the comment that the landfarming of oilfield wastes as a practice to allow biological break down should be covered by this sector of the general permit. They state that this is a common practice at exploration and production facilities sites and should be considered a part of the oil and gas facility activity and not an industrial waste land application site subject to the requirements under the land application sector in part XI.L. of the multi-sector permit.

In response, EPA would first like to note that the land application or disposal of oilfield wastes, produced waters, and oilfield drilling muds is an activity that is regulated by most States; and as such must be taken to State approved disposal sites. The discharge of any of these materials and their associated pollutants to a water of the U.S. is not authorized under this sector. Although, in theory, the practice of landfarming oilfield wastes would seem consistent with a no discharge requirement, there is the potential for pollutants from these land application sites to be discharged in storm water runoff and as such should comply with the permitting requirements of 122.26(b)(14). The oil and gas industry is not unique in that it land applies industrial wastes as a disposal practice. EPA must be consistent in its approach to land disposal practices under the storm water program. Also, EPA is concerned that proximity of the disposal site to actual drilling activity may be variable. For these reasons EPA believes these sites are more accurately described as land application/disposal sites and are subject to storm water permitting under section XI.L. of this permit. Where these sites are indeed proximate to the drilling/production site the disposal activity would be considered a co-located activity and would be subject to the additional requirements under Sector XI.L. of this permit.

Commenters requested that the construction activities associated with oil and gas exploration and production (e.g., construction of access roads, drill pads, mud pits etc.) should be covered under the erosion requirements of this permit and that those activities not require a separate general permit coverage for the construction activities. In response, erosion, sediment, and pollution control should be addressed in all pollution prevention plans for industrial activity. Particularly where the industrial activity has the potential to disturb vegetation or natural runoff patterns and exacerbate erosion. This is true of oil and gas exploration and production activities. Therefore EPA has

included additional requirements in the development of pollution prevention plans for these facilities. However, where the construction of a drilling site or any construction of facilities covered by this sector would cause the disturbance or is part of a plan to develop which would disturb five acres or more, then that construction activity itself, becomes an industrial activity which is defined in the regulations (40 CFR 122.26) as having storm water associated with industrial activity which requires separate permitting. EPA has issued a general permit which addresses the runoff from construction activities. This multi-sector general permit, while providing guidance for construction activities under five acres that may occur at a site, does not authorize large scale construction (5 or greater acres) and erosion control. EPA does not believe that it is unnecessarily burdensome for the oil and gas industry to file a construction general permit Notice of Intent and be compliant with the pollution prevention requirements for their sites which will cause the disturbance of five acres or more.

Many commenters expressed concern that it will be very difficult (if not impossible) for oil and gas facilities to do visual monitoring on their remote unmanned sites. They complain that they will not know when its raining and cannot get there in time to get a proper sample. These commenters request that this quarterly visual monitoring be dropped from the multi-sector general permit as a requirement for remote, unmanned oil and gas sites.

In response to the issue of a remote facility being required to comply with the monitoring provisions, EPA realizes that if a facility is inactive and unstaffed it may be difficult for the operator to collect storm water discharge samples when a qualifying event occurs. Today's final permit has been revised so that inactive, unstaffed facilities can exercise a waiver of the requirement to conduct quarterly visual examinations.

Commenters asked for a two-tiered storm water pollution prevention plan. One for those facilities with lots of activity and a less burdensome plan (a de minimis plan) for remote facilities that are unmanned and have no activities (e.g., old oil field with a few capped wells on the property).

EPA agrees that a pollution prevention plan for inactive, unmanned sites should not include all of the same elements of a facility with continuous activity and personnel. However, the proposed pollution prevention plan requirements already allow for a plan that addresses potential pollutant sources in a way that is appropriate for each facility. EPA believes that this allows adequate flexibility for operators of unstaffed, inactive sites to address activities such as housekeeping and preventive maintenance in a manner that is appropriate for that site.

Coal Mines and Related Facilities

EPA includes inactive mining areas because significant materials remain on site which can be exposed to storm water and runoff. Two commenters disagreed with the listing of solvents, cleaning agents, contaminated soils and sludges as significant materials found on inactive sites. EPA agrees that these materials are not normally found on inactive sites in significant amounts, especially compared to exposed overburden and refuse piles. However, the Agency wishes to call attention to the possibility of these materials existing at inactive sites where machinery has been intensively used or has been abandoned.

One commenter disagreed with the Agency's conclusion that suspended solids and iron in storm runoff merit attention based on sampling data submitted. The commenter indicated that the sampling could not be presumed representative and that very high suspended solids concentrations are found in runoff from undisturbed areas in many western coal mines. The Agency agrees that the data was provided by only a small percentage of coal mines participating in the group application process and may not be representative. However, the sampling data submitted does give some indication of the relative amounts of pollutants contributed by storm runoff and the Agency wishes to call attention to those pollutants which appear to be more significant.

EPA requested comments on alternative monitoring and reporting requirements which include annual sampling of 20 percent of haul road discharges and analyzing the samples for settleable solids. Four commenters responded to these alternative requirements, all negatively. The primary reason indicated was that the expense and burden of analytical monitoring would not be justified. Most indicated that controls through Best Management Practices (BMPs) and visual examinations would be sufficient. EPA acknowledges these responses and, although it believes there is value in occasionally performing settleable solids evaluations, withdraws the alternative monitoring requirements as an option to the required visual examinations.

Four commenters indicated that the Surface Mining Control and