

7413(a)(3) and 7413(d), has assessed a civil penalty for these violations:  
 249 South 51st Avenue, Phoenix, AZ 85043;  
 808 County Road, Monett, MO 65708;  
 200 Economic Drive, Commerce, TX 75248.

EPA will not issue an order in this proceeding prior to the close of the public comment period.

Dated: January 20, 2010.

**Bernadette Rappold,**  
 Director, Special Litigation and Projects Division, Office of Enforcement and Compliance Assurance.

[FR Doc. 2010-1741 Filed 1-27-10; 8:45 am]

**BILLING CODE 6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

[FRL-9107-3, 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 today are modifying the 2008 National Pollutant Discharge Elimination System (NPDES) general permits for stormwater discharges associated with construction activity in order to extend by one year 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.” The 2008 CGP was originally issued for a period of two (2) years. Today, EPA is modifying the CGP in order to extend the 2 year term of the 2008 CGP by one year so that it expires on June 30, 2011, instead of June 30, 2010, resulting in a permit that will be in effect for a total period of three (3) years. By Federal law, no NPDES permit may be issued for a period that exceeds five (5) years.

**DATES:** EPA is modifying its 2008 Construction General Permit by extending the permit by one year. This permit modification is effective on January 20, 2010. The 2008 Construction General Permit will now

expire on midnight June 30, 2011, instead of June 30, 2010.

**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*.

**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 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 ..... Heavy Construction .....	233 234

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. This permit 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> 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. Response to Public Comments

EPA received 4 comments on the proposal to extend the 2008 CGP. All commenters were supportive of EPA's proposed extension. Three of the commenters recommended that EPA modify the 2008 CGP to extend the expiration date of the permit for 3 years, so that the permit would expire on June 30, 2013, instead of the proposed expiration date of June 30, 2011, thus making it a 5-year permit. EPA declined to adopt the commenter's recommendation. It is important to minimize the delay in issuing a new CGP that incorporates the new federal requirements for the discharges from construction and development sites, which were published in the **Federal Register** December 1, 2009. 74 FR 62996. For a copy of the "Construction and Development Effluent Limitations Guidelines" (or "C&D rule"), and other related information, go to <http://www.epa.gov/guide/construction/>.

The 2008 CGP was issued for a shorter term than the statutorily allowed 5 years so that the newly promulgated C&D rule requirements could be incorporated into the permit as soon as practicable. Many States will be looking at the Agency's next CGP to gain insight into how to implement the C&D ELG requirements into permits. The C&D ELG established numeric effluent limitations and monitoring requirements, both of which

may be new to the large number of construction sites throughout the country. EPA would like to issue the next CGP implementing these requirements as soon as possible. By promulgating a final CGP that incorporates the C&D ELG by June 30, 2011 EPA will assist State agencies that must reissue their permits in the next few years and incorporate the C&D ELG into their permits.

One commenter further recommended that EPA make modifications to the 2008 CGP in addition to the one-year extension of the permit. This commenter specifically recommended that EPA take the opportunity to streamline the CGP and the process for authorizing dischargers, such as through a simplified option for single lot construction projects, a simplified qualified local program option, and a certification of no pollutant discharge added to the permit. EPA is aware of the issues that the commenter has raised; however, EPA is not inclined to make further modifications to the 2008 CGP at this time beyond the one-year extension. The expiration date of the 2008 CGP is the only issue for which EPA proposed a modification; EPA believes the issues raised by the commenter, which will require a significant amount of time to consider for incorporation into the permit, are best contemplated for the new permit to be issued prior to June 30, 2011.

### D. 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 Garrison Miller at tel.: (215) 814-5745 or e-mail at [miller.garrison@epa.gov](mailto:miller.garrison@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 Brent Larsen at tel.: (214) 665-7523 or e-mail at: [larsen.brent@epa.gov](mailto:larsen.brent@epa.gov).

For EPA Region 7, contact Mark Matthews at tel.: (913) 551-7635 or e-mail at: [matthews.mark@epa.gov](mailto:matthews.mark@epa.gov).

For EPA Region 8, contact Greg Davis at tel.: (303) 312-6314 or e-mail at: [davis.gregory@epa.gov](mailto:davis.gregory@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 Dick Hetherington at tel.: (206) 553-1941

or e-mail at [hetherington.dick@epa.gov](mailto:hetherington.dick@epa.gov).

## II. Background of Permit

### A. Statutory and Regulatory History

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." 33 U.S.C. 1251(a)(2). To achieve these goals, the CWA requires EPA to control discharges through the issuance of National Pollutant Discharge Elimination System ("NPDES") permits, which may be issued for fixed terms that may not exceed five (5) years. 33 U.S.C. 1342(b)(1)(B).

Section 405 of the Water Quality Act of 1987 (WQA) added section 402(p) of the Clean Water Act (CWA), which directed EPA to develop a phased approach to regulate stormwater discharges under the NPDES program. EPA published a final regulation in the **Federal Register** on the first phase of this program on November 16, 1990, establishing permit application requirements for "storm water discharges associated with industrial activity." See 55 FR 47990. EPA defined the term "storm water discharge associated with industrial activity" in a comprehensive manner to cover a wide variety of facilities. 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). Phase II of the stormwater program was published in the **Federal Register** on December 8, 1999, and required 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 extend the expiration date of the 2008 CGP under the statutory and regulatory authority cited above.

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. Once an

effluent limitations guideline or new source performance standard is promulgated in accordance with these sections, NPDES permits are required to incorporate limits based on such limitations and standards. See 40 CFR 122.44(a)(1). Prior to the promulgation of national effluent limitations and 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).

#### *B. 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 that occur in areas not covered by an approved State NPDES program. EPA Regions 1, 2, 3, 5, 6, 7, 8, 9, and 10 issued the 2008 CGP to replace the expired 2003 CGP for operators of new and unpermitted ongoing construction projects. The geographic coverage and scope of the 2008 CGP is listed in Appendix B of the permit.

#### *C. What Is EPA's Rationale for the Modification of the 2008 CGP for a One-Year Extension of the Expiration Date?*

As stated above, any NPDES permit issued after the effective date of the C&D rule, whether issued by EPA or an authorized state, must incorporate the substantive technology-based requirements of the rule into the permit. The effective date of the C&D rule is February 1, 2010. Therefore, EPA's next permit, which will be issued after the effective date of the C&D rule, will require that the requirements of the rule be incorporated into the permit. While as discussed above, EPA wants to issue

a CGP that incorporates the C&D ELG as soon as possible in order to provide guidance to state permitting authorities, today's one-year extension is necessary due to EPA's judgment that an extension of one year is needed to provide sufficient time to incorporate the new C&D rule requirements, provide guidance to state permitting authorities, and to be able to manage the additional actions and initiatives that are being undertaken at the same time by the Agency. Without the one-year extension, EPA fears that it would be left with an inadequate amount of time to issue a new CGP, placing potentially thousands of construction projects at risk of discharging without an effective stormwater permit.

Prior to the extension, the 2008 CGP would have expired on June 30, 2010, giving EPA approximately seven months to propose and finalize a new CGP. In EPA's judgment, the seven-month period would have been insufficient to properly draft new requirements that reflect the C&D rule, and to modify these permit conditions in response to public comments. The seven-month timeframe to propose and finalize a new permit would have been impracticable based on EPA's past experience in issuing stormwater general permits, in general, and with the construction general permit specifically. In the past, EPA required an estimated eighteen months to propose and finalize the 2003 CGP, and a similar amount of time for the previous construction general permits. While EPA does not believe the 2008 Multi-Sector General Permit (MSGP) for stormwater discharges associated with industrial activities was typical, that permit required almost three years to finalize after the proposed permit was published. Beyond incorporating updated modifications to the permit based on changes to the technology-based and water quality-based effluent limitations into the permit, EPA is required to conduct many additional tasks that are automatically required of final Federal actions, such as conducting consultations under the Endangered Species Act and National Historic Properties Act, obtaining CWA section 401 certifications for the permit from States and Indian Country lands, providing the public with an opportunity to comment, and responding to all comments received during the public comment period. Separately, these tasks have historically required more than seven months. The combined effect of these tasks, which are each necessary to issue a general permit, on EPA's schedule for permit

issuance is to make a seven-month permit issuance timeframe impracticable.

While a seven-month schedule to finalize a new CGP would be impracticable under the circumstances, as discussed above, what would have made this period of time even more challenging is the incorporation of the new Federal C&D rule requirements into the general permit. The C&D rule has introduced several concepts that may be new to most construction sites, including the requirement for certain sized construction sites to comply with a numeric effluent limitation for turbidity. Additionally, the non-numeric effluent limitations in the C&D ELG will need to be properly translated into permit conditions and modified based on public comments received. The additional one-year extension will ensure that the Agency has sufficient time to accomplish these tasks.

Also weighing heavily in favor of extending the expiration date of the 2008 CGP are the risks associated with failing to issue a replacement permit prior to the 2008 CGP's original expiration date. If EPA fails to issue a new CGP before the expiration of the 2008 CGP, no new construction projects would be able to be eligible for coverage by the 2008 CGP, leaving individual NPDES permits as the only available option for permitting new projects. The sole reliance on individual permits will mean that discharge authorizations will be delayed due to the greater amount of time and Agency resources that are required for developing and issuing individual permits. EPA is unwilling to risk the possibility of such delays. The one-year extension to the 2008 CGP's expiration date will provide the Agency with the time needed to issue a new permit, without any gaps in permit coverage.

#### *D. 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 purposes of this **Federal Register** notice, the relevant cause for modification is at 40 CFR 122.62(a)(2), which states 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 issuance of the 2008 CGP in July 2008, in terms of the new actions EPA is planning or undertaking that are putting new demands on the Agency’s available resources in the NPDES stormwater program. New actions and the resulting resource demands have come about as a result of EPA’s desire to respond to the 2008 National Research Council report, *Urban Stormwater Management in the United States* (see [http://www.epa.gov/npdes/pubs/nrc\\_stormwaterreport.pdf](http://www.epa.gov/npdes/pubs/nrc_stormwaterreport.pdf)), and to take action under the President’s May 2009 Executive Order on Chesapeake Bay Protection and Restoration (see [http://www.whitehouse.gov/the\\_press\\_office/Executive-Order-Chesapeake-Bay-Protection-and-Restoration/](http://www.whitehouse.gov/the_press_office/Executive-Order-Chesapeake-Bay-Protection-and-Restoration/)). Related to these efforts, EPA has announced its intention to initiate a national rulemaking to establish a program to reduce stormwater discharges from new development and redevelopment, and to make other regulatory improvements to strengthen its stormwater program. Refer to <http://www.epa.gov/npdes/stormwater/rulemaking>. EPA’s meeting these new demands, while implementing new Federal requirements for the construction and development industry, is not practical in a seven-month time period. Additionally, at the time of the 2008 CGP was issued, EPA did not know the final content of the C&D ELG. If this information was available at the time of permit issuance, it would have justified EPA establishing an expiration date for the 2008 CGP later than midnight June 30, 2010. 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, 2010 to midnight June 30, 2011.

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

Dated: January 20, 2010.

**Curt Spalding,**

*Regional Administrator, EPA Region 1.*

Dated: January 20, 2010.

**Carl-Axel P. Soderberg,**

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

Dated: January 20, 2010.

**Barbara A. Finazzo,**

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

Dated: January 20, 2010.

**Jon M. Capacasa,**

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

Dated: January 20, 2010.

**Timothy C. Henry,**

*Associate Director, Water Division, EPA Region 5.*

Dated: January 20, 2010.

**Miguel I. Flores,**

*Director, Water Quality Protection Division, EPA Region 6.*

Dated: January 20, 2010.

**William A. Spratlin,**

*Director, Wetlands and Pesticides Division, EPA Region 7.*

Dated: January 20, 2010.

**Stephen S. Tuber,**

*Assistant Regional Administrator, Office of Partnerships & Regulatory Assistance, EPA Region 8.*

Dated: January 20, 2010.

**Alexis Strauss,**

*Director, Water Division, EPA Region 9.*

Dated: January 20, 2010.

**Michael A. Bussell,**

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

[FR Doc. 2010-1743 Filed 1-27-10; 8:45 am]

**BILLING CODE 6560-50-P**

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## EXPORT-IMPORT BANK OF THE UNITED STATES

### Sunshine Act Meeting Notice

**ACTION:** Notice of a Partially Open Meeting of the Board of Directors of the Export-Import Bank of the United States.

**TIME AND PLACE:** Thursday, January 28, 2010 at 9:30 a.m. The meeting will be held at Ex-Im Bank in Room 1143, 811 Vermont Avenue, NW., Washington, DC 20571.

### Open Agenda Items

**ITEM NO. 1:** Ex-Im Bank Advisory Committee (16th & 17th Members) for 2010.

**ITEM NO. 2:** Ex-Im Bank Sub-Saharan Africa Advisory Committee for 2010.

**PUBLIC PARTICIPATION:** The meeting will be open to public observation for Items No. 1 & 2 only.

**FOR FURTHER INFORMATION CONTACT:**

Office of the Secretary, 811 Vermont Avenue, NW., Washington, DC 20571, (202) 565-3957.

**Jonathan J. Cordone,**

*Senior Vice President and General Counsel.*

[FR Doc. 2010-1737 Filed 1-27-10; 8:45 am]

**BILLING CODE 6690-01-M**

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## FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 92-237; DA 10-101]

### Next Meeting of the North American Numbering Council

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice.

**SUMMARY:** On January 20, 2010, the Commission released a public notice announcing the February 18, 2010 meeting and agenda of the North American Numbering Council (NANC). The intended effect of this action is to make the public aware of the NANC’s next meeting and agenda.

**DATES:** Thursday, February 18, 2010, 9:30 a.m.

**ADDRESSES:** Competition Policy Division, Wireline Competition Bureau, Federal Communications Commission, Portals II, 445 Twelfth Street, SW., Suite 5-C162, Washington, DC 20554. Requests to make an oral statement or provide written comments to the NANC should be sent to Deborah Blue.

**FOR FURTHER INFORMATION CONTACT:**

Deborah Blue, Special Assistant to the Designated Federal Officer (DFO) at (202) 418-1466 or [Deborah.Blue@fcc.gov](mailto:Deborah.Blue@fcc.gov). The fax number is: (202) 418-1413. The TTY number is: (202) 418-0484.

**SUPPLEMENTARY INFORMATION:** *Released:* January 20, 2010.

The North American Numbering Council (NANC) has scheduled a meeting to be held Thursday, February 18, 2010, from 9:30 a.m. until 5 p.m. The meeting will be held at the Federal Communications Commission, Portals II, 445 Twelfth Street, SW., Room TW-C305, Washington, DC. This meeting is open to members of the general public. The FCC will attempt to accommodate as many participants as possible. The public may submit written statements to the NANC, which must be received two business days before the meeting. In addition, oral statements at the meeting by parties or entities not represented on