Addendum H—Endangered Species Guidance

I. Instructions

Below is a list of species that EPA has determined may be affected by the activities covered by the multi-sector general permit (MSGP). These species are listed by county. In order to get MSGP coverage, applicants must:

• Indicate in box provided on the NOI whether any species listed in this Addendum are in proximity to the facility, and

• Certify pursuant to Section II.B.12 of the MSGP that their storm water discharges, and BMPs constructed to control storm water runoff, are not likely, and will not be likely to adversely affect species identified in Addendum H of this permit.

To do this, please follow steps 1 through 4 below.

Step 1: Review the County Species List to Determine if any Species are Located in the Discharging Facility County

If no species are listed in a facility's county or if a facility's county is not found on the list, an applicant is eligible for MSGP coverage and may indicate in the NOI that no species are found in proximity and provide the necessary certification. If species are located in the county, follow step 2 below. Where a facility is located in more than one county, the lists for all counties should be reviewed.

Step 2: Determine if any Species may be Found "In Proximity" to the Facility

A species is in proximity to a facility's storm water discharge when the species is:

• Located in the path or immediate area through which or over which contaminated point source storm water flows from industrial activities to the point of discharge into the receiving water.

• Located in the immediate vicinity of, or nearby, the point of discharge into receiving waters.

• Located in the area of a site where storm water BMPs are planned or are to be constructed.

The area in proximity to be searched/ surveyed for listed species will vary with the size of the facility, the nature and quantity of the storm water discharges, and the type of receiving waters. Given the number of facilities potentially covered by the MSGP, no specific method to determine whether species are in proximity is required for permit coverage under the MSGP. Instead, applicants should use the method or methods which best allow them to determine to the best of their knowledge whether species are in proximity to their particular facility. These methods may include:

• Conducting visual inspections: This method may be particularly suitable for facilities that are smaller in size, facilities located in non-natural settings such as highly urbanized areas or industrial parks where there is little or no nature habitat; and facilities that discharge directly into municipal storm water collection systems. For other facilities, a visual survey of the facility site and storm water drainage areas may be insufficient to determine whether species are likely to be located in proximity to the discharge.

• Contacting the nearest State Wildlife Agency or U.S. Fish and Wildlife Service (FWS) or National Marine Fisheries Service (NMFS) offices. Many endangered and threatened species are found in well-defined areas or habitats. That information is frequently known to state or federal wildlife agencies. FWS has offices in every state. NMFS has regional offices in: Gloucester, Massachusetts; St. Petersburg, Florida; Long Beach, California; Portland, Oregon; and Juneau, Alaska.

• Contacting local/regional conservation groups. These groups inventory species and their locations and maintain lists of sightings and habitats.

• Conducting a formal biological survey. Larger facilities with extensive storm water discharges may choose to conduct biological surveys as the most effective way to assess whether species are located in proximity and whether there are likely adverse effects.

If no species are in proximity, an applicant is eligible for MSGP coverage and may indicate that in the NOI and provide the necessary certification. If listed species are found in proximity to a facility, applicants must follow step 3 below.

Step 3: Determine if Species Could be Adversely Affected by the Facility's Storm Water Discharges or by BMPS to Control Those Discharges

Scope of Adverse Effects: Potential adverse effects from storm water include:

• *Hydrological*. Storm water may cause siltation, sedimentation or induce other changes in the receiving waters such as temperature, salinity or pH. These effects will vary with the amount of storm water discharged and the volume and condition of the receiving water. Where a storm water discharge constitutes a minute portion of the total volume of the receiving water, adverse hydrological effects are less likely.

• *Habitat.* Storm water may drain or inundate listed species habitat.

• *Toxicity.* In some cases, pollutants in storm water may have toxic effects on listed species.

The scope of effects to consider will vary with each site. Applicants must also consider the likelihood of adverse effects on species from any BMPs to control storm water. Most adverse impact from BMPs are likely to occur from the construction activities.

Using earlier ESA authorizations for MSGP eligibility: In some cases, a facility may be eligible for MSGP coverage because actual or potential adverse affects were addressed or discounted through an earlier ESA authorization. Examples of such authorization include:

• An earlier ESA section 7 consultation for that facility.

• A section 10(a) permit issued for the facility.

• An area-wide Habitat Conservation Plan applicable to that facility.

• A clearance letter from the Services (which discounts the possibility of an adverse impact from the facility).

In order for applicants to use an earlier ESA authorization to meet eligibility requirements: (1) The authorization must adequately address impacts for storm water discharges and BMPs from the facility on endangered and threatened species, (2) it must be current because there have been no subsequent changes in facility operations or circumstances which might impact species in ways not considered in the earlier authorization, and (3) the applicant must comply with any requirements from those authorizations to avoid or mitigate adverse effects to species. Applicants who wish to pursue this approach should carefully review documentation for those authorizations ensure that the above conditions are met.

If adverse effects are not likely, an applicant is eligible for MSGP coverage and may indicate in the NOI that species are found in proximity and provide the necessary certification. If adverse effects are likely, follow step 4 below.

Step 4: Determine if Measures can be Implemented to Avoid any Adverse Effects

If an applicant determines that adverse effects are likely, it can receive coverage if appropriate measures are undertaken to avoid or eliminate any actual or potential adverse affects prior to applying for permit coverage. These measures may involve relatively simple changes to facility operations such as rerouting a storm water discharge to