

#### IV. Procedural Requirements

*Executive Order 12866, "Regulatory Planning and Review"*. This rule is not a significant regulatory action for purposes of Executive Order 12866, "Regulatory Planning and Review," and therefore has not been reviewed by the Office of Management and Budget.

*Regulatory Flexibility Act*. Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, it is hereby certified that this proposed rule will not have a significant economic impact on a substantial number of small entities. Treasury is required to pay the Federal share of compensation to insurers for insured losses in accordance with the Act. A condition of Federal payment is that the insurer must submit to Treasury, in accordance with procedures established by Treasury, a claim for payment and certain certifications. The Act itself requires all insurers receiving direct earned premium for any type of property and casualty insurance, as defined in the Act, to participate in the Program. This includes all insurers regardless of size or sophistication. The Act also defines property and casualty insurance to mean commercial lines of insurance without any reference to the size or scope of the insurer or the insured. Accordingly, any economic impact associated with the proposed rule flows from the Act and not the proposed rule. The proposed rule merely clarifies the point in time at which insurer affiliations are determined for purposes of the Program. A regulatory flexibility analysis is thus not required.

#### List of Subjects in 31 CFR Part 50

Terrorism risk insurance.

#### PART 50—TERRORISM RISK INSURANCE PROGRAM

1. The authority citation for part 50 continues to read as follows:

**Authority:** 5 U.S.C. 301; 31 U.S.C. 321; Title I, Pub. L. 107-297, 116 Stat. 2322 (15 U.S.C 6701 note).

2. Subpart F is proposed to be amended by adding a new section 50.55 to read as follows:

#### § 50.55 Determination of Affiliations.

For the purposes of this Subpart F, an insurer's affiliates for any Program Year shall be determined based on the insurer's circumstances as of the date of the first certified act of terrorism in that Program Year.

Dated: January 11, 2005.

**Wayne A. Abernathy,**

*Assistant Secretary of the Treasury.*

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#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 122

[OW-2002-0068; FRL-7862-1]

RIN 2040-AE71

#### Extension of National Pollutant Discharge Elimination System (NPDES) Permit Deadline for Storm Water Discharges for Oil and Gas Construction Activity That Disturbs One to Five Acres

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

**ACTION:** Notice of Proposed Rulemaking.

**SUMMARY:** Today EPA proposes to amend the rule on National Pollutant Discharge Elimination System storm water permits to postpone until June 12, 2006, the requirement to obtain permit coverage for oil and gas construction activity that disturbs one to five acres of land. This would be the second postponement promulgated by EPA for these activities. EPA proposes this postponement in order to afford the Agency additional time to complete consideration of the issues raised by stakeholders about storm water runoff from construction activities at oil and gas sites and of procedures for controlling storm water discharges as appropriate to mitigate impacts on water quality. EPA intends to take final action with respect to today's proposal by March 10, 2005. Within six months of this final action (September 12, 2005), EPA intends to publish a notice of proposed rulemaking in the **Federal Register** for addressing these discharges and invite public comments.

**DATES:** Comments on the proposed rule must be received on or before February 17, 2005.

**ADDRESSES:** Submit your comments, identified by Docket ID No. OW-2002-0068, by one of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
- Agency Web site: <http://www.epa.gov/edocket>. EDOCKET, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Follow the on-line instructions for submitting comments.

- E-mail: [ow-docket@epa.gov](mailto:ow-docket@epa.gov). Attention Docket ID No. OW-2002-0068.

- Mail: Water Docket, Environmental Protection Agency, Mailcode: 4101 T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

- Hand Delivery: Deliver your comments to: EPA Docket Center, EPA West, Room B102, 1301 Constitution Avenue, NW., Washington, DC, Attention Docket ID No. OW-2002-0068. Such deliveries are only accepted during the Docket's normal hours of operation. The EPA Docket Center Public Reading Room is 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.

**Instructions:** Direct your comments to Docket ID No. OW-2002-0068. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.epa.gov/edocket>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through EDOCKET, regulations.gov, or e-mail. The EPA EDOCKET and the federal regulations.gov Web sites are "anonymous access" systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through EDOCKET or regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional instructions on submitting comments, go to Section I.C of the **SUPPLEMENTARY INFORMATION** section of this document.

**Docket:** All documents in the docket are listed in the EDOCKET index at

<http://www.epa.gov/edocket>. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in EDOCKET or in hard copy at the EPA Docket Center, EPA West, Room B102, 1301 Constitution Avenue, NW., Washington, DC, Attention Docket ID No. OW-2002-0068. The EPA Docket Center Public Reading Room is 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.

**FOR FURTHER INFORMATION CONTACT:** Jeff Smith, Office of Wastewater Management, Office of Water, Environmental Protection Agency, at 202-564-0652 or e-mail: [smith.jeff@epa.gov](mailto:smith.jeff@epa.gov).

#### SUPPLEMENTARY INFORMATION:

### I. General Information

#### A. Affected Entities

Entities potentially affected by this action include operators of construction activities disturbing at least one acre, but less than five acres of land at oil and gas sites, North American Industrial Classification System (NAICS) codes and titles: 211—Oil and Gas Extraction, 213111—Drilling Oil and Gas Wells, and 213112—Support Activities for Oil and Gas Operations.

This description is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. This description identifies the types of entities that EPA is now aware could potentially be affected by this action. Other types of entities not identified could also be affected. To determine whether your facility or company is affected by this action, you should carefully examine the applicability criteria in 40 CFR 122.26(b)(15) and (e)(8). If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

#### B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through EDOCKET, [regulations.gov](http://www.regulations.gov) or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI

information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

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

- i. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- ii. Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- iv. Describe any assumptions and provide any technical information and/or data that you used.
- v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- vi. Provide specific examples to illustrate your concerns, and suggest alternatives.
- vii. Explain your views as clearly as possible.
- viii. Make sure to submit your comments by the comment period deadline identified.

### II. Background

The Water Quality Act of 1987 added statutory language in Section 402(p) of the Clean Water Act (CWA) that directs EPA to develop a phased approach to regulate storm water discharges. EPA published the Phase I Storm Water Rule on November 16, 1990 (55 FR 47990), establishing NPDES permit application requirements for “storm water discharges associated with industrial activity.” The Phase I regulations define large construction activities that disturb five acres of land and greater (or less than five acres of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb five acres or more) as “industrial activity” under 40 CFR 122.26(b)(14)(x) and, as such, they are required to obtain NPDES permit coverage for storm water

discharges. See also 40 CFR 122.21(c)(1).

EPA published the Phase II Storm Water Rule in the **Federal Register** on December 8, 1999 (64 FR 68722). The Phase II regulations require NPDES permit coverage as of March 10, 2003, for storm water discharges from small construction sites disturbing at least one acre but less than five acres of land and those sites disturbing less than one acre that are part of a larger common plan of development or sale that, in total, disturbs at least one but less than five acres (hereinafter referred to as “small construction sites” or “small construction activities”). 40 CFR 122.26(b)(15)(i) and (e)(8). In developing the Phase II regulations, EPA conducted an analysis of the potential impacts of the rule on the national economy and also analyzed impacts on small entities. Costs associated with the regulations were generally associated with implementation of sediment and erosion control practices or best management practices to reduce the pollutants commonly found in construction storm water discharges that may ultimately lead to water quality impairments. In performing these analyses, EPA considered affected industrial sectors, including the oil and gas industry. However, based on the information provided at the time, EPA assumed that few, if any, oil and gas exploration, production, processing, or treatment operations, or transmission facilities would fall within the 1 to 5 acre range and thus require NPDES permit coverage under the Phase II regulations. Therefore, while that regulation did apply to these facilities, EPA did not include oil and gas exploration sites in the economic analysis developed to support the regulatory determination promulgated in the Phase II Final Rule. See U.S. EPA, *Economic Analysis of the Final Phase II Storm Water Rule*, EPA 833-R-99-002, October 1999.

EPA’s authority to promulgate the 1999 Phase II storm water regulations derives from CWA Section 402(p)(6) which directed EPA to designate for regulation sources of storm water for purposes of protecting water quality. EPA exercised this authority in 1999 to designate storm water discharges from small municipal separate storm sewer systems and small construction sites for NPDES regulation. However, significant questions arose after the 1999 promulgation regarding whether storm water discharges from small construction sites associated with oil and gas activities presented a water quality problem at a level that justified national categorical regulation through the NPDES permit program, as well as

the potentially high cost of compliance for this industry. As a result of these and other concerns, EPA amended its regulations to postpone until March 10, 2005, the deadline for oil and gas construction activities to obtain NPDES storm water permits under the Phase II rule, to allow for further consideration of the environmental and economic impacts of this requirement. See 68 FR 11325 (March 10, 2003).

During the past two years, EPA has gathered information on size, location and other site characteristics to better evaluate compliance costs associated with the control of storm water runoff from oil and gas construction activities. In addition, EPA has met with various stakeholders, including visits to a number of oil and gas sites with construction-related activities, to discuss and review existing best management practices for preventing contamination of storm water runoff resulting from construction associated with these oil and gas activities. Based on recent information provided by the U.S. Department of Energy, EPA now estimates that on average there are 30,000 oil and gas construction "starts" per year, including exploration and development activities. Although EPA was aware of this estimate two years ago (See 68 FR 11327 (March 10, 2003)), the Agency has investigated this figure further and is now more confident that it represents a reasonable estimate of the additional sites that should have been considered when EPA promulgated the Phase II rule. Initially, EPA assumed that very few of these starts would incur compliance costs associated with the Phase II rule because most of them would be less than one acre. However, EPA now believes that the majority of such sites may exceed one acre when the acreage attributed to lease roads, pipeline right-of-ways and other infrastructure facilities is apportioned to each site. During the past two years, EPA has also gathered economic data for the industry and is currently completing an economic impact analysis of the existing Phase II regulations specific to the oil and gas industry. EPA's analysis performed to date recognizes that there can be administrative delays in the permitting process that were not considered in the original economic analysis for the 1999 Phase II rulemaking. In addition to concerns about costs and economic impacts, EPA notes that issues have been raised by several outside parties regarding Section 402(l)(2) of the CWA, which exempts certain storm water discharges from oil and gas exploration, production, processing, or treatment operations or

transmission facilities from the NPDES permit requirement.

EPA believes that further postponing the date for NPDES regulation is appropriate for these sources because the Agency needs additional time to complete its evaluation of the economic and legal issues that have been raised. Moreover, EPA is continuing to evaluate procedures and methods for controlling storm water discharges from these sources as appropriate to mitigate impacts on water quality. Through this action, EPA is proposing to exercise its authority under CWA Section 402(p)(6) to decide which sources to regulate through NPDES permits and in particular, when to regulate those sources. In the meantime, EPA strongly encourages oil and gas operators to employ best management practices (BMPs) while engaged in construction activities to minimize any water quality problems that may be associated with this type of construction. EPA strongly recommends that operators consider employing the BMPs described on the Agency's NPDES storm water Web site at: [http://cfpub.epa.gov/npdes/stormwater/menuofbmps/con\\_site.cfm](http://cfpub.epa.gov/npdes/stormwater/menuofbmps/con_site.cfm).

### III. Today's Action

In today's action, EPA is proposing to extend until June 12, 2006, the deadline for obtaining NPDES storm water permits for oil and gas construction activity that disturbs at least one acre, but less than five acres of land and sites disturbing less than one acre that are a part of a larger common plan of development or sale that disturbs between one and five acres. The text proposed at § 122.26(e)(8) is not meant to create any duty to apply for an NPDES permit that did not already exist as a result of EPA's Phase II regulations. Rather, this proposed amendment is meant merely to extend the permitting deadline for a certain class of dischargers.

During the next fifteen months, EPA intends to (1) complete the economic impact analysis; (2) complete the evaluation of the legal and procedural implications associated with several options that the Agency is considering with regard to regulation of storm water discharges from oil and gas-related construction sites; (3) continue to evaluate practices and methods operators may employ to control storm water discharges from the sites affected by this proposal. EPA intends to convene at least one public meeting with various stakeholders for the purpose of exchanging information on current industry practices and the effectiveness of those practices in protecting water quality and obtaining

input on the appropriate approach for addressing construction storm water discharges from this industry. Finally, EPA expects to propose and take some subsequent final action based on the Agency's conclusions following these activities. EPA specifically solicits comment on the proposed extension of the permit deadline for small oil and gas sites. The Agency will address these comments when EPA takes final action on today's proposal which EPA intends to do by March 10, 2005. Regarding other possible options under consideration for a separate action, EPA does not have any specific draft regulatory language to share with the public at this time. Within six months of this final action, EPA intends to publish a notice of proposed rulemaking in the **Federal Register** for addressing these discharges and invite public comment.

### IV. Statutory and Executive Order Reviews

#### A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866, (58 FR 51735 (October 4, 1993)) the Agency must determine whether the regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that this proposed rule is not a "significant regulatory action" under the terms of Executive Order 12866 and therefore is not subject to formal OMB review.

#### B. Paperwork Reduction Act

This proposed action would not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* If promulgated, it would

merely postpone implementation of an existing rule deadline for discharges associated with certain construction activity at oil and gas sites.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information; processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9.

#### C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's proposed rule on small entities, small entity is defined as: (1) A small business based on SBA size standards; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. Because EPA proposes to postpone a deadline for numerous small entities to comply with NPDES permit requirements, this proposed action will not impose any burden on any small

entity. We continue to be interested in the potential impacts of the proposed rule on small entities and welcome comments on issues related to such impacts.

#### D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under Section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, Section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of Section 205 do not apply when they are inconsistent with applicable law. Moreover, Section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under Section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that this proposed rule to change an NPDES deadline would not contain a Federal mandate that may result in expenditures of \$100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. The proposed rule would not impose any additional costs to these entities. Thus, today's proposed rule is not subject to the requirements of Sections 202 and 205 of the UMRA. For the same reason, EPA has determined that this rule contains no regulatory

requirements that might significantly or uniquely affect small governments. Thus, today's proposed rule is not subject to the requirements of Section 203 of UMRA.

#### E. Executive Order 13132: Federalism

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government."

This proposed rule does not have federalism implications. If promulgated, it will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. Thus, Executive Order 13132 does not apply to this rule.

In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA specifically solicits comment on this proposed rule from State and local officials.

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

Executive Order 13175, entitled, "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications."

This proposed rule does not have Tribal implications. It will not have substantial direct effects on Tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

EPA specifically solicits additional comment on this proposed rule from tribal officials.

*G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks*

Executive Order 13045: "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This regulation is not subject to Executive Order 13045 because it is not economically significant as defined under E.O. 12866.

*H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use*

This proposed rule would not be subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866. The only effect of this proposed rule would be to (1) delay the permit authorization requirement for discharges associated with certain construction activity at oil and gas sites by an additional fifteen months and (2) allow EPA time necessary to develop a further proposal to address storm water discharges from such activities.

*I. National Technology Transfer And Advancement Act*

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Pub. L. 104-113, Section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standard bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This proposed rulemaking does not involve technical standards. However, EPA is exploring the availability and potential use of voluntary consensus standards developed consistent with the NTTAA as a means of addressing storm water runoff from oil and gas construction activities. Assuming that EPA ultimately extends the permitting deadline as proposed, the Agency would expect any future action to incorporate the use of voluntary consensus standards where such standards are available consistent with NTTAA and the requirements of the CWA.

**List of Subjects in 40 CFR Part 122**

Administrative practice and procedure, Confidential business information, Environmental protection, Hazardous substances, Reporting and recordkeeping requirements, Water pollution control.

Dated: January 12, 2005.

**Stephen L. Johnson,**  
*Deputy Administrator.*

For the reasons set forth in the preamble, chapter I of title 40 of the Code of Federal Regulations is proposed to be amended as follows:

**PART 122—EPA ADMINISTERED PERMIT PROGRAMS: THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM**

1. The authority citation for part 122 continues to read as follows:

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

**Subpart B—[Amended]**

2. Revise § 122.26(e)(8) to read as follows:

**§ 122.26 Storm water discharges (applicable to State NPDES programs, see § 123.25).**

\* \* \* \* \*

(e) \* \* \*

(8) For any storm water discharge associated with small construction activity identified in paragraph (b)(15)(i) of this section, see § 122.21(c)(1). Discharges from these sources, other than discharges associated with small construction activity at oil and gas exploration, production, processing, and treatment operations or transmission facilities, require permit authorization by March 10, 2003, unless designated for coverage before then. Discharges associated with small construction activity at such oil and gas sites require permit authorization by June 12, 2006.

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[FR Doc. 05-930 Filed 1-14-05; 8:45 am]

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