FOR FURTHER INFORMATION CONTACT: Ms. Autumn Wolfe, Rates Manager, Sierra Nevada Region, Western Area Power Administration, 114 Parkshore Drive, Folsom, CA 95630–4710. [916] 353–4686, or email wolfe@wapa.gov.

SUPPLEMENTARY INFORMATION: On July 14, 2016, the Federal Energy Regulatory Commission (FERC) approved Rate Order No. WAPA–173,1 which extended the rates listed below for three years from October 1, 2016, through September 30, 2019:

- **CV–F13 (Base Resource and First Preference Power)**
- **CPP–2 (Custom Product Power)**
- **CV–T3 (Firm and Non-Firm Point-to-Point Transmission Service)**
- **CV–NWT5 (Network Integration Transmission Service)**
- **COTP–T3 (Firm and Non-Firm Point-to-Point Transmission Service)**
- **PACI–T3 (Firm and Non-Firm Point-to-Point Transmission Service)**
- **CV–TPT7 (Third-Party Transmission Service)**
- **CV–UUP1 (Unresolved Use Penalties)**
- **CV–RFS4 (Regulation and Frequency Response)**
- **CV–SPR4 (Spinning Reserves)**
- **CV–SUR4 (Supplemental Reserves)**
- **CV–EID4 (Energy Imbalance Service)**
- **CV–GID1 (Generator Imbalance)**

WAPA proposes to extend the existing formula rates, without any adjustments, for five years from October 1, 2019, through September 30, 2024. WAPA is taking action under 10 CFR 903.23(a).

These formula rates allow for recalculation of unit charges and revenue requirements at least annually. WAPA notifies customers of annual changes in writing, at customer meetings, and by posting on WAPA’s website. The existing formula rates provide sufficient revenue to pay all annual costs, including interest expense, and repay required investments within the allowable period consistent with the cost recovery criteria set forth in DOE Order RA 6120.2.

Extending the rates through September 30, 2024, will: (1) Ensure continued cost recovery; (2) allow time to develop rates under the new power marketing plan effective January 1, 2025; and (3) provide WAPA and its customers time to evaluate the Bureau of Reclamation initiatives, including the final CVP Cost Allocation Study results and credits and offsets from the Central Valley Project Improvement Act.

Effective November 19, 2016, the Secretary of Energy delegated, through Delegation Order No. 00–002.00Q, the authority (on a non-exclusive basis) to confirm, approve, and place such rates extending into effect on an interim basis to the Deputy Secretary of Energy; and (3) the authority to confirm, approve, and place into effect on a final basis, to amend or to disapprove such rates to FERC.

Effective November 1, 2018, the Secretary of Energy delegated, through Delegation Order No. 00–002.00Q, the authority (on a non-exclusive basis) to confirm, approve, and place such rates extending into effect on an interim basis to the Under Secretary of Energy.

WAPA will not hold public information or public comment forums but is initiating a 30-day consultation and comment period in accordance with 10 CFR 903.23(a)(2). Written comments on the proposed rate extension must be received prior to the end of the consultation and comment period to be considered by WAPA in its decision process. WAPA will post comments received to its website. If you wish to make oral comments or submit written comments to the Board, please contact Ann-Marie Gantner at least five days prior to the teleconference.

**Meeting Access:** For information on access for individuals with disabilities, please contact Ann-Marie Gantner at [564–4330](tel:+15644330) or email [gantner.ann-marie@epa.gov](mailto:gantner.ann-marie@epa.gov). To request accommodation of a disability, please contact Ann-Marie Gantner at least 10 days prior to the meeting to give EPA as much time as possible to process your request.


Ann-Marie Gantner,
Designated Federal Officer.

[FR Doc. 2018–26918 Filed 12–11–18; 8:45 am]

BILLING CODE 6550–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9987–79–OARM]

Good Neighbor Environmental Board; Notification of Public Advisory Committee Teleconference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Public Advisory Committee Teleconference.

**SUMMARY:** Pursuant to the Federal Advisory Committee Act, notice is hereby given that the Good Neighbor Environmental Board (Board) will hold a public teleconference on December 19, 2018, from 12:00 p.m.–4:00 p.m. Eastern Daylight Time. Due to unforeseen administrative circumstances, EPA is announcing this teleconference with less than 15 calendar days’ notice. For further information regarding the teleconference and background materials, please contact Ann-Marie Gantner at the number and email provided below.

**Background:** The Good Neighbor Environmental Board is a federal advisory committee chartered under the Federal Advisory Committee Act, Public Law 92–463. By statute, the Board is required to submit an annual report to the President on environmental and infrastructure issues along the U.S. border with Mexico.

**Purpose of Meeting:** The purpose of this teleconference is to discuss and approve the Board’s annual letter to the President, which focuses on energy infrastructure along the U.S.-Mexico border.

**General Information:** The agenda and teleconference materials, as well as general information about the Board, can be found at [http://www2.epa.gov/faca/gneb](http://www2.epa.gov/faca/gneb). If you wish to make oral comments or submit written comments to the Board, please contact Ann-Marie Gantner at least five days prior to the teleconference.

**Meeting Access:** For information on access for individuals with disabilities, please contact Ann-Marie Gantner at [564–4330](tel:+15644330) or email [gantner.ann-marie@epa.gov](mailto:gantner.ann-marie@epa.gov). To request accommodation of a disability, please contact Ann-Marie Gantner at least 10 days prior to the meeting to give EPA as much time as possible to process your request.


Ann-Marie Gantner,
Designated Federal Officer.

[FR Doc. 2018–26918 Filed 12–11–18; 8:45 am]

BILLING CODE 6550–00–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9987–79–OARM]

Good Neighbor Environmental Board; Notification of Public Advisory Committee Teleconference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Public Advisory Committee Teleconference.

**SUMMARY:** Pursuant to the Federal Advisory Committee Act, notice is hereby given that the Good Neighbor Environmental Board (Board) will hold a public teleconference on December 19, 2018, from 12:00 p.m.–4:00 p.m. Eastern Daylight Time. Due to unforeseen administrative circumstances, EPA is announcing this teleconference with less than 15 calendar days’ notice. For further information regarding the teleconference and background materials, please contact Ann-Marie Gantner at the number and email provided below.

**Background:** The Good Neighbor Environmental Board is a federal advisory committee chartered under the Federal Advisory Committee Act, Public Law 92–463. By statute, the Board is required to submit an annual report to the President on environmental and infrastructure issues along the U.S. border with Mexico.

**Purpose of Meeting:** The purpose of this teleconference is to discuss and approve the Board’s annual letter to the President, which focuses on energy infrastructure along the U.S.-Mexico border.

**General Information:** The agenda and teleconference materials, as well as general information about the Board, can be found at [http://www2.epa.gov/faca/gneb](http://www2.epa.gov/faca/gneb). If you wish to make oral comments or submit written comments to the Board, please contact Ann-Marie Gantner at least five days prior to the teleconference.

**Meeting Access:** For information on access for individuals with disabilities, please contact Ann-Marie Gantner at [564–4330](tel:+15644330) or email [gantner.ann-marie@epa.gov](mailto:gantner.ann-marie@epa.gov). To request accommodation of a disability, please contact Ann-Marie Gantner at least 10 days prior to the meeting to give EPA as much time as possible to process your request.


Ann-Marie Gantner,
Designated Federal Officer.

[FR Doc. 2018–26918 Filed 12–11–18; 8:45 am]
The EPA does not intend the preceding table to be exhaustive, but provides it as a guide for readers regarding the types of activities of which the Agency is now aware 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 could be 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.

2. Coverage Area of the Draft Modified Permit

The proposed modification described herein would not change the scope of coverage under the 2017 CGP. Coverage...
would remain available to operators of eligible projects for stormwater
discharges from construction activities located in those areas where the EPA is
the NPDES permitting authority. A list
of eligible areas can be found in
Appendix B of the 2017 CGP and
include the states of New Hampshire,
Massachusetts, New Mexico, and Idaho
(until July 1, 2021, which is the date
Idaho becomes authorized to implement
the NPDES Stormwater program), as
well as most Indian country lands, and
areas in selected states operated by a
federal operator. Permit coverage is also
available to operators in Puerto Rico, the
District of Columbia, and the Pacific
Island territories, among others.

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

1. Docket. The EPA has established an
official public docket for this action
under Docket ID No. EPA–HQ–OW–
2015–0828. 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.
Publicly available docket materials are
available 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 notice
electronically through the United States
government on-line source for Federal
regulations at http://
www.regulations.gov.

Electronic versions of this draft
modified permit and draft modified fact
sheet are available on the 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
tables of the public docket
that are available electronically. For
additional information about the EPA’s
public docket, visit the Agency’s 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.

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

1. Submitting CBI. Do not submit CBI
information to the EPA through
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 the 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
by docket number and other identifying
information (subject heading, Federal
Register date, and page number).

• Where possible, organize comments
by referencing a paragraph or part of the
draft modified permit or draft modified
fact sheet, whichever applies.

• Explain as clearly as possible why
you agree or disagree with the proposed
modification.

• Suggest alternatives and substitute
language for any requested changes.

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

• Provide specific examples to
illustrate your concerns.

• Submit your comments by the
comment period deadline identified.

D. Will public hearings be held on this
action?

Due to the limited scope of this
proposed modification, the EPA has not
scheduled any public hearings to
receive public comment concerning the
draft modified 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 draft modified 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
and must state the nature of the issue
the requester would like raised in the
hearing. Pursuant to 40 CFR 124.12, the
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 draft modified
permit. If the 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 draft modified permit
at the public hearing.

E. What process will the EPA follow to
finalize the proposed modification?

After the close of the public comment
period, the EPA intends to issue a final
decision on the permit modification.
Any modification will not be issued
until all significant comments have been
considered and appropriate changes
made to the draft modified permit. The
EPA’s responses to public comments
received will be included in the docket
as part of the final modification
issuance. Any construction site operator
that has permit coverage under the 2017 CGP prior to the final issuance of the modification will automatically remain covered under the permit and will not have to resubmit or modify their Notice of Intent (NOI) due to the finalized permit modification.

F. Who are the EPA regional contacts for the proposed modification?

For EPA Region 1, contact Suzanne Warner at tel.: (617) 918–1383 or email at warner.suzanne@epa.gov.

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

For EPA Region 3, contact Carissa Moncavage at tel.: (215) 814–5798 or email at moncavage.carissa@epa.gov.

For EPA Region 4, contact Michael Mitchell at tel.: (404) 562–9303 or email at mitchell.michael@epa.gov.

For EPA Region 5, contact Brian Bell at tel.: (412) 886–0901 or email at bell.brian@epa.gov.

For EPA Region 6, contact Suzanna Perea at tel.: (214) 665–7217 or email at: perea.suzanna@epa.gov.

For EPA Region 7, contact Mark Matthews at tel.: (913) 551–7635 or email at: matthews.mark@epa.gov.

For EPA Region 8, contact Amy Clark at tel.: (303) 312–7014 or email at: clark.amy@epa.gov.

For EPA Region 9, contact Eugene Bromley at tel.: (415) 972–3510 or email at bromley.eugene@epa.gov.

For EPA Region 10, contact Margaret McCauley at tel.: (206) 553–1772 or email at mccauley.margaret@epa.gov.

II. Background on the Permit and Proposed Modification

Section 402(p) of the Clean Water Act (CWA) directs the EPA to regulate stormwater discharges under the NPDES program for certain designated sources, including discharges from regulated construction sites. The EPA’s NPDES regulations further specify that permits are required for stormwater discharges from construction activities that disturb at least one acre, including sites that are part of a larger common plan of development or sale that will ultimately disturb at least one acre. See 40 CFR 122.26(a)(1)(iii), (a)(9)(ii)(B), (b)(14)(x), and (b)(15)(i). Under the statutory and regulatory authority cited above, the EPA issued the final 2017 CGP on January 19, 2017 (82 FR 6534) and the permit became effective on February 16, 2017.

In accordance with 40 CFR 23.2, the 2017 CGP was considered issued for the purposes of judicial review on January 25, 2017. Within the 120-day period of judicial review under section 509(b) of the CWA, both the National Association of Home Builders (NAHB) and the Chesapeake Bay Foundation (CBF) filed petitions for review of the 2017 CGP in the United States Court of Appeals in the D.C. Circuit.

After receiving the petitions for review, the EPA engaged in multiple discussions with both NAHB and CBF in which the parties discussed their concerns about certain permit requirements and how those requirements might be subject to confusion and misinterpretation by construction site operators permitted under the 2017 CGP. Through discussions with the petitioners, the following information was brought to the EPA’s attention:

- In the current 2017 CGP, providing parenthetical examples within the definition of “operator” describing what type of party could be considered an operator “in most cases” may be confusing. See specifically Parts 1.1.1(a) and (b).
- The permit text for certain erosion and sediment control and pollution prevention permit requirements that implement the Effluent Limitations Guidelines (ELGs) and New Source Performance Standards (NSPS) for Construction & Development (40 CFR part 450) (referred to collectively as “the C&D rule”) may not adequately connect the permit requirements to controlling stormwater discharges as in the C&D rule.
- The explanation in the 2017 CGP regarding legal responsibility for permit compliance in situations where there are multiple operators may be unclear. The explanation for an instance where there are multiple operators at one construction site who each require permit coverage and who divide permit responsibilities among themselves, including the use and maintenance of a shared stormwater control (such as a sediment basin), may be misinterpreted to mean that each operator must perform every permit-related function, even if those responsibilities were by agreement performed by another operator. Additionally, references to joint and several liability in the current permit may have been an inaccurate way to explain what the permit compliance duties are for multiple operators who share implementation responsibilities under the permit.
- Under 40 CFR 122.62(a)(2), the EPA may modify a permit if the Agency is presented with new information during the permit term that was not available at the time of issuance and would have justified the application of different permit conditions at the time of issuance. Based on the information the petitioners provided to the EPA following the issuance of the 2017 CGP, the Agency is proposing a permit modification to clarify the Agency’s intent of the related permit requirements.

The proposed modification would remove examples of operators in the definition of operator; align three requirements that implement the C&D rule more closely with the ELG text (one requirement on minimizing dust, one on streambank erosion control, and one on building materials pollution prevention); and clarify the roles and responsibilities of individual operators in multiple operator arrangements. The proposed changes in this modification would simplify the permit language and accompanying fact sheet explanation but would not affect the substantive requirements, applicability, implementation, or enforceability of the permit’s current requirements. Only those requirements that the EPA proposes to modify would be reopened in the draft modified permit for public comment (40 CFR 122.62). The proposed modification, if finalized, would replace the existing conditions in the 2017 CGP and relevant fact sheet sections subject to modification, but not affect any other terms and conditions of the permit.

In addition, the proposed modification would not affect the eligible coverage area, the number or type of entities eligible to be covered by the permit, nor the five-year permit term of the current 2017 CGP, which will expire on February 16, 2022. The current 2017 CGP remains in effect while the EPA pursues this proposed permit modification. The proposed modification is summarized in more detail below.

III. Summary of the Proposed Modification

The EPA proposes the following specific changes to the 2017 CGP:

1. Removing examples in the definition of “operator”—The EPA proposes to remove the parenthetical examples of the type of party that may be considered an operator from the definition of “operator.” If a party wishes to obtain coverage under the 2017 CGP for its stormwater discharges from construction activities, it is the operator who is responsible for submitting to the EPA a Notice of Intent (NOI) for coverage under the permit. In the previous 2012 CGP, the EPA defined an “operator” as “any person associated with a construction project that meets either of the following two criteria: (a)
The party has operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications; or (b) the party has day-to-day operational control of those activities at a project that are necessary to ensure compliance with the permit conditions (e.g., they are authorized to direct workers at a site to carry out activities required by the permit).”

During the proposal of the 2017 CGP, the EPA received a public comment stating that, “to make the meaning of ‘operator’ as clear as possible, it would be helpful for the EPA to include, within the body of the permit, examples of whom it expects to meet part one and part two of the definition.” To address this comment, in the final issuance of the 2017 CGP, the EPA added the requested examples into the two-part definition of operator. These additions, denoted here in italicized text, read as follows: “an ‘operator’ is any party associated with a construction project that meets either of the following two criteria: (a) The party has operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications (e.g., in most cases this is the owner of the site); or (b) the party has day-to-day operational control of those activities at a project that are necessary to ensure compliance with the permit conditions (e.g., they are authorized to direct workers at a site to carry out activities required by the permit; in most cases this is the general contractor (as defined in Appendix A) of the project).” See Parts 1.1.1(a) and (b) of the 2017 CGP.

After the EPA issued the final 2017 CGP, petitioners brought to the Agency’s attention that adding the phrase “in most cases” followed by examples of who may be considered an operator might cause further confusion to a party trying to determine if it is an operator or not, because those examples would not, in every instance, qualify as operators. For example, with respect to the language added to the Part 1.1.1(a) definition of operator (“e.g., in most cases this is the owner of the site.”), the EPA did not intend to indicate that, in every instance, the owner of a site is always considered an operator. The EPA acknowledges that there may be instances where a site owner does not have operational control over construction plans and specifications, and therefore would not be an operator and would not be responsible for seeking permit coverage. Rather than suggesting who might be considered an operator “in most cases,” the EPA proposes to remove the examples from both Part 1.1.1(a) and (b), and allow parties to rely solely on the substantive definition of operator for determining if they should seek permit coverage. See Part 1.1.1 of the draft modified permit.

2. Aligning language of three requirements with the C&D rule—The EPA proposes to adjust the wording of two erosion and sediment control requirements and one pollution prevention requirement in the 2017 CGP to clarify their intent:

- The current requirement in Part 2.2.6 (Minimize Dust) reads as follows: “On areas of exposed soil, the operator must minimize the generation of dust through the appropriate application of water or other dust suppression techniques.” The accompanying fact sheet discusses how this requirement is intended to minimize the discharge of sediment in stormwater from the generation of dust and how dust suppression techniques prevent dust from being generated, minimizing the potential for the dust to accumulate where it is likely to discharge from the site in stormwater discharges. To more precisely convey that dust control is important for preventing sediment from being discharged in stormwater, consistent with the C&D rule at 40 CFR 450.21(a)(5), the EPA proposes to modify the requirement to read, with the addition denoted in italicized text: “On areas of exposed soil, minimize dust through the appropriate application of water or other dust suppression techniques to control the generation of pollutants that could be discharged in stormwater from the site.” See Part 2.2.6 of the draft modified permit.

- The current requirement in Part 2.2.11 (Minimize erosion of stormwater conveyance channels and their embankments . . . ) reads as follows: “Minimize erosion of stormwater conveyance channels and their embankments, outlets, adjacent streambanks, slopes, and downstream waters. Use erosion controls and velocity dissipation devices within and along the length of any stormwater conveyance channel and at any outlet to slow down runoff to minimize erosion.” Footnote 24 to this requirement states: “Examples of velocity dissipation devices include check dams, sediment traps, riprap, and grouted riprap at outlets.” The accompanying fact sheet explains that this requirement implements the C&D ELG to “control stormwater volume and velocity to minimize soil erosion in order to minimize erosion at discharge points” (40 CFR 450.21(a)(1)), to “control stormwater discharges . . . to minimize channel and streambank erosion and scour in the immediate vicinity of discharge points” (40 CFR 450.21(a)(2)), to “minimize the amount of soil exposed during construction activity” (40 CFR 450.21(a)(3)), and to “minimize the disturbance of steep slopes” (40 CFR 450.21(a)(4)). To streamline this requirement to more precisely focus on controlling stormwater discharges to minimize erosion at discharge points and to align it with the text of the C&D rule at 40 CFR 450.21(a)(2), the EPA proposes to modify the requirement to read as follows: “Control stormwater discharges, including both peak flowrates and total stormwater volume, to minimize channel and streambank erosion and scour in the immediate vicinity of discharge points.” Footnote 24 would be revised to read as follows: “Examples of control measures that can be used to comply with this requirement include the use of erosion controls and/ or velocity dissipation devices (e.g., check dams, sediment traps), within and along the length of a stormwater conveyance and at the outfall to slow down runoff.” See Part 2.2.11 of the draft modified permit.

- The current requirement in Part 2.3.3.3(a) regarding storage, handling, and disposal of building products, materials, and wastes reads as follows: “For building materials and building products, provide either (1) cover (e.g., plastic sheeting, temporary roofs) to minimize the exposure of these products to precipitation and to stormwater, or (2) a similarly effective means designed to minimize the discharge of pollutants from these areas.” One objective the EPA had during the proposal of the 2017 CGP was to streamline the permit as much as possible so that the permit itself was limited to the actual requirements, while explanatory text or notes were moved to the fact sheet. During this streamlining process, the EPA omitted a note from the 2012 CGP that previously appeared in the 2012 CGP in the equivalent section of the permit (i.e., Part 2.3.3.3). The 2012 CGP provision read as follows: “Note: These requirements do not apply to those products, materials, or wastes that are not a source of stormwater contamination or that are designed to be exposed to stormwater.” Although the EPA omitted this note in the 2017 CGP, the Agency incorporated by reference the relevant fact sheet discussion from the 2012 CGP, which explained that “these requirements implement the 40 CFR 450.21(a)(2) requirement to ‘minimize the exposure of building materials, building products,
construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents . . . present on the site to precipitation and to stormwater.' The permit clarifies that the staging or storage of construction materials, building products, or wastes, which are either not a source of contamination to stormwater or are designed to be exposed to stormwater, are not subject to this requirement.’’

Therefore, while the EPA incorporated by reference in the 2017 CGP fact sheet the exception to Part 2.3.3(a) for building materials that are not a source of contamination or are designed to be exposed to stormwater, the permit requirement in Part 2.3.3(a) did not explicitly state this as it appears in 40 CFR 450.21(d)(2). To avoid any confusion this omission might cause, the EPA proposes to modify the requirement to read, with the addition denoted in italicized text, as follows: ‘‘For building materials and building products, provide either (1) a cover (e.g., plastic sheeting, temporary roofs) to minimize the exposure of these products to precipitation and to stormwater, or (2) a similarly effective means designed to minimize the discharge of pollutants from these areas. **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).**’’ See Part 2.3.3(a) of the proposed modified permit.

3. Clarifying individual operator responsibility in multiple operator arrangements—The EPA proposes to modify the 2017 CGP to clarify an individual operator’s legal responsibility for permit compliance in situations where there are multiple operators who divide permit responsibilities. In particular, the EPA proposes to remove references to joint and several liability from the current permit since they are, in the Agency’s view, an inaccurate explanation of what the permit compliance duties are for multiple operators who share implementation responsibilities under the permit.

In addition, the EPA proposes to clarify that operators who divide responsibilities do not have to duplicate permit-related functions if one operator is appropriately implementing the requirement for the rest of the operators to be in full compliance with the permit. In the proposed modification, the permit would state that, where there are multiple operators associated with the same site, they may develop a group Stormwater Pollution Prevention Plan (SWPPP) instead of multiple individual SWPPPs, but regardless of whether there is a group SWPPP or multiple individual SWPPPs, each operator is responsible for compliance with the permit’s terms and conditions, notwithstanding how the SWPPP(s) may divide each operator’s responsibilities. This would apply to a scenario where there are multiple operators associated with the same site through a common plan of development or sale (such as a housing development) at which a shared control exists. In this scenario, the operators may develop a group SWPPP instead of multiple individual SWPPPs, and divide amongst themselves various permit-related functions provided that each SWPPP, or a group SWPPP, documents which operator will perform each permit-related function, including those related to the installation and maintenance of the shared control. Regardless of whether there is a group SWPPP or multiple individual SWPPPs, all operators are legally responsible for compliance with the permit, notwithstanding how the SWPPP(s) may divide each operator’s individual responsibilities. In other words, if Operator A relies on Operator B to satisfy its permit obligations, Operator A does not have to duplicate those permit-related functions if Operator B is implementing them for both operators to be in compliance with the permit. However, Operator A remains responsible for permit compliance if Operator B fails to implement any measures necessary for Operator A to comply with the permit. See Part 1.1.1, footnote 1; Part 7.1, footnote 53 (which the EPA now proposes to combine with footnote 52); the accompanying fact sheet explanation for these Parts; and Appendix A Definitions for “Shared Control” of the proposed modified permit.

IV. Analysis of Economic Impacts

Due to the narrow scope of this proposed permit modification and the focus on clarifying the intent of certain requirements rather than changing the underlying requirement itself, the EPA does not expect any change in economic impact from this proposed permit modification. It is therefore unnecessary for the EPA to revise the economic analysis that was prepared for the final 2017 CGP. A copy of the EPA’s economic analysis, titled “Cost Impact Analysis for the 2017 Construction General Permit (CGP),” is available in the docket for this proposed permit modification.

V. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

The Office of Management and Budget (OMB) determined that this action is not significant under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011).

VI. 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 the EPA’s regulations for implementing NEPA (40 CFR part 6), the Agency has determined that the modifications to the 2017 CGP are eligible for a categorical exclusion requiring documentation under 40 CFR 6.204(a)(1)(iv). This category consists of “actions involving reissuance of a NPDES permit for a new source providing the conclusions of the original NEPA document are still valid (including the appropriate mitigation), there will be no degradation of the receiving waters, and the permit conditions do not change or are more environmentally protective.” 40 CFR 6.204(a)(1)(iv). The EPA completed an Environmental Assessment/Finding of No Significant Impact (EA/FONSI) for the previous 2012 CGP and issued a categorical exclusion under 40 CFR 6.204(a)(1)(iv) for the 2017 reissuance. The EPA determined the analysis and conclusions regarding the potential environmental impacts, reasonable alternatives, and potential mitigation included in the EA/FONSI were still valid for the 2017 reissuance of the CGP because the permit conditions are either the same or, in some cases, are more environmentally protective.

As stated in Section II of this Federal Register Notice on the Background on the Permit and Proposed Modification, the proposed modification to the 2017 CGP, if finalized, would remove examples of operators in the definition of operator; align three requirements that implement the C&D rule more closely with the ELG text; and clarify the roles and responsibilities of individual operators in multiple operator arrangements. The proposed changes in this modification would simplify the permit language and accompanying fact sheet explanation but would not affect the substantive requirements, applicability,
VIII. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This proposed action does not have tribal implications as specified in Executive Order 13175. It does not have a substantial direct effect on one or more Indian tribes. Thus, Executive Order 13175 does not apply to this proposed action.

In compliance with Executive Order 13175, the EPA consulted with tribal officials during the development of 2017 CGP to gain an understanding of, and where necessary, address any areas of the draft permit that may affect tribal interest. In the course of this consultation, the EPA conducted several outreach activities with tribal officials which are detailed in the Federal Register Notice for the final 2017 CGP (82 FR 6534). During the finalization of the 2017 CGP, the EPA also completed the CWA Section 401 certification procedures with all applicable tribes where the permit applies (see Appendix B of the 2017 CGP).

As part of this proposed modification, the EPA reviewed the tribal conditions that were incorporated into the 2017 CGP under Section 401 certifications to identify any requirements that this proposed action might affect. See Part 9 of the 2017 CGP. Only two tribal conditions reference a current permit requirement that is subject to this proposed modification, Part 2.2.11 (Minimize erosion of stormwater conveyance channels and their embankments . . .);

- The following condition applies only to discharges on the Pueblo of Isleta Reservation: “Under Minimize erosion, a permittee must secure permission from the Pueblo or affected Pueblo of Isleta land assignment owner if a dissipation device needs to be placed up- or down-elevation of a given construction site. CGP 2.2.11 at pg. 11.” See Part 9.4.2.1(j) of the 2017 CGP.
- The following condition applies only to discharges on the Puyallup Tribe of Indians Reservation: “To the extent feasible, utilize vegetated, upland areas of the site to infiltrate dewatering water before discharge. At all points where dewatering water is discharged, comply with the velocity dissipation requirements of Part 2.2.11 of EPA’s 2017 General Construction Stormwater Permit. Examples of velocity dissipation devices include check dams, sediment traps, riprap, and grated riprap at outlets.” See Part 9.7.4.4(h) of the 2017 CGP.

As stated in Section II of this Federal Register Notice, the proposed modification to the 2017 CGP, if finalized, would remove examples of operators in the definition of operator; align three requirements that implement the C&D rule more closely with the ELG text, including the requirement in Part 2.2.11; and clarify the roles and responsibilities of individual operators in multiple operator arrangements. The proposed changes in this modification would simplify the permit language and accompanying fact sheet explanation but would not affect the substantive requirements, applicability, implementation, or enforceability of the permit’s current requirements. Due to the narrow scope of this proposed permit modification and the focus on clarifying the intent of certain requirements rather than changing the underlying requirement itself, the proposed action would not change the interpretation or implementation of the tribal conditions, in particular those referencing Part 2.2.11, and therefore any tribal impacts from this proposed modification would be limited.


Dated: November 28, 2018.
Deborah Szaro,
Acting Regional Administrator, EPA Region 1.

Dated: November 28, 2018.
Javier Laureano, Ph.D.,
Director, Clean Water Division, EPA Region 2.

Dated: November 28, 2018.
Carmen R. Guerrero-Perez,
Director, Caribbean Environmental Protection Division, EPA Region 2.

Dated: November 28, 2018.
Jeeanne M. Gettle,
Director, Water Division, EPA Region 4.

Dated: November 28, 2018.
Deborah C. Baltazar,
Acting Director, Water, Wetlands and Pesticides Division, EPA Region 9.

Dated: November 28, 2018.
David F. Garcia, P.E.,
Deputy Director, Water Division, EPA Region 6.

Dated: November 28, 2018.
Jeffery Robichaud,
Division Director, Water, Wetlands and Pesticides Division, EPA Region 7.

Dated: November 28, 2018.
Darcy O’Connor,
Assistant Regional Administrator, Office of Water Protection, EPA Region 8.

Dated: November 28, 2018.
Tomas Torres,
Director, Water Division, EPA Region 9.
ENVIRONMENTAL PROTECTION AGENCY

[FR Doc. 2018–26916 Filed 12–11–18; 8:45 am]
BILLING CODE 6560–50–P

[63865]

Dated: November 28, 2018.
Daniel D. Opalski,
Director Office of Water and Watersheds, EPA Region 10.

SUMMARY: In accordance with the EPA Administrator’s October 16, 2017, Directive Promoting Transparency and Public Participation in Consent Decrees and Settlement Agreements, notice is hereby given of a proposed joint stipulation and proposed stipulated notice of dismissal in the United States District Court for the Northern District of California in the case of Ellis, et al., v. Keigwin, et al., No. 3:13–cv–01266. On May 8, 2017, the court issued an order on summary judgment dismissing claims against EPA under the Federal Insecticide, Fungicide and Rodenticide Act (“FIFRA”), but finding that EPA failed to consult with the United States Fish and Wildlife Service (“FWS”) regarding 59 EPA-registered pesticide products containing clothianidin or thiamethoxam. The parties are proposing to reach a settlement in the form of a joint stipulation on the appropriate remedy for the court’s finding of liability. Among other provisions, the joint stipulation would set a June 30, 2022, deadline for EPA to complete ESA effects determinations for clothianidin and thiamethoxam and, as appropriate, request initiation of any ESA consultations with the Services to begin an informal dialogue between the agencies prior to EPA completing its ESA consultations. In addition, as described in paragraph one of the proposed stipulation, defendant-intervenors Syngenta, Bayer and Valent (the registrants of products containing clothianidin or thiamethoxam) have agreed to request that EPA voluntarily cancel the following 12 specific products that contain either clothianidin or thiamethoxam under section 6(f)(1) of FIFRA:


For a period of thirty (30) days following the date of publication of this document, the Agency will accept written comments relating to the proposed joint stipulation and

DATES: Written comments on the joint stipulation and stipulated notice of dismissal must be received by January 11, 2019.

ADDRESSES: Submit your comments, identified by Docket ID number EPA–HQ–OGC–2018–0745 online at www.regulations.gov (EPA’s preferred method). For comments submitted at www.regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from www.regulations.gov. The 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. The EPA generally will 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, please contact the person identified in the FOR FURTHER INFORMATION CONTACT section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit http://www2.epa.gov/dockets/commenting-epa-dockets.

FOR FURTHER INFORMATION CONTACT:
Mark Dyner, Pesticides and Toxic Substances Law Office (2333A), Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone: (202) 564–1754; email address: dyner.mark@epa.gov.

SUPPLEMENTAL INFORMATION:
I. Additional Information About the Proposed Joint Stipulation and Stipulated Notice of Dismissal

On March 21, 2013, Plaintiffs (several beekeepers and public interest organizations) filed suit in the United States District Court for the Northern District of California. Plaintiffs brought claims alleging that EPA had improperly denied a petition to suspend products containing clothianidin and that EPA’s registration of certain clothianidin and thiamethoxam products violated certain registration requirements of FIFRA, and violated section 7(a)(2) of the ESA because EPA had failed to consult with FWS prior to issuing the registrations. On May 8, 2017, the court granted EPA’s summary judgment motion with respect to the FIFRA claims and partially granted Plaintiffs’ summary judgment motion with respect to the ESA claims, finding that EPA had failed to comply with the consultation requirements of section 7(a)(2) with respect to 59 clothianidin and thiamethoxam products. In its order, the court also directed the parties to develop a briefing schedule for determining the appropriate remedy and, concurrently, to schedule a settlement conference to determine whether the parties could settle the remedy proceeding outside of court.

The proposed stipulation and stipulated notice of dismissal would settle the remedy proceeding. Specifically, paragraph two of the proposed stipulation provides that EPA would agree to complete ESA effects determinations by June 30, 2022, for its FIFRA registration reviews of clothianidin and thiamethoxam and, as appropriate, request initiation of any necessary ESA consultations with the Services. As provided in paragraph three of the proposed stipulation, EPA would also agree to initiate informal consultation with the Services to begin informal dialogue between the agencies prior to EPA completing its effects determinations.

In addition, as described in paragraph one of the proposed stipulation, defendant-intervenors Syngenta, Bayer and Valent (the registrants of products containing clothianidin and thiamethoxam) have agreed to request that EPA voluntarily cancel the following 12 specific products that contain either clothianidin or thiamethoxam under section 6(f)(1) of FIFRA:

11. Meridian 0.20G, EPA Reg. No. 100–1341.

For a period of thirty (30) days following the date of publication of this document, the Agency will accept written comments relating to the proposed joint stipulation and