

**Amended Notices**

*EIS No. 20110149, Draft EIS, USFS, MT, Troy Mine Revised Reclamation Plan, Proposed Revision is to Return Lands Disturbed by Mining to a Condition Appropriate for Subsequent Use of the Area, Kootenai National Forest, MT, Comment Period Ends: 08/05/2011, Contact: Bobbie Loaklen 406-283-7681.*

Revision to FR Notice Published 05/20/2011: Extending Comment Period from 07/05/2011 to 08/05/2011.

Dated: July 5, 2011.

**Aimee S. Hessert,**

*Deputy Director, NEPA Compliance Division, Office of Federal Activities.*

[FR Doc. 2011-17199 Filed 7-7-11; 8:45 am]

**BILLING CODE 6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

[FRL-9431-7]

**Science Advisory Board Staff Office; Notification of a Public Meeting of the Science Advisory Board Panel for the Review of Great Lakes Restoration Initiative Action Plan**

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

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency (EPA or Agency) Science Advisory Board (SAB) Staff Office announces a change in meeting location for a public face-to-face meeting of the SAB panel to review the interagency *Great Lakes Restoration Initiative (GLRI) Action Plan (FY 2010-FY 2014)* that describes restoration priorities, goals, objectives, measurable ecological targets, and specific actions for the Great Lakes.

**DATES:** The meeting will be held on July 12, 2011 from 9 a.m. to 5:30 p.m. and July 13, 2011 from 8 a.m. to 5 p.m. (Central Time).

**ADDRESSES:** The Panel meeting will be held at the EPA Region 5 Offices, The Lake Michigan Room in the Ralph H. Metcalfe Federal Building, 77 West Jackson Boulevard, Chicago, IL 60604.

**FOR FURTHER INFORMATION CONTACT:** Any member of the public wishing further information regarding this meeting may contact Mr. Thomas Carpenter, Designated Federal Officer (DFO), SAB Staff Office, by telephone/voice mail at (202) 564-4885; by fax at (202) 565-2098 or via e-mail at [carpenter.thomas@epa.gov](mailto:carpenter.thomas@epa.gov). General information concerning the EPA Science Advisory Board can be found at the EPA SAB Web site at <http://www.epa.gov/sab>.

**SUPPLEMENTARY INFORMATION:**

*Background:* The SAB Staff Office requested public nominations of experts to serve on a review panel to advise the Agency on scientific and technical issues related to the GRLI Action Plan (75 FR 185 58383-58385). EPA subsequently announced on June 15, 2011 a public meeting of the panel for July 12 and 13, 2011. That notice provided instructions to submit written comments or provide oral statements and accommodations for individuals with disabilities (76 FR 115 34977-34978). This notice announces a change in the location of the public meeting.

Dated: July 1, 2011.

**Vanessa T. Vu,**

*Director, EPA Science Advisory Staff Office.*

[FR Doc. 2011-17258 Filed 7-7-11; 8:45 am]

**BILLING CODE 6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

[FRL-9431-1; EPA-HQ-OW-2008-0238]

**Modification to 2008 National Pollutant Discharge Elimination System (NPDES) General Permit for Stormwater Discharges Associated With Construction Activities**

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

**ACTION:** Notice.

**SUMMARY:** EPA Regions 1, 2, 3, 5, 6, 7, 8, 9, and 10 are modifying the 2008 National Pollutant Discharge Elimination System (NPDES) general permits for stormwater discharges associated with construction activity in order to extend until February 15, 2012 the expiration date of the permit. Hereinafter, these NPDES general permits will be referred to as “permit” or “2008 construction general permit” or “2008 CGP.” This modification will extend the three-year permit so that it expires on February 15, 2012 instead of June 30, 2011. Prior to this extension, EPA modified the 2008 CGP in January 2010 to extend the permit by one year, thus making it a three-year permit. By Federal law, no NPDES permit may be issued for a period that exceeds five years.

**DATES:** EPA is finalizing a modification to its 2008 CGP that extends the permit until February 15, 2012. The 2008 CGP will now expire on midnight, February 15, 2012, instead of June 30, 2011.

**FOR FURTHER INFORMATION CONTACT:** Greg Schaner, Water Permits Division, Office of Wastewater Management (Mail Code: 4203M), Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., EPA East, Washington, DC 20460; telephone number: (202) 564-0721; fax number: (202) 564-6431; e-mail address: [schaner.greg@epa.gov](mailto:schaner.greg@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. General Information**

*A. Does this action apply to me?*

If a discharger chooses to apply for coverage under the 2008 CGP, the permit provides specific requirements for preventing contamination of waterbodies from stormwater discharges from the following construction activities:

Category	Examples of affected entities	North American Industry Classification System (NAICS) Code
Industry .....	Construction site operators disturbing 1 or more acres of land, or less than 1 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:	
	Building, Developing and General Contracting .....	236
	Heavy Construction .....	237

EPA does not intend the preceding table to be exhaustive, but provides it as

a guide for readers regarding entities likely to be regulated by this action.

This table lists the types of activities that 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 facility is affected 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 the person listed for technical information in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Eligibility for coverage under the 2008 CGP is limited to operators of "new projects" or "unpermitted ongoing projects." A "new project" is one that commences after the effective date of the 2008 CGP. An "unpermitted ongoing project" is one that commenced prior to the effective date of the 2008 CGP, yet never received authorization to discharge under the 2003 CGP or any other NPDES permit covering its construction-related stormwater discharges. Construction sites that originally obtained permit coverage under the 2003 CGP will continue to be covered under that permit. The 2008 CGP is effective only in those areas where EPA is the permitting authority. A list of eligible areas is included in Appendix B of the 2008 CGP.

*B. How can I get copies of this document and other related information?*

1. Docket. EPA has established an official public docket for this action under Docket ID No. EPA-HQ-OW-2008-0238. 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) EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC 20460. Although all documents in the docket are listed in an index, some information is not publicly available, *i.e.*, Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Publicly available docket materials are available electronically through <http://www.regulations.gov> and in hard copy at the EPA Docket Center Public Reading Room, open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744 and the telephone number for the Water Docket is (202) 566-2426.

2. Electronic Access. You may access this **Federal Register** document electronically through the EPA Internet under the "Federal Register" listings at

<http://www.epa.gov/fedrgstr/>. Electronic versions of the final permit and fact sheet are available at EPA's stormwater Web site <http://www.epa.gov/npdes/stormwater>.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at <http://www.regulations.gov/fdmspublic/component/main> to 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. Once in the system, select "search", then key in the appropriate docket identification number.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Section I.B.1.

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

For EPA Region 1, contact Jessica Hing at tel.: (617) 918-1560 or e-mail at [hing.jessica@epa.gov](mailto:hing.jessica@epa.gov).

For EPA Region 2, contact Stephen Venezia at tel.: (212) 637-3856 or e-mail at [venezia.stephen@epa.gov](mailto:venezia.stephen@epa.gov), or for Puerto Rico, contact Sergio Bosques at tel.: (787) 977-5838 or e-mail at [bosques.sergio@epa.gov](mailto:bosques.sergio@epa.gov).

For EPA Region 3, contact Chuck Schadel at tel.: (215) 814-5761 or e-mail at [schadel.chuck@epa.gov](mailto:schadel.chuck@epa.gov).

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

For EPA Region 6, contact Suzanna Perea at tel.: (214) 665-7217 or e-mail at [perea.suzanna@epa.gov](mailto:perea.suzanna@epa.gov).

For EPA Region 7, contact Tanya Nix at tel.: (913) 551-7170 or e-mail at [nix.tanya@epa.gov](mailto:nix.tanya@epa.gov).

For EPA Region 8, contact Amy Clark at tel.: (303) 312-7014 or e-mail at [clark.amy@epa.gov](mailto:clark.amy@epa.gov).

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

For EPA Region 10, contact Misha Vakoc at tel.: (206) 553-6650 or e-mail at [vakoc.misha@epa.gov](mailto:vakoc.misha@epa.gov).

**II. Background of Permit**

*A. Statutory and Regulatory History*

Section 402(p) of the Clean Water Act (CWA) directs EPA to develop a phased approach to regulate stormwater discharges under the National Pollutant Discharge Elimination System (NPDES) program. 33 U.S.C. 1342(p). EPA published two regulations, on November 16, 1990 (the "Phase I rule", see 55 FR 47990) and on December 8, 1999 (the "Phase II rule", see 64 FR 68722), which resulted in requiring NPDES permits for discharges from construction sites disturbing at least one acre, including sites that are less than one acre but are part of a larger common plan of development or sale that will ultimately disturb at least one acre. See 40 CFR 122.26(b)(14)(x) and 122.26(b)(15)(i).

*B. The Relevance of EPA's "C&D Rule" to the 2008 CGP*

NPDES permits issued for construction stormwater discharges are required under Section 402(a)(1) of the CWA to include conditions for meeting technology-based effluent limits established under Section 301 and, where applicable, Section 306 of the CWA. Once an effluent limitations guideline or new source performance standard is promulgated in accordance with these sections, NPDES permits issued by the NPDES permitting authorities must incorporate requirements based on such limitations and standards. See 40 CFR 122.44(a)(1). Prior to the promulgation of national effluent limitations guidelines or new source performance standards, permitting authorities incorporate technology-based effluent limitations on a best professional judgment basis. CWA section 402(a)(1)(B); 40 CFR 125.3(a)(2)(ii)(B).

On December 1, 2009, EPA published final regulations establishing technology-based Effluent Limitations Guidelines (ELGs) and New Source Performance Standards (NSPS) for the Construction & Development (C&D) point source category. See 40 CFR Part 450, and 74 FR 62996 (December 1, 2009). The Construction & Development Rule, or "C&D rule", became effective on February 1, 2010; therefore, all NPDES construction permits issued by EPA or states after this date must incorporate the C&D rule requirements.

Because EPA issued the 2008 CGP prior to the effective date of the C&D rule, the Agency is not required by the

CWA and 40 CFR 122.44(a)(1) to incorporate the C&D rule requirements into the current permit. However, EPA is required to incorporate the C&D rule requirements into the next, reissued CGP, which the Agency expects to issue by February 15, 2012. EPA published for public comment on April 25, 2011 a draft of the new CGP, which includes new requirements implementing the C&D rule. For more information, see 76 FR 22882.

### *C. Stay of the C&D Rule Numeric Limit*

The C&D rule included non-numeric requirements for erosion and sediment control, stabilization, and pollution prevention (see 40 CFR 450.21(a) thru (f)), and, for the first time, a numeric limitation on the discharge of turbidity from active construction sites (see 40 CFR 450.22). Since its promulgation, EPA discovered that the data used to calculate the numeric limit for turbidity were misinterpreted, and that it was necessary to recalculate the numeric limit.

On August 12, 2010, EPA filed a motion with the U.S. Court of Appeals for the Seventh Circuit, requesting that the court issue an order vacating and remanding to the Agency limited portions of the final C&D rule. On August 24, 2010, the U.S. Court of Appeals for the Seventh Circuit remanded the matter to EPA but did not vacate the numeric limit. On September 9, 2010, the National Association of Home Builders (NAHB) filed a motion for clarification (which EPA did not oppose) asking the court to (1) vacate the limit and (2) hold the case in abeyance until February 15, 2012 instead of remanding the matter to EPA. On September 20, 2010, the court granted the motion in part by ruling to hold the matter in abeyance pending EPA consideration of the numeric limit and the other remand issues, but the court did not vacate the numeric limit. Instead, the court stated that "EPA may make any changes to the limit it deems appropriate, as authorized by law."

EPA issued a direct final rule staying the numeric limit and a companion proposed rule proposing a stay, and the stay took effect on January 4, 2011, resulting in an indefinite postponement of the implementation of the 280 NTU limit. The Agency is currently developing a proposed rule proposing the recalculated limit. If the numeric limit becomes effective prior to the issuance of the final CGP, EPA must by law incorporate the applicable numeric limit into the final CGP.

### *D. Summary of 2008 CGP*

EPA announced the issuance of the 2008 CGP on July 14, 2008. See 73 FR 40338. Construction operators choosing to be covered by the 2008 CGP must certify in their notice of intent (NOI) that they meet the requisite eligibility requirements described in Part 1.3 of the permit. If eligible, operators are authorized to discharge under this permit in accordance with Part 2. Permittees must install and implement control measures to meet the effluent limits applicable to all dischargers in Part 3, and must inspect such stormwater controls and repair or modify them in accordance with Part 4. The permit in Part 5 requires all construction operators to prepare a stormwater pollution prevention plan (SWPPP) that identifies all sources of pollution, and describes control measures used to minimize pollutants discharged from the construction site. Part 6 details the requirements for terminating coverage under the permit.

The 2008 CGP permit provides coverage for discharges from construction sites in areas where EPA is the permitting authority. The geographic coverage and scope of the 2008 CGP is listed in Appendix B of the permit.

### **III. Extension of 2008 CGP Expiration Date**

#### *A. What Is EPA's rationale for the modification of the 2008 CGP for an extension of the expiration date?*

As stated above, EPA is modifying the 2008 CGP by extending to February 15, 2012, the expiration date of the permit. This extension is necessary in order to provide sufficient time to finalize the new CGP, which will incorporate for the first time new effluent limitations guidelines and new source performance standards, which EPA promulgated in December 2009. Additional time beyond the previous June 30, 2011 expiration date of the 2008 CGP is necessary in order to make up for a delay of several months in the permit issuance process caused by the initial uncertainty surrounding the error in calculating the 280 NTU limit and the appropriate way for EPA to address it. This delay made it a near certainty that, given even the most optimistic timeframe for finalizing the new CGP, EPA would not have been able to finalize the new CGP by the June 30, 2011 expiration date of the 2008 CGP.

EPA was unaware of the need to extend the expiration date of the 2008 CGP when it first modified the 2008 CGP's expiration date in January 2010 by one year to June 30, 2011. At that time, EPA was under the impression

that the June 30, 2011 date provided sufficient time to finalize a new permit incorporating all of the new C&D rule requirements. However, with the setback of time related to the stay of the 280 NTU limit, EPA now needs additional time to complete the permit issuance process as explained above. EPA believes that the proposed extension of the current permit to February 15, 2012 will provide the Agency with sufficient time to finalize the new CGP.

EPA believes it is imperative that EPA has sufficient time to incorporate the C&D rule requirements into the new CGP and issue the new CGP prior to the existing permit's expiration date. If EPA does not issue the new CGP before expiration of the existing permit, no new construction projects may be permitted under the CGP, leaving individual NPDES permits as the only available option for permitting new projects. The sole reliance on individual permits would mean that discharge authorizations would almost certainly be delayed due to the greater amount of time and Agency resources that are required for developing and issuing individual permits. In turn, construction projects that need to begin construction activity on or after midnight June 30, 2011 would be delayed for an uncertain amount of time until EPA could review their individual permit applications and issue the necessary permits. Rather than risk detrimental delays to new construction projects, EPA has decided that it is advisable to instead propose a modification to the 2008 CGP to extend the expiration date until February 15, 2012.

In addition, EPA notes that the February 15, 2012 expiration date is a modification from the proposal to extend the date to January 31, 2012. See 79 FR 22891 (April 25, 2011). As discussed below in Section III.C, commenters pointed out that EPA had earlier requested that the Seventh Circuit Court of Appeals hold in abeyance until February 15, 2012 any further court proceedings in the challenge to the C&D rule's numeric turbidity limit. Changing the expiration date of the 2008 CGP to February 15, 2012 date is consistent with its motion to the court.

#### *B. EPA's Authority to Modify NPDES Permits*

EPA regulations establish when the permitting authority may make modifications to existing NPDES permits. In relevant part, EPA regulations state that "[w]hen the Director receives any information \* \* \* he or she may determine whether or not

one or more of the causes listed in paragraph (a) \* \* \* of this section for modification \* \* \* exist. If cause exists, the Director may modify \* \* \* the permit accordingly, subject to the limitations of 40 CFR 124.5(c).” 40 CFR 122.62. For the purposes of this **Federal Register** notice, the relevant cause for modification is at 40 CFR 122.62(a)(2), which states that a permit may be modified when “[t]he Director has received new information” and that information “was not available at the time of permit issuance \* \* \* and would have justified the application of different permit conditions at the time of issuance.” Pursuant to EPA regulations, “[w]hen a permit is modified, only the conditions subject to the modification are reopened.” 40 CFR 122.62.

In the case of the 2008 CGP, a permit modification is justified based on the new information EPA received since it issued the 2008 CGP, and more specifically, since it modified the 2008 CGP in January 2010, in terms of the delay to the permit process associated with the discovery of the error in the numeric turbidity limit and the Agency’s decision to stay to the numeric turbidity limit. If this information was available at the time of issuance of the 2008 CGP, and more specifically in January 2010 when EPA extended the expiration date to June 30, 2011, it would have supported establishing an expiration date for the 2008 CGP that was later than June 30, 2011. As a result, cause exists under EPA regulations to justify modification of the 2008 CGP to extend the expiration date of the permit from midnight June 30, 2011 to midnight February 15, 2012.

EPA notes that, by law, NPDES permits cannot be extended beyond 5 years. 40 CFR 122.46. The proposed extension of the 2008 CGP complies with this restriction. The 2008 CGP was first issued on June 30, 2008. With the new expiration date set as February 15, 2012, the permit will still have been in effect for less than the 5-year limit.

### C. Response to Comments

EPA received 4 comments in response to the proposed extension of the 2008 CGP expiration date. All of the commenters were supportive of an extension to the expiration date of the 2008 CGP, however, each comment stated that the proposed extension period was inadequate. Several of the commenters recommended extending the permit to June 30, 2013, making it a full 5-year permit. The following is a summary of the concerns raised by the commenters and EPA’s responses:

- *EPA requires additional time to streamline the permitting process.* According to one commenter, EPA should take the period of time remaining in the 5-year permit term to focus on ways to streamline the existing permitting process under the CGP. This commenter specifically recommended that the Agency consider the development of a “Single Lot Permit” for small residential construction projects, with streamlined authorization procedures and best management practice (BMP) requirements, either within the new CGP or as a stand-alone permit. The commenter also urged EPA to modify the draft CGP to incorporate “Qualified Local Program” (QLP) provisions.

EPA appreciates the suggestion by the commenter that the Agency take the time to adequately consider ways to streamline the permitting process so that it better accommodates small-scale, single lot construction projects. EPA invites the commenter and other members of the public to provide more specific suggestions in their comments on the draft new CGP as to how the permit can be streamlined to better address the types of requirements that are appropriate for single-lot residential construction sites. At the same time, however, EPA does not agree that additional time beyond February 15, 2012 is needed to address this issue, and is confident that it can consider such streamlining recommendations within this timeframe.

Similarly, EPA does not agree that additional time is needed to incorporate QLP provisions into the permit. For background, the NPDES regulations at 40 CFR 122.44(s) enable EPA to incorporate by reference qualifying State, Tribal, or local program requirements applicable to small construction sites so that these requirements replace corresponding provisions in the CGP. To effectuate QLP requirements in the CGP, EPA would need to propose the addition of the QLP provisions for public comment. To date, EPA has not been approached by a State, Tribe, or local program to include any such requirements in the CGP, despite previous encouragement by the Agency to do so. For that reason, EPA does not find it necessary to further delay the issuance of the new CGP to address the inclusion of QLP requirements. Having said this, EPA notes that it will consider any request by affected states, Tribes, or local governments to include QLP requirements in the CGP.

- *The proposed extension does not account for the amount of time needed to complete the rulemaking process to*

*correct the numeric turbidity limit.* Some commenters questioned how EPA could issue a new permit by the proposed January 31, 2012 expiration date incorporating both the (future) numeric and non-numeric requirements of the C&D rule given the realistic amount of time that is needed to complete the rulemaking for correcting the C&D rule’s numeric turbidity limit. These commenters noted that since EPA has not yet proposed a correction to the numeric limit, and because the Agency will need to allow for an adequate public comment period and sufficient time to review and respond to comments it receives, it appears unlikely that the correction rule will be completed prior to the proposed expiration date of the 2008 CGP. The commenters also noted that the public should be given an opportunity to review the draft CGP’s sampling protocols with the final turbidity limit in mind. In addition, a few of the commenters remarked that the proposed January 31, 2012 date is out of step with the Agency’s own request to the Seventh Circuit Court of Appeals to hold the lawsuit challenging the validity of the numeric turbidity limit in abeyance until February 15, 2012. For these reasons, these commenters requested that EPA modify the proposed extension so that the 2008 CGP would instead expire on June 30, 2013, making it a full 5-year permit.

The commenters are correct that EPA asked the Seventh Circuit Court of Appeals to hold the litigation challenging the numeric turbidity limit (*Wisconsin Builders Association et. al. v. U.S. EPA*, No. 09–4113) in abeyance until February 15, 2012. See EPA’s *Unopposed Motion for Partial Vacature of the Final Rule, Remand of the Record, To Vacate Briefing Schedule, and to Hold Case in Abeyance*, No. 09–4113 (consolidated with Nos. 10–1247 and 10–1876) (August 12, 2010). EPA agrees that, in retrospect, the use of February 15, 2012 would have been an appropriate date for the expiration of the current permit since it is consistent with the timeframe that was presented to the court. For this reason, EPA has decided to further extend the 2008 CGP so that it expires on February 15, 2012 instead of January 31, 2012.

EPA does not agree with the commenter that a longer extension of the 2008 CGP is needed or appropriate. If the final numeric effluent limit is completed prior to the February 15, 2012 expiration date of the 2008 CGP, EPA intends to include the final, corrected turbidity limit in the new permit. As the commenters noted, the Agency proposed in the draft permit a

placeholder for the final turbidity limit along with a draft set of sampling requirements (see Part 3.3 of the draft CGP), so that if the numeric limit is finalized by February 15, 2012, the numeric limit and the final sampling requirements would be included in the final permit. EPA believes that providing a draft permit with all of the provisions necessary to implement the final limit, even though the final numeric limit is not yet known, provides the public with an adequate opportunity to review and provide comment on sampling requirements that the Agency believes are appropriate for implementing a numeric turbidity limit.

EPA also does not agree with the commenter's suggestion that additional time is needed so that the public may review the draft CGP's sampling requirements with the specific turbidity limit in mind. The specific turbidity limit value will undergo a separate Agency rulemaking effort, including a public notice and comment process dedicated to that rulemaking, which is the proper venue for conducting public review of that limit. As stated previously, EPA would be required to incorporate the final numeric limit in its new permit if it is finalized before EPA's new CGP is issued. See 40 CFR 122.44(a)(1). EPA anticipates that the final value of the turbidity limit can be directly inserted into the CGP without the need to translate the limit further, thus making it unnecessary to have a specific public review of the use of the limit in the permit.

Furthermore, in developing the new CGP's draft sampling requirements, EPA put forward for comment provisions for conducting turbidity monitoring that the Agency views as workable regardless of the value of the final numeric turbidity limit. The sampling requirements in the draft permit reflect EPA's research into the types of requirements that will likely result in measurements that are "representative of the monitored activity" (see 40 CFR 122.41(j)), are reflective of the types of requirements imposed in other similar permits, and were envisioned by EPA in the C&D rule. See III.XIX.A of the preamble to the C&D rule, 74 FR 63047 (December 1, 2009). Although the draft requirements are still undergoing public review, it is important to note that it was EPA's judgment when it issued the draft permit that the draft sampling provisions are appropriate regardless of the final effluent limit. Through the public comment process, EPA will revisit these sampling requirements, as well as the Agency's initial assumptions discussed above, based on comments received. However, at this time, EPA

does not believe that additional time is necessary for the public to review the draft sampling requirements based on the as yet unknown final value of the numeric turbidity limit.

- *The 2008 CGP should be extended further to allow for the Seventh Circuit litigation to play out in full prior to implementing the C&D rule in the new permit.* A few of the commenters suggested that EPA provide for an extension of the 2008 CGP to June 30, 2013 in order to allow for the litigation to come to a final outcome so that the new CGP would presumably reflect any final decision regarding the C&D rule.

EPA does not agree that it is necessary or appropriate to extend the 2008 CGP further to account for the timeline of litigation on the C&D rule. It is difficult to anticipate with any degree of certainty how long this litigation will take, and what the outcome will be, and EPA does not agree that it is appropriate to base its permitting timeline on such a process. EPA believes it is important to issue the new CGP as quickly as possible independent of any litigation schedule. Among other reasons, EPA is interested in issuing the permit in a timely manner so that regulated construction sites, state permitting authorities, and the general public are given the opportunity to see in the near term how the Agency intends to implement its own rule. In EPA's judgment, the February 15, 2012 date for the expiration of the 2008 CGP provides EPA with a sufficient window of time within which to issue the new permit and accomplish this objective.

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

Dated: June 28, 2011.

**H. Curtis Spalding,**  
Regional Administrator, EPA Region 1.

Dated: June 29, 2011.

**Kevin Bricke,**  
Acting Director, Division of Environmental Planning & Protection, EPA Region 2.

Dated: June 28, 2011.

**Carl-Axel P. Soderberg,**  
Division Director, Caribbean Environmental Protection Division, EPA Region 2.

Dated: June 28, 2011.

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

Dated: June 28, 2011.

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

Dated: June 28, 2011.

**Miguel I. Flores,**  
Director, Water Quality Protection Division, EPA Region 6.

Dated: June 27, 2011.

**Karen Flournoy,**  
Acting Director, Water, Wetlands and Pesticides Division, EPA Region 7.

Dated: June 28, 2011.

**Stephen S. Tuber,**  
Assistant Regional Administrator, EPA Region 8.

Dated: June 27, 2011.

**Alexis Strauss,**  
Director, Water Division, EPA Region 9.

Dated: June 28, 2011.

**Christine Psyk,**  
Associate Director, Office of Water and Watersheds, EPA Region 10.

[FR Doc. 2011-17244 Filed 7-7-11; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2009-1017; FRL-8878-7]

### Product Cancellation Order for Certain Pesticide Registrations

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

**ACTION:** Notice.

**SUMMARY:** This notice announces EPA's order for the cancellations, voluntarily requested by the registrants and accepted by the Agency, of the products listed in Tables 1, 2, and 3 of Unit II, pursuant to section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended. This cancellation order follows a May 4, 2011 **Federal Register** Notice of Receipt of Requests from the registrants listed in Table 4 of Unit II. to voluntarily cancel these product registrations. In the May