EPA estimated the cost of compliance for a hypothetical small business in the automobile salvage yard industry. This example has been added to the fact sheet of the permit and illustrates an estimate of a small auto salvage yard costs that such a facility many actually incur in complying with this permit. The Agency expects that the actual cost of compliance with the permit for a hypothetical small automobile salvage yard would be \$874 in the first year and \$561 for each following year. The lowend estimate is appropriate for the majority of smaller facilities, with some facilities, like the hypothetical small auto salvage yard, likely to face even lower costs.

Nineteen commenters (including eleven of the twenty-eight who believe that the estimated cost of compliance is too high) stated that EPA's upper cost estimates given for complying with the proposed permit are too low. Many of the commenters questioned how EPA has developed its cost estimates and argued that the actual cost of compliance will greatly exceed the costs cited by EPA. In response, EPA does not believe its cost estimates are too low as mentioned above. EPA based the cost estimates in the proposed permit on those prepared for the baseline general permit. Because the compliance requirements in today's permit reflect those in the baseline permit, EPA believes that the cost of compliance with the multi-sector permit will be similar to the baseline permit. Actual costs for some facilities may be lower in some circumstances under the multisector permit because the multi-sector permit fact sheet provides guidance on the types of BMPs that may be applicable for an industry sector.

In addition, several other specific concerns were presented by small businesses. Sixteen small businesses commented that the compliance costs would force small businesses to either lay off employees or go out of business completely. Another seven commenters warned of the consequences that could result if small automobile recyclers were forced out of business by the cost of compliance with the permit. They argued that vehicles would be abandoned along roads, left in back yards, etc., resulting in a worse scenario than that which existed before the permit was put into effect. In response, EPA does not expect the costs of compliance with the multi-sector permit to force a small business out of business as described above. In developing the permit, the Agency considered not only the needs for storm water controls, but also the capabilities of each sector's facilities to maximize available in-house

resources. EPA encourages facilities to use activities and controls already routinely conducted to the maximum extent possible to meet the permit requirements. EPA anticipates that many small businesses will be able to tailor their existing activities to satisfy many of the requirements of the multisector permit and that trade associations will help in developing model pollution prevention plans and in providing technical information and assistance to their membership.

Eight small business responses called for a small business exemption to eliminate storm water sampling and documentation requirements. They perceived the costs for sampling and documentation to be most burdensome on small businesses, many of which have limited human resources. In response, EPA is not providing exemptions in the multi-sector permit to businesses because of their size. However, EPA has changed several requirements of the permit which will reduce burden on the permittee. For example, comprehensive site compliance evaluations are now required only annually for all industrial sectors. EPA has also reduced some of the inspection requirements where appropriate. Additional revisions have been made to various industrial sector requirements to help reduce the burden on small business and other permittees.

Endangered Species Act (ESA) and National Historic Preservation Act (NHPA)

To address the provisions of the Endangered Species Act, the proposed permit denied coverage to any discharge which had "a direct or indirect effect upon a listed endangered or threatened species or its designated habitat". The permit allowed coverage to discharges with an impact on endangered or threatened species where the facility had obtained an incidental take permit from either the U.S. Fish and Wildlife Service (FWS) or the National Marine Fisheries Service (NMFS). The proposed permit required that a discharger seeking coverage, certify in its Notice of Intent (NOI) to be covered by the multisector permit that its storm water discharge will not have any direct or indirect effect on listed species or critical habitat unless the discharger had first obtained a permit under § 10 of the ESA (for incidental takings).

To comply with the provisions of the National Historic Preservation Act, the proposed permit denied coverage to discharges that "disturb a site that is listed or eligible for listing in the National Historic Register." A discharge that does disturb a historic site may be

eligible for coverage if the facility obtained, and is in compliance with, a written agreement with the State Historic Preservation Officer (SHPO). The permit required that a discharger seeking coverage must certify in its Notice of Intent (NOI) to be covered by the multi-sector permit that its storm water discharge will not disturb a site that is listed or eligible for listing.

A number of commenters opposed these eligibility restrictions and suggested that the requirements be modified. Several commenters suggested that the permit allow coverage for all facilities initially, but include a provision which would allow the Director to exclude from coverage any discharge which was determined to have an impact upon a threatened or endangered species, or which disturbs a historic site. Others stated that the terms "no direct or indirect effect" in the ESA eligibility restrictions, and "will not disturb" in the NHPA eligibility restrictions are overly broad and subject to varying degrees of interpretation. These commenters requested clarification as to what constitutes a direct effect, an indirect effect or a disturbance. Still other commenters suggested that the eligibility requirements merely require the applicant to send a letter to the appropriate Agency requesting a determination of the facility's impact upon threatened species, endangered species or historic sites. These commenters argued that a facility does not have the resources to make a determination on its own. Several commenters suggested that the eligibility restrictions only apply to new facilities. They argued that existing facilities should not be required to make the determination because any effects or disturbances due to their discharges have already occurred.

Commenters also listed a number of reasons for removing the eligibility restrictions altogether. Many commenters stated that the permit inappropriately deferred EPA's responsibility to consult with FWS, NMFS or Historic Preservation Offices to the discharger. They argued that both ESA and NHPA require EPA to perform the consultation prior to issuing the permit. The commenters argued that the consultation would be costly and time consuming for dischargers to perform. Several commenters stated that the Services and Offices which would have to be consulted would be overwhelmed by the number of inquiries generated by the permit and unable to respond to requests for consultations in a timely manner. Other commenters stated that it was unnecessary to include the ESA and