Elimination System (NPDES) General Permit for Discharges From Construction Activities

**I. General Information**

*A. Does this action apply to me?*

1. Entities Covered by This Permit

This proposed permit covers the following entities, as categorized in the North American Industry Classification System (NAICS):

TABLE 1—ENTITIES COVERED BY THIS PROPOSED PERMIT

Category	Examples of affected entities	North American Industry Classification System (NAICS) Code
Industry .....	Construction site operators disturbing one or more acres of land, or less than one acre but part of a larger common plan of development or sale if the larger common plan will ultimately disturb 1 acre or more, and performing the following activities:	
	Construction of Buildings .....	236
	Heavy and Civil Engineering Construction .....	237

EPA does not intend the preceding table to be exhaustive but provides it as a guide for readers regarding the types of activities EPA is now aware of that

could potentially be affected by this action. Other types of entities not listed in the table could also be affected. To determine whether your site is covered

by this action, you should carefully examine the definition of “construction activity” and “small construction activity” in existing EPA regulations at

40 CFR 122.26(b)(14)(x) and 122.26(b)(15), respectively. If you have questions regarding the applicability of this action to a particular entity, consult one of the persons listed for technical information in the preceding **FOR FURTHER INFORMATION CONTACT** section.

## 2. Construction Projects for Which Operators Are Eligible for Permit Coverage

Coverage under this permit will be available to operators of eligible projects located in those areas where EPA is the permitting authority. A list of eligible areas is included in Appendix B of the proposed permit. Eligibility for permit coverage is limited to operators of “new sites,” operators of “existing sites,” “new operators of new or existing sites,” and operators of “emergency-related projects.” A “new site” is a site where construction activities commenced on or after the effective date of the final 2022 CGP. An “existing site” is a site where construction activities commenced prior to the effective date of the final 2022 CGP. A “new operator of a new or existing site” is an operator that through transfer of ownership and/or operation replaces the operator of an already permitted construction site. An “emergency-related project” is a project initiated in response to a public emergency (*e.g.*, mud slides, earthquake, extreme flooding conditions, disruption in essential public services), for which the related work requires immediate authorization to avoid imminent endangerment to human health or the environment, or to reestablish public services.

## 3. Geographic Coverage

This 2022 CGP can provide coverage to eligible operators for stormwater discharges from construction activities that occur in areas not covered by an approved state NPDES program. The areas of geographic coverage for the 2022 CGP are listed in Appendix B, and include the states of New Hampshire, Massachusetts, and New Mexico, as well as most Indian country lands, and areas in selected states operated by a federal operator. Permit coverage can also be obtained by operators in Puerto Rico, the District of Columbia, and the Pacific Island territories (*i.e.*, Island of American Samoa, Island of Guam, and Johnston Atoll, Commonwealth of the Northern Mariana Islands, Midway Island, and Wake Island). EPA notes that the CGP will no longer offer coverage to construction sites in the state of Idaho, except for sites located on Indian country lands, or to sites located in the state of Texas that involve the exploration, development, or

production of oil or gas or geothermal resources, including transportation of crude oil or natural gas by pipeline, as both states are now authorized to issue permits for construction stormwater. Eligible operators in these two states will need to seek permit coverage for their stormwater discharges from their respective state NPDES authority.

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

1. *Docket.* EPA has established an official public docket for this action under Docket ID No. EPA–HQ–OW–2021–0169. The official public docket is the collection of materials that is available for public viewing at the Water Docket in the EPA Docket Center, (EPA/DC) WJC West Building, Room 3334, 1301 Constitution Ave. NW, Washington, DC 20460. Although all documents in the docket are listed in an index, some information is not publicly available, *i.e.*, Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Out of an abundance of caution for members of the public and our staff, the EPA Docket Center and Reading Room are closed to the public, with limited exceptions, to reduce the risk of transmitting COVID–19. Our Docket Center staff will continue to provide remote customer service via email, phone, and webform. We encourage the public to submit comments via <https://www.regulations.gov/> or email, as there may be a delay in processing mail and faxes. Hand deliveries and couriers may be received by scheduled appointment only. For further information on EPA Docket Center services and the current status, please visit us online at <https://www.epa.gov/dockets>.

2. *Electronic Access.* You may access this **Federal Register** document electronically through the United States government on-line source for Federal regulations at <http://www.regulations.gov>.

Electronic versions of this proposed permit and fact sheet are available on EPA’s NPDES website at <https://www.epa.gov/npdes/stormwater-discharges-construction-activities>.

An electronic version of the public docket is available through the EPA’s electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at <http://www.regulations.gov> to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. For additional information about EPA’s public docket, visit the EPA Docket

Center homepage at <https://www.epa.gov/dockets>. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the Docket Facility identified in Section I.B.1 of this preamble.

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

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

EPA’s policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA’s electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. As noted previously, CBI information should not be submitted through [regulations.gov](https://www.regulations.gov) or by email. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA’s electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

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

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

- Identify this proposed permit by docket number and other identifying

information (subject heading, **Federal Register** date and page number).

- Where possible, respond to specific questions or organize comments by referencing a section or part of this proposed permit.

- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

- Describe any assumptions and provide any technical information and/or data that you used.

- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

- Provide specific examples to illustrate your concerns and suggest alternatives.

- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

- To ensure that EPA can read, understand, and therefore properly respond to comments, the Agency would prefer that commenters cite, where possible, the paragraph(s) or section in the proposed permit or fact sheet to which each comment refers.

- Make sure to submit your comments by the comment period deadline identified.

#### *D. Will a public hearing be held on this action?*

EPA has not scheduled a public hearing to receive public comment concerning the proposed permit. All persons will continue to have the right to provide written comments during the public comment period. However, interested persons may request a public hearing pursuant to 40 CFR 124.12 concerning the proposed permit. Requests for a public hearing must be sent or delivered in writing to the same address as provided above for public comments prior to the close of the comment period. Requests for a public hearing must state the nature of the issues proposed to be raised in the hearing. Pursuant to 40 CFR 124.12, EPA shall hold a public hearing if it finds, on the basis of requests, a significant degree of public interest in a public hearing on the proposed permit. If EPA decides to hold a public hearing, a public notice of the date, time and place of the hearing will be made at least 30 days prior to the hearing. Any person may provide written or oral statements and data pertaining to the proposed permit at the public hearing.

EPA is hosting at least one public webcast during the week of June 14, 2021 that will provide an overview of the proposed 2022 CGP and an opportunity for participants to ask questions. EPA will announce details of

all webcasts and post webcast recordings at <https://www.epa.gov/npdes/stormwater-discharges-construction-activities>.

#### *E. What process will EPA follow to finalize the permit?*

After the comment period closes, EPA intends to issue a final permit prior to the expiration date of the current 2017 CGP. EPA will consider all significant comments and make appropriate changes before issuing this permit. EPA's responses to public comments received will be included in the docket as part of the final permit issuance. Once the final permit becomes effective, eligible operators of existing and new sites may seek authorization under the 2022 CGP. Any construction site operator obtaining permit coverage prior to the expiration date of the 2017 CGP will automatically remain covered under that permit until the earliest of:

- Authorization for coverage under the 2022 CGP following a timely submittal of a complete and accurate Notice of Intent (NOI);
- Submittal of a Notice of Termination (NOT); or
- EPA issues an individual permit or denies coverage under an individual permit for the site's stormwater discharges.

- EPA issues an individual permit or denies coverage under an individual permit for the site's stormwater discharges.

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

For EPA Region 1, contact David Gray: email at [gray.davidj@epa.gov](mailto:gray.davidj@epa.gov).

For EPA Region 2, contact Stephen Venezia: email at [venezia.stephen@epa.gov](mailto:venezia.stephen@epa.gov), or for Puerto Rico, contact Sergio Bosques: email at [bosques.sergio@epa.gov](mailto:bosques.sergio@epa.gov).

For EPA Region 3, contact Carissa Moncavage: email at [moncavage.carissa@epa.gov](mailto:moncavage.carissa@epa.gov).

For EPA Region 4, contact Michael Mitchell: email at [mitchell.michael@epa.gov](mailto:mitchell.michael@epa.gov).

For EPA Region 5, contact Krista McKim: email at [mckim.krista@epa.gov](mailto:mckim.krista@epa.gov).

For EPA Region 6, contact Suzanna Perea: email at [perea.suzanna@epa.gov](mailto:perea.suzanna@epa.gov).

For EPA Region 7, contact Mark Matthews: email at [matthews.mark@epa.gov](mailto:matthews.mark@epa.gov).

For EPA Region 8, contact Amy Clark: email at [clark.amy@epa.gov](mailto:clark.amy@epa.gov).

For EPA Region 9, contact Eugene Bromley: email at [bromley.eugene@epa.gov](mailto:bromley.eugene@epa.gov).

For EPA Region 10, contact Margaret McCauley: email at [mccauley.margaret@epa.gov](mailto:mccauley.margaret@epa.gov).

## **II. Background of Permit**

The Clean Water Act (CWA) establishes a comprehensive program

“to restore and maintain the chemical, physical, and biological integrity of the Nation's waters.” 33 U.S.C. 1251(a). The CWA also includes the objective of attaining “water quality which provides for the protection and propagation of fish, shellfish and wildlife and \* \* \* recreation in and on the water.” 33 U.S.C. 1251(a)(2)). To achieve these goals, the CWA requires EPA to control discharges of pollutants from point sources through the issuance of National Pollutant Discharge Elimination System (NPDES) permits.

The Water Quality Act of 1987 (WQA) added section 402(p) to the CWA, which directed EPA to develop a phased approach to regulate stormwater discharges under the NPDES program. 33 U.S.C. 1342(p). EPA published a final regulation in the **Federal Register**, often called the “Phase I Rule,” on November 16, 1990, establishing permit application requirements for, among other things, “storm water discharges associated with industrial activity.” See 55 FR 47990. EPA defines the term “storm water discharge associated with industrial activity” in a comprehensive manner to cover a wide variety of facilities. See *id.* Construction activities, including activities that are part of a larger common plan of development or sale, that ultimately disturb at least five acres of land and have point source discharges to waters of the U.S. were included in the definition of “industrial activity” pursuant to 40 CFR 122.26(b)(14)(x). The second rule implementing section 402(p), often called the “Phase II Rule,” was published in the **Federal Register** on December 8, 1999. It requires NPDES permits for discharges from construction sites disturbing at least one acre but less than five acres, including sites that are part of a larger common plan of development or sale that will ultimately disturb at least one acre but less than five acres, pursuant to 40 CFR 122.26(b)(15)(i). See 64 FR 68722. EPA is proposing to issue this proposed permit under the statutory and regulatory authorities cited in this section.

NPDES permits for construction stormwater discharges are required under Section 402(a)(1) of the CWA to include conditions to meet technology-based effluent limits established under Section 301 and, where applicable, Section 306. Effluent Limitations Guidelines (ELGs) and New Source Performance Standards (NSPS) are technology-based effluent limitations that are based on the degree of control that can be achieved using various levels of pollutant control technology as defined in Subchapter III of the CWA.

Once a new national standard is established in accordance with these sections, NPDES permits must incorporate limits based on such technology-based standards. See CWA sections 301 and 306, 33 U.S.C. 1311 and 1316, and 40 CFR 122.44(a)(1). On December 1, 2009, EPA published final regulations establishing technology-based ELGs and NSPS for the Construction & Development (C&D) point source category, which became effective on February 1, 2010. See 40 CFR part 450 and 74 FR 62996. EPA amended the Construction & Development Rule, or “C&D rule,” on March 6, 2014 to satisfy EPA’s agreements pursuant to a settlement of litigation that challenged the 2009 rule. See 79 FR 12661. All NPDES construction permits issued by EPA or states after this date must incorporate the requirements in the C&D rule.

#### A. Technology-Based Effluent Limits

All NPDES construction stormwater permits issued by EPA or states after March 6, 2014, must incorporate the requirements in the C&D rule, as amended. The non-numeric effluent limitations in the C&D rule are designed to prevent or minimize the mobilization and discharge of sediment and sediment-bound pollutants, such as metals and nutrients, and to prevent or minimize exposure of stormwater to construction materials, debris, and other sources of pollutants on construction sites. In addition, these non-numeric effluent limitations limit the generation of dissolved pollutants. Soil on construction sites can contain a variety of pollutants such as nutrients, pesticides, herbicides, and metals. These pollutants may be present naturally in the soil, such as arsenic or selenium, or they may have been contributed by previous activities on the site, such as agriculture or industrial activities. These pollutants, once mobilized by stormwater, can detach from the soil particles and become dissolved pollutants. Once dissolved, these pollutants would not be removed by down-slope sediment controls. Source control through minimization of soil erosion is, therefore, the most effective way of controlling the discharge of these pollutants.

The non-numeric effluent limits in the C&D rule, upon which certain technology-based requirements in the proposed permit are based, include the following:

- *Erosion and Sediment Controls*—Permittees are required to design, install, and maintain effective erosion controls and sediment controls to minimize the discharge of pollutants. At

a minimum, such controls must be designed, installed, and maintained to:

1. Control stormwater volume and velocity to minimize soil erosion in order to minimize pollutant discharges;
2. Control stormwater discharges, including both peak flow rates and total stormwater volume, to minimize channel and streambank erosion, and scour in the immediate vicinity of discharge points;
3. Minimize the amount of soil exposed during construction activity;
4. Minimize the disturbance of steep slopes;
5. Minimize sediment discharges from the site. The design, installation and maintenance of erosion and sediment controls must address factors such as the amount, frequency, intensity and duration of precipitation, the nature of resulting stormwater discharge, and soil characteristics, including the range of soil particle sizes expected to be present on the site;
6. Provide and maintain natural buffers around waters of the United States. Direct stormwater to vegetated areas and maximize stormwater infiltration to reduce pollutant discharges, unless infeasible;
7. Minimize soil compaction. Minimizing soil compaction is not required where the intended function of a specific area of the site dictates that it be compacted; and
8. Unless infeasible, preserve topsoil. Preserving topsoil is not required where the intended function of a specific area of the site dictates that the topsoil be disturbed or removed.

- *Soil Stabilization Requirements*—Permittees are required to, at a minimum, initiate soil stabilization measures immediately whenever any clearing, grading, excavating, or other earth disturbing activities have permanently ceased on any portion of the site or temporarily ceased on any portion of the site and will not resume for a period exceeding 14 calendar days. In arid, semiarid, and drought-stricken areas where initiating vegetative stabilization measures immediately is infeasible, alternative stabilization measures must be employed as specified by the permitting authority. Stabilization must be completed within a period of time determined by the permitting authority. In limited circumstances, stabilization may not be required if the intended function of a specific area of the site necessitates that it remains disturbed.

- *Dewatering Requirements*—Permittees are required to minimize the discharge of pollutants from dewatering trenches and excavations. Discharges

are prohibited unless managed by appropriate controls.

- *Pollution Prevention Measures*—Permittees are required to design, install, implement, and maintain effective pollution prevention measures to minimize the discharge of pollutants. At a minimum, such measures must be designed, installed, implemented, and maintained to:

1. Minimize the discharge of pollutants from equipment and vehicle washing, wheel wash water, and other wash waters. Wash waters must be treated in a sediment basin or alternative control that provides equivalent or better treatment prior to discharge;
2. Minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste, and other materials present on the site to precipitation and to stormwater. Minimization of exposure is not required in cases where the exposure to precipitation and to stormwater will not result in a discharge of pollutants or where exposure of a specific material or product poses little risk of stormwater contamination (such as final products and materials intended for outdoor use); and

3. Minimize the discharge of pollutants from spills and leaks and implement chemical spill and leak prevention and response procedures.

- *Prohibited Discharges*—The following discharges from C&D sites are prohibited:

1. Wastewater from washout of concrete, unless managed by an appropriate control;
2. Wastewater from washout and cleanout of stucco, paint, form release oils, curing compounds, and other construction materials;
3. Fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance; and
4. Soaps or solvents used in vehicle and equipment washing.

- *Surface Outlets*—When discharging from basins and impoundments, permittees are required to utilize outlet structures that withdraw water from the surface, unless infeasible.

The accompanying fact sheet details how EPA has incorporated these requirements into the proposed permit. The discussion in the fact sheet includes a summary of each provision and the Agency’s rationale for articulating the provision in this way.

### B. Water Quality-Based Effluent Limits (WQBELs)

EPA's regulations at 40 CFR 122.44(d)(1) require permitting authorities to include additional or more stringent permit requirements when necessary to achieve water quality standards. The 2017 CGP contains several provisions to protect water quality and the proposed permit includes those same provisions. It includes a narrative WQBEL requiring that discharges be controlled as necessary to meet applicable water quality standards. Failure to control discharges in a manner that meets applicable water quality standards is a violation of the permit.

In addition to the narrative WQBEL, the 2017 CGP includes related provisions that act together to protect water quality. These provisions are retained in the proposed 2022 CGP. For example, the 2017 CGP and proposed 2022 CGP permit require permittees to implement stormwater control measures and to take corrective action in response to any exceedance of applicable water quality standards. In addition, the permit requires more stringent site inspection frequencies and stabilization deadlines for construction sites that discharge to sensitive waters, such as those waters that are sediment or nutrient-impaired, which are parameters typically associated with stormwater discharges from construction sites, or waters identified by a state, tribe, or EPA as requiring enhanced protection under antidegradation requirements. EPA is also weighing whether to include an additional water quality-based requirement for dewatering discharges to certain sensitive waters in the form of a requirement to monitor the discharge for turbidity, possibly in comparison to a benchmark value. The proposed permit includes a request for public comment that is focused specifically on the potential turbidity monitoring requirement. See specific requests for comment in Section V of this document.

Additionally, EPA expects that, as with the 2017 CGP, the Agency will receive CWA Section 401 certifications for the final 2022 CGP. Some of those certifications may include additional conditions that are required by states, Indian tribes, and territories, pursuant to relevant provisions of the Clean Water Act or their respective legal authorities, and that, when properly submitted, will be incorporated into the permit as legally binding permit limits and conditions in the specific geographic areas that are located within the jurisdiction of the certifying authority.

### III. Process Used To Identify Proposed Permit Changes

EPA made a concerted effort in the early stages of developing this proposed permit to reach out to stakeholders that would be affected by any modifications to the permit requirements. This outreach included meetings with stakeholders representing the construction industry, environmental interests, and state permitting authorities. The purpose of these meetings was to help identify areas of the 2017 CGP that require further clarification or modification to more effectively achieve the pollutant reduction objectives of the permit. EPA also queried its Regional enforcement personnel to determine where the permit could be clarified or where further specifics would help improve compliance. The individual feedback obtained from these meetings informed the types of clarifications and other changes EPA is proposing here, as well as the areas where the Agency is soliciting further feedback during the public comment period.

### IV. Summary of Proposed Permit Changes

EPA proposes to make several modifications in the 2022 CGP, which are summarized below and discussed in more detail in the fact sheet. EPA also specifically requests comment on several potential permit modifications, which are summarized in Section V of this document. The fact sheet for the proposed permit explains in more detail each proposed permit condition and the rationale for including those conditions and any changes to those conditions. The fact sheet and proposed permit can be found at <https://www.epa.gov/npdes/stormwater-discharges-construction-activities>. A comprehensive list of all the proposed changes, as well as the corresponding parts of the permit that are modified, is included in a table in Section III.B of the fact sheet.

The types of changes generally fall into one of two categories: (1) Changes to improve the clarity of the permit, and (2) added specificity to the permit requirements. The table of proposed modifications in Section III.B of the fact sheet specifies which changes fall under the type (1) category and which fall into the type (2) category. The following sections briefly describe the proposed changes that are proposed within these two broad categories.

#### A. Changes to Clarity of the Permit

EPA proposes a number of relatively minor changes that focus on improving the clarity of provisions where

permittees, EPA compliance staff, or other stakeholders have raised questions. These changes generally do not change the underlying requirement from the 2017 CGP, but rather attempt to make EPA's original intent clearer. It is EPA's hope that these proposed clarifications improve the overall understanding of the permit's requirements from all perspectives, including the permitting authority, permittees, and the general public.

The proposed changes to improve clarity include the following:

- *Approved stormwater control and stormwater pollution prevention plan products*—EPA includes new language in the permit to clearly state that the Agency does not endorse specific stormwater control or stormwater pollution prevention plan (SWPPP) products or vendors. Industry stakeholders suggested to include such language to help discourage some vendors from misleadingly suggesting that EPA or the permit approves of specific products. See footnotes 12 and 59 in Parts 2.1 and 7.1, respectively, of the proposed permit.

- *Differentiate between routine maintenance and corrective action*—EPA proposes to define routine maintenance as repairs to or replacement of stormwater controls that can be completed within 24 hours of first discovering the need for the repair or replacement. If a repair (or replacement) takes longer than 24 hours, the permit would require that it be treated as a corrective action. This change addresses feedback provided by industry stakeholders who have observed that there is considerable confusion about which maintenance repairs are considered routine versus those that should be treated as corrective actions. See Parts 2.1.4.b and c, and 5.1.1 of the proposed permit.

- *Clarify application of perimeter control and natural buffer requirements*—EPA understands from conversations with stakeholders that there is confusion about whether perimeter controls are necessary on the site when the operator is already providing a natural buffer pursuant to the requirements of the permit. To address this confusion, EPA clarifies that perimeter controls must be installed upgradient of any natural buffers except in situations where the perimeter control is being used by the permittee to fulfill one of the buffer alternative requirements, in which case the permittee would not be required to install a second perimeter control. See Part 2.2.3.a of the proposed permit.

- *Clarify the permit flexibilities for arid and semi-arid areas*—The 2017

CGP establishes alternative stabilization and inspection schedules for arid and semi-arid areas that are reflective of the different climatic and precipitation conditions that exist in those areas. These stabilization and inspection schedule flexibilities apply during the “seasonally dry period” of the year when there is less risk of a discharge-producing storm event. The permit did not previously define the term “seasonally dry period,” and EPA has received a number of questions from construction operators over the past several years about what this term means. For this reason, the proposed permit establishes a new definition to provide clarity, and includes resources in the form of maps and zip code tables to assist construction operators located in an arid or semi-arid area in determining when they may be operating during a seasonally dry period of the year. See Parts 2.2.14.b, 2.2.14.c, and 4.4.2 of the proposed permit, as well as the definition of “seasonally dry period” in Appendix A.

- *Clarified requirements for inspections during snowmelt conditions*—The permit proposes to add a numeric inspection threshold for snowfall precipitation that is equivalent to the 0.25-inch rain event, which triggers the need for an inspection if the operator chooses to inspect its site on a bi-weekly basis pursuant to Part 4.2.2. This change would clarify that where there is a discharge from snowmelt caused by an accumulation of 3.25 inches or greater of snow, an inspection would be required. Permit holders requested this change and explained to EPA that without a numeric threshold, it is difficult for operators to know which snow events may trigger the need to inspect the site during the winter season. EPA relied on information from the National Oceanic and Atmospheric Administration (NOAA) to derive the 3.25-inch snowfall equivalent to the 0.25-inch rain event. See Part 4.2.2 of the proposed permit.

- *Availability of stormwater pollution prevention plan (SWPPP), inspection reports, and corrective action log in electronic form*—The 2017 CGP currently enables operators to keep their SWPPP, inspection reports, and corrective action records in electronic form, as long as it can be accessed and read by the permittee and by any EPA, state, or local inspection authorities in the same manner as a paper copy. EPA heard from permittees, however, who were uncertain about whether the flexibility to keep these documents in electronic form was available to them. EPA acknowledges that part of the problem is that its explanation about

retaining documents in electronic form is currently included in a frequently asked question section of its stormwater website (see <https://www.epa.gov/npdes/construction-general-permit-cgp-frequent-questions>), and is not clearly stated in the permit. For this reason, the proposed permit includes text to make it clear that electronic versions of the SWPPP, inspection reports, and corrective action logs may be used as long as they meet certain minimum requirements. See footnotes 54, 55, and 66 to Parts 4.7.3, 5.4.3, and 7.3, respectively, of the proposed permit.

- *Updated process for Endangered Species Act eligibility determinations*—EPA proposes several updates to Appendix D of the CGP, which establishes procedures for operators to follow in determining their eligibility for coverage with respect to the protection of endangered and threatened species. The changes to Appendix D are primarily in the form of clarifications to existing procedures or updates to resources that operators can use to determine whether species are located in the “action area” of the construction site. EPA finalized similar changes as part of the Endangered Species Act consultation it completed as part of its issuance of the 2021 Multi-Sector General Permit (MSGP) for discharges from industrial activities (See Appendix E of the 2021 MSGP at <https://www.epa.gov/npdes/stormwater-discharges-industrial-activities-epas-2021-msgp>). See Appendix D of the proposed permit.

#### *B. Added Specificity to Permit Requirements*

EPA is proposing select modifications to the permit to address specific problems that have come to the Agency’s attention during the permit term or to incorporate enhancements that reflect current best practices. These proposed changes are narrowly focused on specific topics. The following is a summary of these proposed changes:

- *Perimeter control installation and maintenance requirements*—Due to the vital role that sediment controls installed along the downslope side of the construction site perimeter play in minimizing sediment discharges, it is important for the CGP requirements related to these controls to reflect best practices that are available, effective, and practicable. Reviewing a number of state permits and best management practice manuals during the development of the proposed permit, EPA concluded that some targeted proposed changes to the perimeter control requirements in the CGP are appropriate at this time. For this reason,

EPA is proposing additional perimeter control installation and maintenance requirements that are focused on ensuring that these controls continue to work effectively. For example, under the proposed provision, if there is evidence of stormwater circumventing or undercutting the perimeter control after a storm event, the operator would be required to extend the length of the perimeter control or repair any undercut areas, whichever applies. This change is intended to ensure that maintenance of these controls is focused on fixing problems as soon as they are found and making sure they work effectively when the next storm event occurs. See Part 2.2.3 of the proposed permit.

- *Pollution prevention requirements for chemicals used and stored on site*—EPA is proposing changes to the pollution prevention requirements for diesel fuel, oil, hydraulic fuels, or other petroleum products, and other chemicals. These proposed changes respond to feedback EPA received from some permittees who recommended reframing the current permit requirements so they are proportionate to the volume of chemicals being used and stored on the site, and relative to the risk of a spill or leak. EPA agrees that the requirements in this section could be improved by strengthening the linkage between the type of pollution prevention control needed and the volume of the pollutant kept on site. Consistent with this principle, the proposed permit establishes control requirements that are appropriate for smaller-sized containers by requiring that the operator use water-tight containers, place them on a spill containment pallet (or similar device) if kept outside, and have a spill kit available at all times and in good working condition, and personnel available to respond quickly to a spill or leak. These controls will be effective at preventing a discharge from a spill or leak, while also having the added advantage of being moved more easily around the site. The proposed permit also includes controls that are more suitable to larger volumes of chemicals on site, such as requiring a temporary roof or secondary containment to prevent a discharge from a leak or spill. See Part 2.3.3.c of the proposed permit.

- *Dewatering discharge requirements*—EPA is proposing several changes to the permit’s dewatering requirements to improve compliance and further reduce pollutant loads to waterways. EPA has noted violations with the permit’s dewatering requirements at sites with controls that are improperly installed and maintained, resulting in significant

discharges of sediment and other pollutants to receiving waters. Given the high rate at which dewatered water may be discharged, EPA inspection personnel have observed that it is possible that a site may discharge more sediment in several hours of poorly managed dewatering activities than might otherwise be discharged from a site via stormwater discharges over the entire course of the construction project. Additionally, EPA has found there to be good example provisions from state construction stormwater permits and standalone NPDES dewatering permits that can be used to strengthen the CGP's dewatering conditions.

The proposed revisions to the permit add clarity to the existing pollutant control provisions, increase the number of inspections required while the dewatering discharge is occurring, establish a tailored checklist of problems to review during the inspection, and identify specific triggers for when corrective action is required. For example, one new inspection provision would require the operator to check whether a sediment plume, sheen, or hydrocarbon deposit on the bottom or shoreline of the receiving water was observed during a dewatering discharge. If such a plume, sheen, or deposit is observed, the permit would require the operator to, among other things, take immediate steps to suspend the discharge and ensure that the dewatering controls being used are operating effectively. During an inspection of the dewatering operation, the operator would also be required to take photographs of (1) the dewatering water prior to treatment by a stormwater control(s) and the final discharge after treatment; (2) the stormwater control; and (3) the point of discharge to any waters of the U.S. flowing through or immediately adjacent to the site. This documentation will help demonstrate how well the dewatering controls are working and will show where adaptations made after any problems have been found have resulted in improved pollutant control. See Parts 2.4, 4.3.2, 4.5.5, 4.6.3, and 5.1.5 of the proposed permit.

- *Training requirements for personnel conducting site inspections*—EPA is proposing to include modifications to the training requirements for personnel conducting site inspections. EPA considers these changes reasonable to address problems found during many of the Agency's own construction site inspections, in which EPA has observed that while some permittees are properly conducting inspections and documenting their findings in accordance with the permit, a large

number are not. EPA proposes to address this problem is by strengthening the training requirements for inspection personnel to ensure their competency to conduct such inspections. For this reason, the proposed permit specifies that anyone carrying out inspections must either (1) have completed the new EPA construction inspection course developed for this permit and passed the exam, or (2) hold a current valid certification or license from a program that covers essentially the same principles as EPA's inspection course. The proposal also includes an exception to the new training requirement if the personnel are working under the supervision of a person who has the met the qualifications described above. These new proposed requirements are essentially an extension of what the 2017 CGP (and 2012 CGP) already required for the "qualified person" to conduct inspections. EPA is in the process of developing a construction inspection training program that will be made available as an option to fulfill this new requirement to CGP permittees along with an accompanying exam that, if passed, will provide the person with documentation showing that they have successfully completed the EPA course. EPA plans to have the training program ready for use by the issuance of the final 2022 CGP, or to delay the implementation of the requirement until the EPA training is available. Documentation that the relevant personnel has completed the EPA course and passed the exam will serve as proof that the operator has met the new inspection training requirements. Alternatively, if the relevant personnel elect to obtain the required training through a different program that covers the same basic principles, the operator will need to provide documentation that these personnel have completed the program and are in possession of a current, valid certification or license. See Parts 4.1 and 6.3 of the proposed permit.

- *Documenting signs of sedimentation attributable to construction site discharges*—EPA specifies in the proposed permit that during the inspection, operators must check for signs of sedimentation (e.g., sand bars with no vegetation growing on top) at points downstream from the point of discharge that could be attributable to their discharges. This change is intended to address a frequent problem observed during EPA's compliance inspections that the permittee does not document obvious signs that its discharges have caused sedimentation in the receiving water.

The intent of this proposed addition is to emphasize that the site inspection is an ideal time to examine whether there are any obvious signs of sedimentation attributable to the site's discharges, and to require documentation of such sedimentation. EPA does not specify in the permit a specific distance downstream of the site that operators must check for sedimentation that could be attributable to the discharge, given variable site-specific conditions. Instead, EPA expects that operators will account for the amount of sediment leaving the site in determining this distance. EPA notes that the CGP already requires operators to check for signs of visible erosion and sedimentation (i.e., sediment deposits) that have occurred and are attributable to the permittee's discharge at outfalls and, if applicable, on the banks of any waters of the U.S. flowing within or immediately adjacent to the site. See Part 4.6.1.d of the proposed permit.

- *Photo documentation of adequate site stabilization*—EPA's compliance inspectors have observed cases when operators prematurely terminate coverage under the CGP before the site is properly stabilized. The proposed permit adds a new provision requiring operators as part of their Notice of Termination (NOT) to take and submit photographs showing the stabilized areas of the site following completion of construction. EPA proposes this requirement primarily as an additional level of proof that permittees are complying with the stabilization requirements prior to terminating coverage. Given the importance of stabilization to preventing continuing erosion and sedimentation, EPA views the additional proposed photo documentation requirement to be a relatively inexpensive, effective, and straightforward way for the permittee to show the Agency that it has complied with the permit's final stabilization requirements. See Part 8.2.1.a of the proposed permit. Related to this proposed new requirement, EPA is also adding a check box to the NOT form to confirm that the operator has attached photographs as required by Part 8.2.1.a to document compliance with the permit's final stabilization requirements.

- *Notice of Intent (NOI) questions*—EPA proposes to add new questions to the NOI form that construction operators will use to obtain coverage under the 2022 CGP. One question asks operators if dewatering water will be discharged during the course of their permit coverage. While EPA suspects that most CGP-covered projects discharge dewatering water during



construction, it would be useful to the Agency to know what the prevalence of this practice is at its permitted sites. This question will provide a straightforward way of compiling information broadly about permittees and enable EPA to know which permittees may be affected by the permit's new proposed dewatering requirements. Another question asks the operator completing the NOI whether there are other operators who are also covered by the CGP at the same site and, if so, what their NPDES ID numbers are. Because the 2017 CGP NOI does not ask the operator to indicate whether there are multiple operators permitted for the same site, EPA is often unable to easily determine who all the permitted entities are at larger projects. The NOI form will also include a proposed new question that requires the operator to confirm that any personnel conducting inspections at the site will meet the modified training requirements in Part 6 of the permit. EPA also proposes clarifying edits to better explain the types of documentation that are needed for several of the eligibility criteria and edits to provide links to updated available mapping tools to assist operators in determining whether any listed or threatened species are known to occur in the action area of their project.

## V. Provisions for Which EPA Is Soliciting Comment

While EPA encourages the public to review and comment on all provisions in the proposed permit, EPA has included in the body of the proposed permit several proposed provisions on which EPA specifically requests feedback. The following list summarizes these specific requests for comment, and where they are included in the permit. EPA notes that these are only summaries of the requests for comment. The Agency recommends that the public see the specific wording of each comment request within the body of the permit. Additionally, the request for comment numbers 1, 3, 4, and 5 are not accompanied by a proposed change to the permit, but rather are inviting input on possible revisions to the CGP.

1. *Permit coverage clarification*—Request for comment on potentially modifying the definition of operator to specifically include parties that determine acceptance of work and pay for work performed. See Request for Comment 1 in Part 1.1.1 of the proposed permit.

2. *Prohibition of dewatering discharges from contaminated sites*—Request for comment on whether additional sites should be prohibited

from coverage under this permit due to the possibility of discharging dewatering water that is contaminated, and whether certain sites should be given case-by-case flexibility if stormwater contact with underground contamination has been prevented through implementation of cleanup controls, such as capping. See Request for Comment 2 in Part 1.3.6 of the proposed permit.

3. *Waiting period for discharge authorization*—Request for comment on whether to extend the waiting period between the operator's submittal of the NOI and the authorization to discharge from 14 days to 30 days to facilitate review of the site's eligibility related to the protection of endangered or threatened species. See Request for Comment 3 in Part 1.4.3 of the proposed permit.

4. *Stabilization deadlines*—Request for comment on whether the 5-acre disturbance threshold for stricter stabilization deadlines has the intended effect of encouraging the phasing of construction disturbances. See Request for Comment 4 in Part 2.2.14.a of the proposed permit.

5. *Pollution prevention requirements for construction waste*—Request for comment on whether existing pollution control flexibilities such as those that apply to building materials and products in Part 2.3.3.a should be applied to certain types of construction wastes. See Request for Comment 5 in Part 2.3.3.e of the proposed permit.

6. *Water quality-based requirements for dewatering discharges*—Request for comment on requiring targeted sampling of the dewatering discharges from sites discharging to sediment-impaired waters or waters designated as Tier 2, Tier 2.5 or Tier 3 waters. See Request for Comment 6 in Part 3.3 of the proposed permit.

7. *Training Requirements*—Request for comment on the proposed modifications to the site inspection training requirements, specifically on how EPA can design its own inspection training program and the criteria used to describe the minimum requirements for third-party training programs. See Request for Comment 7 in Part 6.3 of the proposed permit.

8. *Photographic documentation of site stabilization*—Request for comment on the proposed requirement to take photographs of the stabilized areas of the site and submit them with the NOT. See Request for Comment 8 in Part 8.2.1.a of the proposed permit.

## VI. Paperwork Reduction Act (PRA)

The information collection activities in this permit have been submitted for

approval to the Office of Management and Budget (OMB) under the PRA. The Information Collection Request (ICR) document that EPA prepared has been assigned EPA ICR No. 2686.01, OMB Control No. 2040-NEW. You can find a copy of the ICR in the docket for this permit (Docket ID No. EPA-HQ-OW-2021-0169), and it is briefly summarized here.

CWA section 402 and the NPDES regulations require collection of information primarily used by permitting authorities, permittees (operators), and EPA to make NPDES permitting decisions. The burden and costs associated with the entire NPDES program are accounted in an approved ICR (EPA ICR number 0229.23, OMB control no. 2040-0004). Certain changes in this permit require revisions to the ICR to reflect changes to the forms and other information collection requirements. EPA is reflecting the paperwork burden and costs associated with this permit in a separate ICR instead of revising the existing ICR for the entire program for administrative reasons.

EPA is proposing to collect new information as part of the 2022 CGP. The NOI form was updated from the 2017 CGP to collect new information related to the following: Added one new question related to whether operators will be discharging construction dewatering water during the course of their permit coverage; added questions about whether there are other operators who are also covered by the CGP at the same site and, if so, what their NPDES ID numbers are; added a check box for the operator to confirm that any personnel conducting inspections at the site will meet the modified training requirements in Part 6 of the permit; and added clarifying edits to better explain the types of documentation that are needed for several of the eligibility criteria related to endangered and threatened species and edits to provide links to updated available mapping tools to assist operators in determining whether any such species are known to occur in the vicinity of their project.

EPA added one check box for operators who are submitting an "NOT" because all construction activities have ended and the site has met all of the requirements for terminating permit coverage in Part 8.2.1. The check box confirms that the operator has attached photographs taken to document compliance with the final stabilization requirements pursuant to Part 8.2.1.a.

*Respondents/affected entities:* Construction operators in the areas where EPA is the NPDES permitting authority.

*Respondent's obligation to respond:* Compliance with the CGP's information collection and reporting requirements is mandatory for CGP operators.

*Estimated number of respondents:* EPA estimates that for the duration of the three-year ICR period approximately 7,800 operators will obtain coverage under the 2022 CGP, or 2,600 operators per year.

*Frequency of response:* Response frequencies in the 2022 CGP vary from once per permit term to quarterly.

*Total estimated burden:* EPA estimates that the information collection burden of the 2022 CGP is 134,059 hours per year. Burden is defined at 5 CFR 1320.3(b).

*Total estimated cost:* EPA estimates that the final information collection cost of the 2022 CGP is \$8,195,357 per year.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9. EPA will respond to ICR-related comments in the final permit.

#### **VII. Proposed 2022 CGP Incremental Cost Analysis and Future Cost-Benefit Considerations**

The cost analysis accompanying this proposed permit monetizes and quantifies certain incremental cost impacts of the proposed permit changes as compared to the 2017 CGP. EPA analyzed each change in the proposed 2022 CGP considering the previous permit's (*i.e.*, the 2017 CGP) requirements. The objective of this incremental cost analysis is to show where or to what extent the proposed 2022 CGP requirements impose an incremental increase in administrative and compliance costs (such as the cost to conduct site inspections or to prepare compliance reports) on operators in relation to costs that are already accounted for in the 2017 CGP.

More broadly, EPA notes that additional unquantified costs and benefits result from this action. In developing the next CGP (or another NPDES general permit, as appropriate), EPA plans to estimate the broader impacts arising from these actions, including costs and benefits. Estimates under consideration may include: (1) Assessing how costs and benefits are attributed between the CGP and applicable water quality standards (including TMDLs) that may be in effect; (2) developing a new modeling framework to assess how regulated entities understand and implement pollutant controls related to existing

and new permit obligations; (3) examining whether any underlying cost and benefit assumptions need to be updated; (4) examining more broadly how EPA can analyze benefits when developing permits; (5) developing more robust approaches to assessing uncertainties associated with the analytic approaches, including how to quantitatively assess uncertainties of key assumptions; and (6) developing a framework to analyze the effect of cooperative federalism.

EPA expects the incremental cost impact on entities that will be covered under the 2022 CGP, including small businesses, to be minimal. EPA anticipates the approximate average annual incremental cost increase (compared to the 2017 CGP) will be \$704 to \$714 per permitted project per year. A copy of EPA's incremental cost analysis for the proposed permit, titled "Incremental Cost Impact Analysis for the Proposed 2022 Construction General Permit (CGP)," is available in the docket (Docket ID No. EPA-HQ-OW-2021-0169).

#### **VIII. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review**

The proposed permit is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

#### **IX. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations**

Executive Order (E.O.) 12898 (59 FR 7629 (February 16, 1994)) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has preliminarily determined that this proposed permit will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because the requirements in the proposed permit apply equally to all construction projects that disturb one or more acres (or are part of a larger common plan of development that disturbs one or more acres) in areas

where EPA is the permitting authority, and the erosion and sediment control proposed provisions increase the level of environmental protection for all affected populations over the 2017 CGP. EPA requests comment on this preliminary determination and/or any modifications that EPA could make to the proposed permit to address environmental justice concerns.

#### **X. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments**

In compliance with Executive Order 13175, EPA consulted with tribal officials to gain an understanding of and, where necessary, to address the tribal implications of the proposed permit. During this consultation, EPA conducted the following activities:

- August 13, 2020—EPA mailed notification letters to all tribal leaders, initiating consultation and coordination on the proposed permit. The consultation period was from August 13, 2020 to October 27, 2020.

- September 9, 2020—EPA participated in the National Tribal Water Council monthly conference call and received written comments in response.

- September 16, 2020—EPA led an informational webinar to provide an overview of the current CGP and information regarding the ongoing consultation to the National Tribal Caucus. A total of 34 tribal representatives attended.

EPA received comments providing input from tribes. These comments are described in EPA's tribal consultation summary, which is can be accessed at <https://www.epa.gov/dockets> in the docket for this permit (refer to Docket No. EPA-HQ-OW-2021-0169). In addition, EPA received comments during the September 16, 2020 informational webinar and a September 9, 2020 National Tribal Water Council monthly conference call with EPA staff.

EPA will provide email notification to tribes of the proposed permit and invite those interested to provide the Agency with comments. EPA also notes that as part of the finalization of this proposed permit, it will complete the Section 401 certification procedures with all applicable tribes where this permit will apply (see Appendix B).

#### **XI. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use**

This action is not a "significant energy action" because it is not likely to have a significant adverse effect on the supply, distribution or use of energy and has not otherwise been designated

by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action.

## XII. Compliance With the National Environmental Policy Act (NEPA) for the National Pollutant Discharge Elimination System (NPDES) General Permit for Discharges From Construction Activities

Pursuant to the National Environmental Policy Act (NEPA) (42 U.S.C. 4321–4307h), the Council on Environmental Quality's NEPA regulations (40 CFR part 15), and EPA's regulations for implementing NEPA (40 CFR part 6), EPA has determined that the 2022 reissuance of the CGP is eligible for a categorical exclusion requiring documentation under 40 CFR 6.204(a)(1)(iv). This category includes "actions involving reissuance of a NPDES permit for a new source providing the conclusions of the original NEPA document are still valid, there will be no degradation of the receiving waters, and the permit conditions do not change or are more environmentally protective." EPA completed an Environmental Assessment/Finding of No Significant Impact (EA/FONSI) for the 2012 CGP. The analysis and conclusions regarding the potential environmental impacts, reasonable alternatives, and potential mitigation included in the EA/FONSI are still valid for the 2022 reissuance of the CGP because the proposed permit conditions are either the same or more environmentally protective. Actions may be categorically excluded if the action fits within a category of action that is eligible for exclusion and the proposed action does not involve any extraordinary circumstances. EPA has reviewed the proposed action and determined that the 2022 reissuance of the CGP does not involve any extraordinary circumstances listed in 6.204(b)(1) through (10). EPA made a similar determination for the 2017 CGP. Prior to the issuance of the final 2022 CGP, the EPA Responsible Official will document the application of the categorical exclusion and will make it available to the public on EPA's website at <https://cdxnodengn.epa.gov/cdx-enepa-public/action/nepa/search>. If new information or changes to the proposed permit involve or relate to at least one of the extraordinary circumstances or otherwise indicate that the permit may not meet the criteria for categorical exclusion, EPA will prepare an EA or Environmental Impact Statement (EIS).

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

**Deborah Szaro,**

*Acting Regional Administrator, EPA Region 1.*

**Javier Laureano,**

*Director, Water Division, EPA Region 2.*

**Carmen Guerrero-Perez,**

*Director, Caribbean Environmental Protection Division, EPA Region 2.*

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*Deputy Director, Water Division, EPA Region 3.*

**Jeaneanne Gettle,**

*Director, Water Division, EPA Region 4.*

**Tera Fong,**

*Director, Water Division, EPA Region 5.*

**Charles Maguire,**

*Deputy Director, Water Division, EPA Region 6.*

**Jeffery Robichaud,**

*Director, Water Division, EPA Region 7.*

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*Director, Water Division, EPA Region 10.*

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## ENVIRONMENTAL PROTECTION AGENCY

[FRL–10021–56–OCFO]

### Privacy Act of 1974; System of Records

**AGENCY:** Office of the Chief Financial Officer, Environmental Protection Agency (EPA).

**ACTION:** Notice of a new system of records.

**SUMMARY:** The U.S. Environmental Protection Agency's (EPA) Office of the Controller is giving notice that it proposes to create a new system of records pursuant to the provisions of the Privacy Act of 1974. MoveLINQS Relocation Software was created to assist in the processing of relocation related expenses for government employees. Originally published under EPA SORN–29, which also covers EPA travel, other accounts payable, and accounts receivable files, the EPA proposes this new SORN to transition MoveLINQS from its prior location to a separate Microsoft Azure Government Cloud. The MoveLINQS system provides the capability to allow external relocation customers (EPA employees) to enter and update their own relocation requests. In order to make payments on

behalf of the requestor, certain information is collected due to IRS requirements. This information is collected via a form that is submitted by the requestor and contains the requestor's name, Social Security Number (SSN), address, email address, spouse's name, filing status (for tax purposes), and children's names and dates of birth (DOB).

**DATES:** Persons wishing to comment on this system of records notice must do so by June 11, 2021. New routine uses for this new system of records will be effective June 11, 2021.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–HQ–OMS–2021–0143, by one of the following methods:

*Regulations.gov:* [www.regulations.gov](http://www.regulations.gov). Follow the online instructions for submitting comments.

*Email:* [docket\\_oms@epa.gov](mailto:docket_oms@epa.gov).

*Fax:* 202–566–1752.

*Mail:* OMS Docket, Environmental Protection Agency, Mail Code: 2822T, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

*Hand Delivery:* OMS Docket, EPA/DC, WJC West Building, Room 3334, 1301 Constitution Ave. NW, Washington, DC 20460. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket ID No. EPA–HQ–OMS–2021–0143. The EPA policy is that all comments received will be included in the public docket without change and may be made available online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes information claimed to be Controlled Unclassified Information (CUI) or other information for which disclosure is restricted by statute. Do not submit information that you consider to be CUI or otherwise protected through [www.regulations.gov](http://www.regulations.gov). The [www.regulations.gov](http://www.regulations.gov) website is an "anonymous access" system for the EPA, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through [www.regulations.gov](http://www.regulations.gov) your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment. If the EPA