of these commenters stated that there was no basis for extending these specific Best Management Practices (BMP) to facilities that already have BMPs under the EPCRA program. The other half indicated that these special provisions were redundant with requirements in other programs, such as RCRA. Two commenters also stated that such an extension of requirements associated with EPCRA to all facilities covered by the multi-sector permit would be inappropriate regulatory duplication. Based on these comments and further review, EPA is not extending the Section 313 requirements to additional facilities

In addition to these specific comments, EPA received 25 comments opposed to the special storm water pollution prevention plan requirements for EPCRA Section 313 facilities. These commenters objected that there are a variety of burdensome aspects of the prescribed practices. Sixteen of these commenters suggested that the special requirements are redundant with those imposed by other programs and/or are inappropriate given the data presented in the notice on the presence of pollutants in storm water from EPCRA Section 313 facilities and non-313 facilities. They indicated that the data show no distinguishable differences between storm water pollution from these two categories. Other commenters stated that the costs of complying with the special provisions for Section 313 facilities are excessive. With the exception of the PE certification, EPA is not reducing the special pollution prevention plan requirements for facilities subject to EPCRA Section 313 requirements. The Agency is leaving them in place because of the nature of the industrial activities and chemicals handled at such facilities. These controls are necessary to ensure that storm water runoff does not become contaminated with EPCRA Section 313 water priority chemicals. The use of these controls represents an established level of technology-based controls that are already being implemented at many of these types of facilities and EPA believes this level of technological control should be maintained.

On January 12, 1994, EPA proposed to add 313 new chemicals to the EPCRA Section 313 list of chemicals found at 40 CFR 372.65. On November 30, 1994, EPA published a final notice in the Federal Register adding 286 chemicals to the list. A Section 313 water priority chemical is defined as a chemical or chemical categories which are: 1) are listed at 40 CFR 372.65 pursuant to Section 313 of the Emergency Planning and Community Right-to-Know Act

(EPCRA) (also known as Title III of the Superfund Amendments and Reauthorization Act (SARA) of 1986); 2) are present at or above threshold levels at a facility subject to EPCRA Section 313 reporting requirements; and 3) that meet at least one of the following criteria: (i) Are listed in Appendix D of 40 CFR 122 on either Table II (organic priority pollutants), Table III (certain metals, cyanides, and phenols) or Table V (certain toxic pollutants and hazardous substances); (ii) are listed as a hazardous substance pursuant to section 311(b)(2)(A) of the CWA at 40 CFR 116.4; or (iii) are pollutants for which EPA has published acute or chronic water quality criteria.

In response to this rulemaking, EPA analyzed the list of Section 313 water priority chemicals in the proposed multi-sector general permit by comparing these 286 new chemicals against Tables II, III, and V of Appendix D of 40 CFR 122, the list of hazardous substances listed at 40 CFR 116.4, and the list of pollutants for which EPA has published acute or chronic water quality criteria. Based on this analysis, EPA is adding 44 of the 286 new chemicals or chemical categories to the list of Section 313 water priority chemicals which is an appendix to today's permit. In developing the original definition of Section 313 water priority chemicals, EPA included a reference to the EPCRA 313 chemical listing and noted that future additions to the list could occur and that these would automatically expand the storm water EPCRA 313 water priority chemical list used in the industrial storm water general permits. In addition, the proposed regulation to expand the EPCRA 313 list notified the public that with an expansion of the list, other programs, such as the storm water permitting program that incorporated the EPCRA 313 listing, would also be similarly affected.

By adding these new chemicals to the water priority chemical list, potentially more facilities will be required to implement the EPCRA 313 special pollution prevention plan requirements. However, EPA believes that the additional water priority chemicals will not have a significant impact on the cost of compliance by any individual facility. Facilities already implementing these provisions may have additional chemicals to address in their plans beyond those they already consider, but EPA believes many of the BMPs and pollution prevention measures already being implemented will be applicable to the new chemicals. EPA re-examined the estimated upper range of cost of compliance by a facility required to implement the special EPCRA water

priority chemical pollution prevention plan requirements, and has determined that the added chemicals will not cause this range to be exceeded.

Cost of Compliance

EPA received several comments concerning cost estimates for the permit requirements, many of which offer similar viewpoints. EPA provided estimates of the cost of compliance in the fact sheet to the proposed permit. These costs covered a range of costs, from low to high, that may be necessary to implement a storm water pollution prevention plan at the wide range of types of facilities that will be covered under this permit. Twenty-eight commenters stated that the estimated cost for industry to comply with the multi-sector permit is too high. In response to these comments, EPA reexamined its cost estimates to ensure that they were accurate and to ensure that the range, as estimated, adequately covered all anticipated circumstances. From this re-evaluation, EPA believes that the costs of compliance, which includes preparing and implementing a pollution prevention plan during the term of the permit, are accurate and adequately cover the range of anticipated costs for facilities that will be covered under this permit. In addition, EPA believes the cost of compliance is not high when compared to the potential site-specific requirements that may be imposed in order to comply with an individual permit. Therefore this multi-sector general permit represents a significant cost savings over the individual permit option.

Six of these commenters also cited the high end of the EPA cost estimates as being too high for small businesses. In response to this, EPA wants to clarify that the high-end cost estimates will mostly, if not entirely, apply to larger, more complex facilities with more potential sources of pollutants and therefore a more comprehensive storm water pollution prevention plan. In deriving the cost ranges, EPA anticipated that most small business compliance costs would fall at the low end of the cost ranges.

Twenty-four of the twenty-eight commenters who believed that the estimated cost of compliance is too high also expressed concern that the proposed permit will bear an unfair burden on small businesses and possibly threaten their ability to remain in operation. However, several of these commenters based their position on the high end of the cost estimates, which are most likely to apply to larger facilities. In response to this concern,