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Final Modification of the National Pollutant Discharge Elimination System (NPDES) General Permit for the Eastern Portion of the Outer Continental Shelf (OCS) of the Gulf of Mexico (GMG280000); Notice

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6944–5]

Final Modification of the National Pollutant Discharge Elimination System (NPDES) General Permit for the Eastern Portion of the Outer Continental Shelf (OCS) of the Gulf of Mexico (GMG280000)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final modification of NPDES general permit for the Eastern Portion of the Outer Continental Shelf (OCS) of the Gulf of Mexico (GMG2800000).

SUMMARY: The Regional Administrator (RA) of EPA, Region 4 (Region 4), is today providing notice of final modification of the National Pollutant Discharge Elimination System (NPDES) general permit for the OCS of the Gulf of Mexico (General Permit No. GMG280000) for discharges in the Offshore Subcategory of the Oil and Gas Extraction Point Source Category (40 CFR part 435, subpart A) as authorized by section 402 of the Clean Water Act (''CWA'' or the ''Act''), 33 U.S.C. 1342. The existing general permit, issued by Region 4, and published at 63 FR 55718, October 16, 1998, authorizes discharges from exploration, development, and production facilities located in and discharging to all Federal waters of the Eastern Gulf of Mexico seaward of the outer boundary of the territorial seas.

This permit modification is in accordance with a settlement entered into by EPA with various parties which filed a petition for review of the October 16, 1998, general permit in the Fifth Circuit Court of Appeals under the caption *Marathon Oil Company et al.* v. *Browner, Civ. 99–60090.* After the permit was issued, and aside from other provisions within the permit which specify that any operator authorized by the permit may request to be excluded from coverage and receive an individual permit pursuant to 40 CFR 122.28(a)(4)(iii), EPA determined that the method for calculating effluent limitations and monitoring requirements for produced water discharges that appear as part I.B.3 in the permit are not appropriate for coverage under a general permit in the manner set forth in the October 16, 1998, general permit. The intent of this modification is to establish a table of critical dilution concentrations for use in determining toxicity limitations. Those permittees that have produced water discharges that would fall outside of the limits of the modified permit may use a diffuser to achieve allowable critical dilution concentrations, or to apply for and receive individual NPDES permits.

The following provides notice of the final modification of the general permit including responses to comments. Modifications include: changing the general permit numerical designation; requiring permittees to indicate what type of effluents the facility is expected to discharge within the written notification of intent; allowing approval of a shorter notice to drill (NTD) notification period in certain circumstances; inclusion of a new table to be used by those permittees discharging produced water to calculate the critical dilution concentration, or the option of using a diffuser to increase mixing; and the addition of limitations and monitoring requirements for those permittees discharging chemically treated freshwater or seawater or condensation as a result of production processes. Any operator seeking coverage under the general permit may be subject to some or all of the modifications.

Finally, EPA also is providing today some additional clarifications and minor corrections of existing general permit language based upon questions and comments received by the Agency subsequent to the original permit issuance and draft modification. This revision is discussed in detail later in this document.

DATES: This general permit modification shall become effective on March 14, 2001.

ADDRESSES: The complete administrative record is available from the United States Environmental Protection Agency, Region 4; Freedom of Information Officer; Atlanta Federal Center; 61 Forsyth St. S.W.; Atlanta, GA 30303–3104. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. William Truman, Environmental Scientist, telephone number (404) 562–9457, or at the following address: United States Environmental Protection Agency, Region 4; Water Management Division; NPDES and Biosolids Permits Section; Atlanta Federal Center; 61 Forsyth Street S.W.; Atlanta, GA 30303.

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I. Introduction

In 1972, section 301(a) of the Federal Water Pollution Control Act (also referred to as the Clean Water Act) was amended to provide that the discharge of any pollutants to waters of the United States (U.S.) from any point source is unlawful, except if the discharge is in compliance with an NPDES permit.

On October 16, 1998 (63 FR 55718), Region 4, issued a general permit for discharges of pollutants from exploration, development, and production facilities located in all Federal waters of the Eastern Gulf of Mexico seaward of the outer boundary of the territorial seas. The previous permit (July 9, 1986, reissued by Region 4 in 1991) was issued jointly by Region 4 and Region 6. Region 6 subsequently, reissued a permit in 1992 and 1999 for the Western Portion of the Outer Continental Shelf (Western Planning Area).

For consistency, Region 4, developed a permit similar to those issued by Region 6, taking into account any site-specific considerations. Both Regions adopted the same method of determining produced water toxicity limitations using the Cornell Mixing Zone Expert System (CORMIX) to calculate critical dilutions. However, information from the vast number of operating facilities in the Western Planning Area as compared to the relatively few operating facilities in the Eastern Planning Area, enabled Region 6 to develop model input parameters based upon information from a large number of operating facilities. Region 6 also was able to develop a series of critical dilution tables based upon this information and critical dilution tables for a large segment of potential permittees were developed and included within the Region 6 general permit.

In this modification, EPA is publishing critical dilution tables as part of the general permit, such as those used in Region 6's general permit. Due to the fact that fewer than 30 produced water dischargers exist in Region 4's permit coverage area, Region 4 elected to model the toxicity limitations using the range of data gathered from the operators within this area. Region 4 believes this approach will include all the expected permittees and will avoid the significant resource demands that would have been required to support a

critical dilution table for the ranges used by Region 6. The derivation of critical dilution tables on the scale of those developed by Region 6 would have required over 200 runs of the CORMIX model just to generate ranges that take into account the variations in discharge flow rate, discharge pipe diameter, and distance from the pipe to the sea floor. Currently, EPA is unaware of any facilities in Region 4's area which fall outside of the critical dilution tables in today's final general permit. The small number of potential permittees did not justify the expenditure of available resources to produce numerous tables.

EPA, Region 4, has modified this general permit by including a critical dilution table comparable to those utilized by the Region 6 general permit. In accordance with 40 CFR 122.28(3)(i) and (c)(1), any owner or operator with a facility with produced water effluent will be required to meet the critical dilution values within the limits of the modified permit, or to apply for and obtain an individual permit in order to discharge into U.S. waters. Existing discharges of produced water shall continue to be authorized under the administratively extended 1986 general permit, if an individual permit application is received within 120 days of the effective date of the permit modification. The 1986 general permit coverage shall automatically terminate on the date final action is taken on the individual NPDES permit application.

Additionally, EPA has received numerous requests from the regulated community regarding the need of a NPDES permit for the discharge of fluids used in the hydrostatic testing of pipelines. These fluids primarily consist of seawater, biocides, corrosion inhibiting solvents (CIS), and other treatment chemicals. The Region 6 general permit addresses this activity under miscellaneous discharges with prescribed limits on chemical concentration and toxicity. For consistency, Region 4, has modified the general permit to include effluent limitations and monitoring requirements for chemically treated seawater and freshwater.

EPA, Region 4, will include an additional requirement for submitting an Notice of Intent (NOI). Under paragraph (4), part I.4., Notification Requirements (Existing Sources and New Sources), the permittee shall provide information on the types of discharges expected along with data regarding outfall locations.

In addition, to further distinguish permits issued under this general permit from those previously issued by Regions 4 and 6, Region 4 proposes to modify the general permit number to include an alpha character in the 6th position. Permit coverage has been assigned as GMG28A001–A999, GMG28B001–B999, GMG28C001–C999, etc. The permit numbers for operations currently covered by this permit will change to reflect the new system.

II. Coverage of General Permit

Section 301(a) of the CWA provides that the discharge of pollutants is unlawful, except in accordance with the terms of an NPDES permit. The EPA has determined that oil and gas facilities seaward of the 200 meter water depth in certain parts of the Eastern Portion of the Gulf of Mexico as described in the NPDES general permit are more appropriately controlled by a separate general permit, individual permits, or both, 40 CFR 122.28(c). This determination covers both existing sources and new sources. This decision is based on the Federal regulations at 40 CFR 122.28, 40 CFR part 125 (Subpart M—Ocean Discharge Criteria); the Environmental Impact Statement; and the Agency's previous decisions in other areas of the Gulf of Mexico's OCS. As in the case of individual permits, noncompliance with any condition of a general permit constitutes an enforceable violation of the Act under section 309 of the Act.

With this permit modification, all lease blocks with operating facilities discharging produced water are required to meet the critical dilution limitations allowed under the modified permit, or to apply for and obtain individual permits in order to discharge into waters of the U.S. This notice will also clarify and correct certain aspects of the general permit issued on October 16, 1998.

III. Changes From the August 8, 2000 Proposed General Permit Modifications (65 FR 48503)

- Permittees are now required to submit a NTD within fourteen (14) days after the drilling rig moves on location.
- Produced water toxicity limitation calculation is further clarified. Produced water discharges must meet the limiting permissible concentration (LPC) at the edge of a 100 meter mixing zone. The LPC is defined as 0.1 times the LC_{50}. The LPC must be equal to or greater than the predicted effluent concentration at the edge of a 100 meter mixing zone. Predicted effluent concentrations, referred to as ''Critical Dilutions,'' are presented in Table 4– and Table 4–A for a range of discharge rates and pipe diameters.
- Permittees wishing to increase mixing may use a diffuser to meet critical dilution limitations. Permittees shall submit a certification that the diffuser, seawater addition, or multiple discharge ports has been installed and state the critical dilution and corresponding LC_{50} in the certification. The CORMIX2 model runs shall be retained by the permittee as part of its NPDES records.
- The 403(c) Reopener clause has been deleted.
- The critical dilutions for toxicity limitations for the discharge of freshwater and seawater to which chemicals have been added shall be determined using Tables 5–A or 5–B. These tables were in the preamble, but omitted from the draft permit modification.
- Species and test methods for performing the required toxicity test for chemically treated freshwater and saltwater has been added.
- Two new definitions have been added to Part IV.B., for condensation water and Eastern Portion of the Gulf of Mexico. The numbering of the definitions was also corrected.

IV. Summary of Responses to Comments on the Proposed Permit

Public notice of the draft permit modification was published at 65 FR 48503 (August 8, 2000) with a notice to consider holding public hearings on the Region's proposal, if requests for such hearings were received. No requests for public hearings were received. Copies of comments received during this action from interested parties have been considered in a formulation of a final determination regarding Region 4's final action today on the modification of NPDES Permit No. GMG280000. A summary of the permit related comments are summarized below.

Summary of Permit Preamble Related Comments

Comment 1: Commenter makes numerous comments in regards to the addition of chemically treated freshwater and seawater to the category of ''Miscellaneous Discharges.''

Response: EPA agrees with the commenter's editorial comment and has made the corresponding revision to the preamble in the permit.

Summary of Permit Modification Related Comments

Comment 2: Commenter has stated that there may be a confusion of terms regarding the use of Western, Central, and Eastern Planning Areas, and the Western and Eastern Gulf of Mexico. The Planning Areas are Mineral Management Service (MMS) planning tools for lease sales and do not have the

same notation as the Eastern and Western Gulf.

Response: EPA agrees with the commenter's editorial comment and has added a definition to the permit to avoid any confusion. Region 4's operational jurisdiction, the Eastern Portion of the Gulf of Mexico, is the Federal waters in the Gulf of Mexico seaward of the territorial seas of Mississippi, Alabama, and Florida.

Comment 3: Commenter denotes that certain information regarding the history of the general permit and continued permit coverage, though discussed in the preamble, is not included in the permit. The proposed language is suggested: Authorization to Discharge Under the National Pollutant Discharge Elimination System

''In accordance with 40 CFR 122.28(b)(3)(i) and (c)(1), any owner or operator with a facility with produced water effluent are required to meet the critical dilution values within the limits of the table, or to apply for and obtain an individual permit in order to discharge into U.S. waters. Existing discharges of produced water shall continue to be authorized under the administratively extended 1986 general permit, if an individual permit application is received within 120 days of the effective date of the permit modification. The 1986 general permit coverage shall automatically terminate on the date final action is taken on the individual NPDES permit application.''

Response: EPA agrees with the commenter's suggested wording for the permit regarding the background of the general permit. EPA has revised the language of the permit accordingly.

Comment 4: Regarding the new permit coverage numbering convention, the following clarification language is suggested:

''The new numbering convention is, e.g., GMG28A001–A999, GMG28B001–B999, GMG28C001–C999, etc. For all notices of general permit coverage provided since the effective date of the November 16,1998 permit, GMG280xxx and GMG289xxx designations shall be changed to GMG28Axxx. The last three digits of the assigned permit number will remain the same.''

Response: EPA agrees with the commenter's suggested wording for the permit regarding the numbering for general permit coverage. EPA has revised the language of the permit accordingly.

Comment 5: Stated that EPA should change its proposed identification system and use American Petroleum Institute (API) and MMS coding system. Stated that MMS will be analyzing Discharge Monitoring Reports (DMR) as part of its initiatives to meet the requirements of Government and Performance Results Act and to take full advantage of the DMR information submitted to EPA, we ask that operators link discharge information to discharge locations by using API and MMS codes.

Response: The current structure of EPA data fields does not allow the Region the flexibility to implement the American Petroleum Institute/Minerals Management Service numbers and currently are not amenable to change.

Comment 6: Commenter states that the site-specific NOI requirements dealing with bottom surveys are inappropriate for a general permit and should apply only in limited areas.

Response: EPA believes that in order to provide adequate protection to the marine environment, site-specific information is needed to determine the types of communities and habitats present at the site of discharge. EPA also believes that requiring individual permitting in order to obtain such information is unnecessarily time consuming and burdensome. EPA agrees that information exists for some areas of biological concern to predetermine their locations. However, because only a small proportion of the seafloor within either the Central or Eastern Planning Areas have been adequately surveyed, EPA believes that it cannot be said, with absolute certainty that other areas requiring more stringent discharge requirements do not exist. We feel that there is sufficient potential for the existence of important biological communities in, as of yet, unexplored areas.

Comment 7: Commenter states that in the submittal of the NOI, the location of the ''outfalls'' should be changed to ''facility,'' and the added requirement for identifying ''expected discharges'' be deleted. By the nature of general permit coverage all listed discharges are permitted.

Response: EPA agrees that coverage under the general permit allows a permittee to utilize all listed discharges, however, some of the operations will not have a discharge for some of the listed wastewater sources. Also, this information will assist EPA in the review of DMR data for ''specific discharges.'' EPA believes that the information regarding expected discharges may be useful in future studies regarding water quality of the Eastern Portion of the Gulf of Mexico and that the request does not present an undo burden on the permittee. EPA agrees with the commenter's statement about the change in location data from ''outfall'' to ''facility.''

Comment 8: In discussing the flexibility in placement of a surface location, both 500 feet and 500 meters are used. The commenter wants to know if the difference in units is correct or a typographical error.

Response: A final surface location should be within 500 meters of the proposed surface location. An additional photodocumentation survey is not required, provided the final location is within 500 meters of an area previously surveyed. The difference in units was a typographical error.

Comment 9: Commenter states that in submitting an NOI on a non-operational or newly acquired lease, an Exploration Plan, Development and Production Plan, or Development Operations Coordination Document should be first submitted to MMS.

Response: EPA agrees with the commenter's editorial comment and will revise the language in Part I.A.4. accordingly.

Comment 10: Clarification is provided regarding permit transfers, but not included in the permit modification. Suggested language should replace Part II.D.3. of the general permit:

''Should any new owner or operator notify EPA prior to the transfer of operatorship, no additional NOI documentation need be submitted.

If the facility remains operational, then the NOI by the new operator should reference the previously submitted NOI, EPA's authorization to proceed, and the assigned permit number. EPA will then provide the new operator a notice of inclusion and a newly assigned permit number.''

Response: EPA agrees with the commenter and will provide language for the permit regarding the notification of a transfer.

Comment 11: MMS no longer requires a photodocumentation survey in the Central Planning Area in water depths less than 100 meters. MMS still requires this documentation in the Eastern Planning Area.

Response: EPA agrees with the commenter's editorial comment and has made the corresponding revision of Part I.A.4(11) in the permit.

Comment 12: The NTD is provided to make EPA aware that drilling activity is taking place. Providing notice to EPA 14 days after the drilling rig moves on location provides EPA the information they need while eliminating the 60-day administrative burden caused by changing rig schedules.

Response: EPA understands the variations in rig schedules and unforeseen conditions that may prevent previous notification of a drilling rig's move-on date. EPA agrees with the

commenter's suggested wording for the permit regarding the NTD and will revise the language of the permit accordingly.

Comment 13: The commenter would like to reduce the amount of paperwork needed regarding the re-notification process for continued coverage under the general permit after it's expiration.

Response: EPA disagrees with the commenter's suggested wording. As with individual NPDES permits, EPA has determined that continued coverage under an expired general permit, if it has not been reissued before its expiration date, can only be granted if another NOI is submitted prior to the expiration date of the general permit.

Comment 14: States that the tables developed for produced water discharges are too restrictive and should reflect the multiple parameters utilized in the Region 6 critical dilution tables for produced water.

Response: Due to the fact that fewer than 30 produced water dischargers exist in Region 4's permit coverage area, Region 4 elected to model the toxicity limitations using the range of data gathered from the operators within this area. Region 4 believed this approach will include all the expected permittees and will avoid the significant resource demands that would have been required to support a critical dilution table for the ranges used by Region 6. The derivation of critical dilution tables on the scale of those developed by Region 6 would have required over 200 runs of the CORMIX model just to generate ranges that take into account the variations in discharge flow rate, discharge pipe diameter, and distance from the pipe to the sea floor. Currently, EPA is unaware of any facilities in Region 4's area which fall outside of the proposed critical dilution tables. The small number of potential permittees did not justify the expenditure of available resources to produce numerous tables.

In accordance with 40 CFR 122.28(3)(i) and (c)(1), any owner or operator with a facility with produced water effluent will be required meet the critical dilution values within the limits of the table, or CORMIX model, or to apply for and obtain an individual permit in order to discharge into U.S. waters.

Comment 15: Requested further clarification regarding the calculation of specific produced water discharge toxicity.

Response: The Region recognizes the need to provide additional clarification regarding the produced water toxicity and will revise the language in the permit accordingly.

Comment 16: The commenter states that the Agency should allow the use of diffusers, dilution or split discharges to increase mixing in order to achieve compliance with the produced water toxicity limitation.

Response: The permittee determines the produced water toxicity limitation based on a facility's site-specific water column conditions and discharge configuration. An operator can utilize any number of methods to increase the dilution of their wastestream in configuring their effluent discharge. The configuration that is ultimately utilized must be used to model the facility-specific toxicity limitation. Commingling or diluting wastestreams prior to discharging effluent, however, cannot be used as a method to achieve NPDES permit compliance. EPA agrees with the commenter's suggested wording for the permit regarding the use of a diffuser, etc. to meet produced water toxicity limitations. EPA has revised the language of the permit accordingly.

Comment 17: The commenter suggests language to correct the frequency at which toxicity tests are required. Tests are required every 2 months, rather than monthly.

Response: EPA agrees with the commenter's suggested wording for the permit regarding frequency of toxicity testing. EPA has revised the language of the permit accordingly.

Comment 18: Proposes that the specific use for chemically treated freshwater or seawater, that was added to miscellaneous discharges, not be restricted to only the hydrostatic testing of new piping and pipelines.

Response: EPA agrees with the commenter's editorial comment and has made the corresponding revision to Part I.B. in the permit.

Comment 19: Proposes the addition of a new waste stream outside of the more general ''miscellaneous discharges'' for discharges of chemically treated freshwater and seawater. This would separate miscellaneous discharges into two categories, e.g., those with limitations of no free oil and the stated exception and those with limitations of no free oil, the stated exception, treatment chemical limitations, toxicity testing, and flow recording.

Response: EPA agrees with the proposed addition of a separate miscellaneous discharge category, and has made the corresponding revision to Part I.B. in the permit.

Comment 20: Tables 5–A and 5–B were mislabeled in the preamble and omitted from the permit.

Response: EPA agrees with the commenter's observation and has made the corresponding correction in the permit.

Comment 21: Additional language proposed to define the species and test methods for performing the required toxicity test for chemically treated freshwater and seawater. The proposed language is consistent with the EPA Region 6 permit.

Response: EPA agrees with the commenter's suggested wording for the permit regarding the toxicity testing for chemically treated freshwater and seawater. EPA has revised the language of the permit accordingly.

Comment 22: Proposed language regarding methods to increase dilution for produced water discharges should apply to seawater and freshwater that has been chemically treated.

Response: EPA agrees with the commenter's suggested wording. EPA has revised the language of the permit accordingly.

Comment 23: Commenters have addressed the addition of the 403(c) Reopener Clause that was the result of the President's Executive Order No. 13158 on Marine Protected Areas dated May 26, 2000. ''The proposed 403(c) Reopener Clause is in direct contravention of EPA's duly promulgated regulations as set forth in 40 CFR 122.62–122.64 and 40 CFR 125.123. Sections 40 CFR 122.62–122.64 describe the available causes for modification or revocation of NPDES permits, of which the proposed language is clearly not included. Revocation is only allowable if the permittee requests or agrees with it. Furthermore, the proposed language is not permissible because it fails to specify that the ''new data or requirements'' must not have been available at the time of permit issuance, a requirement of 40 CFR 122.62(a)(2).

In addition, the ocean discharge criteria regulations do not provide authority for this provision. The Reopener clause at 40 CFR 125.123(d)(4) applies if and only if the Director lacks sufficient information to determine whether there is unreasonable degradation to the marine environment prior to permit issuance. In this case, the Director has already made such a finding prior to the general permit issuance in October 1998. Therefore, proposed language is not applicable. Furthermore, such a Reopener clause relates only to ''continued discharges'' not ''increased discharges'' and can only be based in the case of ''new data,'' not ''new requirements.'' Also, the provisions of 40 CFR 125.123(d)(4) do not pertain to ''protecting'' the marine environment or ''special aquatic sites.''

Additionally, inclusion of such a provision may very well be inconsistent with statutory (33 U.S.C. 1316(d)) and regulatory (40 CFR 122.29(d)) protection afforded by new sources with respect to complying with new source performance standards.''

Response: EPA has addressed the issue regarding the Reopener Clause. Alternate permit modification language has been added to Part III.B. of the general permit. As future reference, however, pursuant to 40 CFR § 122.64, EPA may revoke or terminate a permit without the permittee's permission.

Comment 24: Stated that a provision to the permit should be added requiring permittees to inform all contractors of the discharge limitations of their permit. Particularly important in the case of individual permits where discharge limitations may be imposed that are more stringent than those of the general permit. It is only fair to ensure that contractors are provided with information regarding the permit conditions, because of the increasing use of contractors by the offshore operating companies who will be the permittees.

Response: The operator is liable and responsible for the information on monitoring requirements and compliance with the limitations and conditions within the general permit. If the operator feels that a contractor will impact on compliance with the requirements of the general permit, then it is incumbent on the operator to bring this to the attention of the contractor.

Comment 25: The commenter feels that a Reopener clause should be added to authorize the discharge of drill cuttings from synthetic-based drilling mud systems. In the final Coastal Effluent Guidelines, the Agency recognized that additional categories of drilling fluids, specifically Synthetic Based Mud (SBM) and Enhanced Mineral Oil (EMO), were warranted. The Eastern OCS general permit should do the same.

Response: EPA is aware that the oil and gas industry has developed additional drilling fluid types, including synthetic fluid-based muds (SBM) and has acknowledged this new technology within the permit. EPA Headquarters is currently developing effluent limitations guidelines (ELGs) for SBMs. Once the final ELGs are published, EPA Region 4 may consider modifying the existing permit to incorporate SBMs per the limitations of the guidelines. For this permit, however, SBMs are not authorized for discharge. Operators who wish to use SBMs should submit an individual permit application.

Comment 26: Language added to Part III.B. Definitions to define ''condensation water.''

Response: EPA agrees with the commenter's editorial comment and will insert the following definition for ''condensation water'' as a new paragraph (14):

''Condensation water means water that is produced as a result of condensation during the production process that results in a direct discharge without the condensate being used for any other purpose prior to discharge.''

V. Cost Estimate

The cost of compliance with a general permit is lower than that of an individual permit. Therefore, there is a comparative financial benefit to coverage under the general permit, even with produced water requirements, as compared to coverage under an individual permit.

VI. Unfunded Mandates Reform Act

Section 201 of the Unfunded Mandates Reform Act (UMRA), Public Law 104–4, generally requires Federal agencies to assess the effects of their ''regulatory actions'' on State, local, and tribal governments and the private sector. UMRA uses the term ''regulatory actions'' to refer to regulations. (See, e.g., UMRA section 201, ''Each agency shall * * * assess the effects of Federal regulatory actions * * * (other than to the extent that such regulations incorporate requirements specifically set forth in law)''). UMRA section 102 defines ''regulation'' by reference to section 658 of Title 2 of the U.S. Code, which in turn defines ''regulation'' and ''rule'' by reference to section 601 (2) of the Regulatory Flexibility Act (RFA). That section of the RFA defines ''rule'' as ''any rule for which the agency publishes a notice of proposed rulemaking pursuant to section 553(b) of the Administrative Procedure Act (APA), or any other law * * *''

NPDES general permits are not ''rules'' under the APA and thus not subject to the APA requirement to publish a notice of proposed rulemaking. NPDES general permits also are not subject to such a requirement under the CWA. While EPA publishes a notice to solicit public comments on draft general permits, it does so pursuant to the CWA section 402(a) requirement to provide an ''opportunity for a hearing.'' Thus, NPDES general permits are not ''rules'' for RFA or UMRA purposes.

Title II of the Unfunded Mandates Reform Act of 1995, Public Law 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 UMRA section 202, 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, UMRA section 205 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 UMRA section 205 do not apply when they are inconsistent with applicable law. Moreover, UMRA section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes an explanation with the final rule why the alternative was not adopted.

EPA has determined that the proposed permit modification would not contain a Federal requirement 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 Agency also believes that the permit would not significantly nor uniquely affect small governments. For UMRA purposes, ''small governments'' is defined by reference to the definition of ''small government jurisdiction'' under the RFA. (See UMRA section 102(1), referencing 2 U.S.C. 658, which references section 601(5) of the RFA.) ''Small governmental jurisdiction'' means government of cities, counties, towns, etc. with a population of less than 50,000, unless the agency establishes an alternative definition.

The permit modification would not uniquely affect small governments because compliance with the modified permit conditions affects small governments in the same manner as any other entities seeking coverage under the permit. Additionally, EPA does not expect small government to operate facilities authorized to discharge by this permit.

VII. Paperwork Reduction Act

The information collection required by these permits has been approved by the Office of Management and Budget (OMB) under the provisions of the PRA, 44 U.S.C. 3501 *et seq.*, in submission made for the NPDES permit program and assigned OMB control numbers

2040–0086 (NPDES permit application) and 2040–0004 (discharge monitoring reports).

EPA did not prepare an Information Collection Request (ICR) document for today's permit modification because the information collection requirements in this permit have already been approved by OMB in submissions made for the NPDES permit program under the provisions of the CWA.

VIII. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

Today's modified general permit is not subject to the RFA, which generally requires an agency to prepare a regulatory flexibility analysis for any rule that will have a significant economic impact on a substantial number of small entities. The RFA only applies to rules subject to notice and comment rulemaking requirements under the APA or any other statute. As previously stated, the permit modification proposed today is not a ''rule'' subject to the RFA. Although this proposed general permit is not subject to the RFA, EPA nonetheless has assessed the potential of this rule to adversely impact small entities subject to this general permit and, in light of the facts presented above, I hereby certify pursuant to the provisions of the RFA that these proposed general permit modifications will not have a significant impact on a substantial number of small entities. This determination is based on the fact that the vast majority of the parties regulated by this permit have greater than 500 employees and are not classified as small businesses under the Small Business Administration regulations established at 49 FR 5024 (February 9, 1984). For those operators having fewer than 500 employees, this permit issuance will not have significant economic impact. These facilities are classified as Major Group 13—Oil and Gas Extraction SIC Crude Petroleum and Natural Gas.

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

Dated: March 2, 2001.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

Final Modification of the National Pollutant Discharge Elimination System (NPDES) General Permit for the Eastern Portion of the Outer Continental Shelf (OCS) of the Gulf of Mexico (GMG280000)

Final Modification of National Pollutant Discharge Elimination System (NPDES) General Permit for the Eastern Portion of the Outer Continental Shelf (OCS) of the Gulf of Mexico (GMG280000)

For reasons set forth in the preamble, the NPDES General Permit for the Eastern Portion of the Outer Continental Shelf (OCS) of the Gulf of Mexico (GMG280000) (63 FR 55718–55762, October 16, 1998) is modified as described below. EPA has deleted Appendix A from the general permit along with several other additional modifications and clarifications. These modifications will become effective on the date of **Federal Register** publication of the modifications.

General Permit Number [Modification]

(1) As of the effective date of the **Federal Register** publication of these modifications, the general permit number, originally identified as GMG280000, is modified to read as GMG28AXXX, where the 6th significant figure will carry an alphabetic designation. The new numbering convention is, e.g., GMG28A001–A999, GMG28B001–B999, GMG28C001–C999, etc. For all notices of general permit coverage provided since the effective date of the November 16, 1998 permit, GMG280xxx and GMG289xxx designations shall be changed to GMG28Axxx.

(2) On page 55746, the next to the last paragraph is no longer applicable and is replaced with a new paragraph to provide additional information as follows:

Authorization to Discharge Under the National Pollutant Discharge Elimination System

In accordance with 40 CFR 122.28(b)(3)(i) and (c)(1), any owner or operator with a facility with produced water effluent is required to meet the critical dilution values within the limits of the modified permit, or approved CORMIX modeling, or to apply for and obtain an individual permit in order to discharge into U.S. waters. Existing discharges of produced water shall continue to be authorized under the administratively extended 1986 general permit, if an individual permit application is received within 120 days of the effective date of the permit modification. The 1986 general permit coverage shall automatically terminate on the date final action is taken on the individual NPDES permit application.

Part I. Requirements for NPDES Permits

(3) On page 55747, paragraph 4 is modified to add additional information requirements and corrected to update the technical references, as follows:

Section A. Permit Applicability and Coverage Conditions

4. Notification Requirements (Existing Sources and New Sources)

Written notification of intent (NOI) to be covered in accordance with the general permit requirements shall state whether the permittee is requesting coverage under the existing source general permit or new source general permit and shall contain the following information:

(1) The legal name and address of the owner or operator;

(2) The facility name and location, including the lease block assigned by the Department of Interior, or if none, the name commonly assigned to the lease area;

(3) The number and type of facilities and activity proposed within the lease block;

(4) The waters into which the facility is or will be discharging; including a map with longitude and latitude of facility location and expected discharges identified by the nomenclature used in Part I., section B.1–11. Additional information may be requested by the Director regarding miscellaneous discharges.

* * * * *

(10) Technical information on the characteristics of the sea bottom in accordance with MMS Notice To Lessees 98–20, Shallow Hazard Requirements, or the most current MMS guidelines for shallow hazard investigation and analysis.''

(11) MMS live bottom survey in accordance with MMS Notice To Lessees 99–G16 Live-Bottom Surveys and Reports, or the most current MMS guidelines for live-bottom surveys and reports.

* * * * *

(4) On page 55747, paragraph 4, is corrected to clarify NOI notification requirements for a newly acquired lease as follows:

For operating leases, the NOI shall be submitted within sixty (60) days after publication of the final determination on this action. Non-operational facilities are not eligible for coverage under these new general permits. No NOI will be accepted from either a non-operational or newly acquired lease until such time as an exploration plan or development production plan has been prepared and submitted to MMS.

* * * * *

(5) On page 55747, paragraph 4, is modified regarding NTD notice requirements and clarified to update the Agency address for submission of notices under the general permit follows:

For drilling activity, the operator shall submit a Notice to Drill (NTD) within

fourteen (14) days after the drilling rig moves on location. This NTD shall contain: (1) The assigned NPDES general permit number assigned to the facility, (2) the latitude and longitude of the facility, (3) the water depth, and (4) the estimated length of time the drilling operation will last. This NTD shall be submitted to Region 4 at the address above, by certified mail to: Director, Water Management Division; NPDES and Biosolids Permit Section; U.S. EPA, Region 4; Atlanta Federal Center; 61 Forsyth Street, S.W.; Atlanta, GA 30303–8960.

* * * * *

All NOIs, NTDs, NCOs, and any subsequent reports required under this permit shall be sent by certified mail to the following address: Director, Water Management Division; NPDES and Biosolids Permits Section; U.S. EPA, Region 4; Atlanta Federal Center; 61 Forsyth Street, S.W.; Atlanta, GA 30303–8960.

* * * * *

(6) On page 55747, paragraph 4, is modified to remove the reference to Appendix A and corrected to remove two typographical errors as follows:

In addition, a notice of commencement of operations (NCO) is required to be submitted for each of the following activities: placing a production platform in the general permit coverage area (within 30 days after placement); and discharging produced water within the coverage area.

6. Intent To Be Covered by a Subsequent Permit

(7) On page 55747, paragraph 6, is clarified to update the Agency address for submission of notices under the general permit follows:

This permit shall expire on October 31, 2003. However, an expired general permit continues in force and effect until a new general permit is issued. Lease block operators authorized to discharge by this permit shall by certified mail notify the Director, Water Management Division; NPDES and Biosolids Permit Section; U.S. EPA, Region 4; Atlanta Federal Center; 61 Forsyth Street, S.W.; Atlanta, GA 30303–8960, on or before April 30, 2003, that they intend to be covered by a permit that will authorize discharge from these facilities after the termination date of this permit on October 31, 2003.

Permittees must submit a new NOI in order to continue coverage under this general permit after it expires. In lieu of providing the information required by paragraph 4. of this section, the permittee may submit a list of facilities covered by the general permit and their associated permit coverage numbers. Facilities that have not submitted an NOI under the permit by the expiration date cannot become authorized to discharge under any continuation of this NPDES general permit. All NOI's from permittees requesting coverage under a continued permit should be sent by certified mail to: Director, Water Management Division; NPDES and Biosolids Permits Section; U.S. EPA, Region 4; Atlanta Federal Center; 61 Forsyth Street, S.W.; Atlanta, GA 30303–8960.

(8) On page 55749, Section B, paragraph 3 is modified to remove the reference to Appendix A, correct the arithmetic formula regarding limiting permissible concentrations, correct the reporting requirement for oil and grease limitation, and referencing the new produced water critical dilution tables, as follows:

Section B. Effluent Limitations and Monitoring Requirements

3. Produced Water

(b) Limitations. Oil and Grease. Produced water discharges must meet both a daily maximum limitation of 42 mg/l and a monthly average limitation of 29 mg/l for oil and grease. A grab sample must be taken at least once per month. The daily maximum samples may be based on the average concentration of four grab samples taken within the 24-hour period. If only one sample is taken for any one month, it must meet both the daily and monthly limits. If more samples are taken, they may exceed the monthly average for any one day, provided that the average of all samples taken meets the monthly limitation. The gravimetric method is specified at 40 CFR part 136. The highest daily maximum oil and grease concentration and the monthly average concentration shall be reported on the monthly DMR.

Toxicity. Produced water discharges must meet the limiting permissible concentration (LPC) at the edge of a 100 meter mixing zone. The LPC is defined as 0.1 times the LC_{50}. The LPC must be equal to or greater than the predicted effluent concentration at the edge of a 100 meter mixing zone. Predicted effluent concentrations, referred to as ''Critical Dilutions,'' are presented in Table 4– and Table 4–A for a range of discharge rates and pipe diameters. Critical dilution shall be determined using Tables 4 and 4–A of this permit based on the discharge rate most recently reported on the discharge monitoring report, discharge pipe diameter, and water depth between the discharge pipe and the bottom. Facilities which have not previously reported produced water flow on the discharge monitoring report shall use the highest monthly average flow measured during the previous twelve months for determining the critical dilution from Tables 4 and 4–A of this permit. LC_{50} shall be calculated by conducting 96-hour toxicity tests every 2 months using Mysidopsis bahia and inland silverside minnow.

(Exception) Permittees wishing to increase mixing may use a horizontal diffuser, add seawater, or may install multiple discharge ports. Permittees using increased mixing shall install the system such that the 96-hour LC_{50} limit is equal to or greater than 10 times the critical dilution ($LC_{50} = 10 \times$ critical dilution). The projected percent effluent (critical dilution) at the edge of the 100 meter mixing zone will be calculated using CORMIX2, with the following input conditions:

Density gradient = 0.163 $kg/m^3/m$
Ambient seawater density at diffuser depth = 1023.0 kg/m^3
Produced water density = 1070.2 kg/m^3
Current speed = 5 cm/sec (<200 m); 15 cm/sec (>200m)

Permittees shall submit a certification that the diffuser, seawater addition, or multiple discharge ports has been installed and state the critical dilution and corresponding LC_{50} in the certification. The CORMIX2 model runs shall be retained by the permittee as part of its NPDES records. Permittees using vertical aligned multiple discharge ports shall provide vertical separation between ports. When multiple discharge ports are installed, the depth difference between the discharge port closest to the seafloor and the seafloor shall be the depth difference used as the parameter to determine critical dilution. The critical dilution value shall be based on the port flow rate (total flow divided by the number of discharge ports) and based on the diameter of the discharge port (or smallest discharge port, if they are different styles).

When seawater is added to produced water prior to discharge, the total produced water flow, including the added seawater, shall be used in determining the critical dilution.

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(9) On page 55749, paragraph 7 is modified to further define the exemption for sanitary waste discharges, as follows:

7. Sanitary Waste (Facilities Continuously Manned by 10 or More Persons)

(b) Limitations. Residual Chlorine. Total residual chlorine is a surrogate parameter for fecal coliform. Discharges of sanitary waste must contain a minimum of 1 mg residual chlorine/l and shall be maintained as close to this concentration as possible. The approved analytical method is Hach CN–66-DPD. A grab sample must be taken once per month and the concentration reported.

(Exception) Any facility which properly operates and maintains a marine sanitation device (MSD) that complies with pollution control standards and regulations under section 312 of the Act shall be deemed in compliance with permit limitations for sanitary waste. The MSD shall be tested annually for proper operation and the test results maintained at the facility. The operator shall indicate use of an MSD on the monthly DMR.

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(10) On page 55750, paragraph 8 is modified to further define the exemption for sanitary waste discharges, as follows:

8. Sanitary Waste (Facilities Continuously Manned by 9 or Fewer Persons or Intermittently by Any Number)

(a) Prohibitions. Solids. No floating solids may be discharged to the receiving waters. An observation must be made once per day when the facility is manned, during daylight in the vicinity of sanitary waste outfalls, following either the morning or midday meal and at a time during maximum estimated discharge. The number of days solids are observed shall be recorded.

(Exception) Any facility which properly operates and maintains a marine sanitation device (MSD) that complies with pollution control standards and regulations under

section 312 of the Act shall be deemed in compliance with permit limitations for sanitary waste. The MSD shall be tested annually for proper operation and the test results maintained at the facility. The operator shall indicate use of an MSD on the monthly DMR.

* * * * *

(11) On page 55750, paragraph 10 is modified to include additional defined ''miscellaneous discharges.'' as follows:

10. Miscellaneous Discharges. Desalination Unit Discharge; Blowout Preventer Fluid; Uncontaminated Ballast Water; Uncontaminated Bilge Water; Mud, Cuttings, and Cement at the Seafloor; Uncontaminated Seawater; Boiler Blowdown; Source Water and Sand; Uncontaminated Freshwater; Excess Cement Slurry; Diatomaceous Earth Filter Media; and waters resulting from condensation.

* * * * *

(12) On page 55750, paragraph 11 is added to include additional effluent limitations and monitoring requirements for the miscellaneous discharge of chemically treated freshwater and seawater, as follows:

11. Miscellaneous discharges of Freshwater and Seawater which have been chemically treated.

The discharge of freshwater and seawater to which chemicals have been added shall be limited and monitored by the permittee as specified in Tables 2 and 3 and as below.

(a) Free Oil. No free oil shall be discharged. Monitoring shall be performed using the visual sheen test method once per day when discharging on the surface of the receiving water or by use of the static sheen method at the operator's option. Both tests shall be conducted in accordance with the methods presented at IV.A.3 and IV.A.4. Discharge is limited to those times that a visual sheen observation is possible. The number of days a sheen is observed must be recorded.

(Exception): Miscellaneous discharges may be discharged from platforms that are on automatic purge systems without monitoring for free oil when the facility is not manned. Discharge is not restricted to periods when observation is possible; however, the static (laboratory) sheen test method must be used during periods when observation of a sheen is not possible, such as at night or during inclement conditions. Static sheen testing is not required for miscellaneous discharges occurring at the sea floor.

(b) Treatment Chemicals. The concentration of treatment chemicals in discharged chemically treated freshwater and seawater shall not exceed the most stringent of the following three constraints:

(1) The maximum concentrations and any other conditions specified in the EPA product registration labeling if the chemical is an EPA registered product, or

(2) The maximum manufacturer's recommended concentration, or

(3) 500 mg/l.

(c) Toxicity. The toxicity of discharged chemically treated freshwater and seawater shall be limited as follows: the 48-hour minimum and monthly average minimum No Observable Effect Concentration (NOEC), or if specified the 7-day average minimum and monthly average minimum NOEC, must be equal to or greater than the critical dilution concentration specified in this permit in Table 5-A for seawater discharges and 5-B for freshwater discharges. Critical dilution shall be determined using Table 5 of this permit and is based on the discharge rate, discharge pipe diameter, and water depth between the discharge pipe and the bottom. The monthly average minimum NOEC value is defined as the arithmetic average of all 48-hour average NOEC (or 7-day average minimum NOEC) values determined during the month. Compliance with the toxicity limitation shall be demonstrated by conducting 48-hour acute toxicity test using Mysidopsis bahia (Mysid shrimp) and Menidia beryllina (Inland silverside minnow). The test method is published in ''Methods for Measuring Acute Toxicity of Effluents to Marine and Freshwater Organisms'' (EPA/600/4–90/027F). The results for both species shall be reported on the monthly DMR, within two months of the discharge. The permittee shall submit a copy of all laboratory reports with the DMR.

(d) Monitoring Requirements for discharged chemically treated freshwater and seawater:

Flow. Once per month, an estimate of the flow (MGD) must be recorded.

Toxicity. The required frequency of testing for continuous discharges shall be determined as follows:

Discharge rate	Toxicity testing frequency
0–499 bbl/day	Once per year.
500–4,599 bbl/day	Once per quarter.
4,600 bbl/day and above.	Once per month.

Intermittent or batch discharges shall be monitored once per discharge but are required to be monitored no more frequently than the corresponding frequencies shown above for continuous discharges.

Samples shall be collected after addition of any added substances, including seawater that is added prior to discharge and before the flow is split for multiple discharge ports. Samples also shall be representative of the discharge. Methods to increase dilution also apply to seawater and freshwater discharges which have been chemically treated previously described for produced water in Part I. B.3

If the permittee has been compliant with this toxicity limit for one full year (12 consecutive months) for a continuous discharge of chemically treated seawater or freshwater, the required testing frequency shall be reduced to once per year for that discharge.

TABLE 5–A.—CRITICAL DILUTIONS (PERCENT EFFLUENT) FOR TOXICITY LIMITATIONS FOR SEAWATER TO WHICH TREATMENT CHEMICALS HAVE BEEN ADDED

Depth difference (meters)	Discharge rate (bbl/day)	Pipe diameter			
		>0″ to 2″	>2″ to 4″	>4″ to 6″	>6″
All	0 to 1,000	12	24.7	24.5	24.6
	>1,000 to 10,000	11.2	12.4	12.2	14
	>10,000	9.6	24	23	20

TABLE 5–B.—CRITICAL DILUTIONS (PERCENT EFFLUENT) FOR TOXICITY LIMITATIONS FOR FRESHWATER TO WHICH TREATMENT CHEMICALS HAVE BEEN ADDED

Depth difference (meters)	Discharge rate (bbl/day)	Pipe diameter			
		>0″ to 2″	>2″ to 4″	>4″ to 6″	>6″
All	0 to 1,000	1.1	1.2	2.9	2.9
	>1,000 to 10,000	19	39	28	24
	>10,000	13	63	41	74

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Part II. Standard Conditions for NPDES Permits

Section D. Reporting Requirements

(13) On page 55753, paragraph 3 is modified to further clarify permit transfers, as follows:

3. Transfers

This permit is not transferable to any person except after notice to the Regional Administrator. Any new owner or operator shall submit a notice of intent (NOI) to be covered under this general permit according to procedures presented at Part I.A.4. However, if a permittee notifies EPA prior to the transfer of operatorship, no additional NOI documentation need be submitted by the new operator. The Regional Administrator may require modification or revocation and reissuance of the permit to change the name of the permittee and to incorporate such requirements as may be necessary under the Act.

* * * * *

Part III. Monitoring Reports and Permit Modification

(14) On page 55754, Section A is corrected to recognize that monitoring reports are to be submitted by the facility operator, as follows:

Section A. Monitoring Reports

The operator of each facility shall be responsible for submitting monitoring results for each facility within each lease block.

On page 55754, a new paragraph is added to the end of Part III.B.

Part III. Monitoring Reports and Permit Modification

Section B. Permit Modification

This permit may be modified at any time if, on the basis of any new data, other than revised regulations, guidance, or test methods, that was not available at the time of permit issuance and would have justified the application of different permit conditions at the time of issuance. For NPDES general permits, this includes any information indicating that cumulative effects on the environment are unacceptable. Such cumulative effects on the environment may include unreasonable degradation of the marine environment due to continued discharges, in which case the Director, Water Division, Region 4, may determine that additional conditions are necessary to protect the marine environment. Any permit modification will be conducted in accordance with 40 CFR Parts 122.62 and 122.63.

* * * * *

Part IV. Test Procedures and Definitions

Section B. Definitions

On page 55755, a new paragraph 14 is inserted to define condensation water, as follows:

14. Condensation water means water that is produced as a result of condensation during the production process that results in a direct discharge without the condensate being used for any other purpose prior to discharge.

On page 55756, a new paragraph 26 is inserted to define Eastern Portion of the Gulf of Mexico, as follows:

26. Eastern Portion of the Gulf of Mexico is that area of Federal waters in the Gulf of Mexico seaward of the outer boundary of the territorial seas of Mississippi, Alabama, and Florida. This is EPA, Region 4's jurisdictional division.

On page 55756, a new paragraph 51 is inserted to define Synthetic Based Drilling Fluids (SBFs) as follows:

51. Synthetic Based Drilling Fluids (SBFs) are drilling fluids where the continuous phase is a synthetic material of combination of synthetic materials, with water as the dispersed phase.

The following two paragraphs 55 in Part IV.B. are renumbered as follows:

58. Uncontaminated Freshwater ''freshwater which is discharged without the addition of chemicals; examples include: (1) discharges of excess freshwater that permit the continuous operation of fire control and utility lift pumps, (2) excess freshwater from pressure maintenance and secondary recovery projects, (3) water released during fire protection tests and training, and (4) water used to pressure test piping.''

59. Upset means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

* * * * *

On pages 55755 through 55757, due to the addition of new paragraphs 14, 26, 51 and the renumbering of the two paragraphs 55 to 58 and 59, the remaining paragraphs are renumbered appropriately.

Appendix A

(15) On page 55761, EPA has deleted appendix A and replaced it with two new Tables—Critical Dilution Tables 4 and 4–A, as follows:

TABLE 4–A.—PRODUCED WATER CRITICAL DILUTIONS (PERCENT EFFLUENT) FOR WATER DEPTHS OF GREATER THAN 200 METERS

Discharge rate (bbl/day)	Pipe diameter		
	>0'' to 5''	>5'' to 7''	>7'' to 9''
>0 to 500	0.11	0.11	0.11
501 to 1000	0.22	0.22	0.22
1001 to 2000	0.37	0.37	0.37
2001 to 3000	0.48	0.48	0.48
3001 to 4000	0.56	0.56	0.56
4001 to 5000	0.65	0.66	0.66
5001 to 6000	0.73	0.78	0.78
6001 to 7000	0.77	0.78	0.78
7001 to 8000	0.84	0.86	0.86

TABLE 4–A.—PRODUCED WATER CRITICAL DILUTIONS (PERCENT EFFLUENT) FOR WATER DEPTHS OF GREATER THAN 200 METERS

Discharge rate (bbl/day)	Pipe diameter		
	>0'' to 5''	>5'' to 7''	>7'' to 9''
>0 to 500	0.08	0.08	0.08
501 to 1000	0.12	0.12	0.12
1001 to 2000	0.18	0.18	0.18
2001 to 3000	0.22	0.22	0.22
3001 to 4000	0.24	0.25	0.25
4001 to 5000	0.28	0.28	0.28
5001 to 6000	0.30	0.30	0.31
6001 to 7000	0.32	0.32	0.32
7001 to 8000	0.35	0.35	0.35

(16) On pages 55757–55758, on Table 2 ''Existing Sources-Effluent Limitations, Prohibitions, and Monitoring Requirements for the Eastern Gulf of Mexico NPDES General Permit'' and Table 3 ''New Sources-Effluent Limitations, Prohibitions, and Monitoring Requirements for the Eastern Gulf of Mexico NPDES General Permit'' are retitled to ''Existing Sources'' and '' New Sources.'' A correction is made to the Sanitary Flow Measurement reporting requirements on both tables to add a ''Recorded/Reported Value'' for ''Estimated Flow'' and to the units used for the ''Flow'' parameter of the Produced Water Measurement as follows:

Existing Sources

TABLE 2.—EFFLUENT LIMITATIONS, PROHIBITIONS, AND MONITORING REQUIREMENTS

Discharge	Regulated & monitored discharge parameter	Discharge limitation/prohibition	Monitoring requirement		
			Measurement frequency	Sample type/method	Recorded/reported value
Drilling Fluids	Oil-based Drilling Fluids	No discharge.			
	Oil-contaminated Drilling Fluids.	No discharge.			
	Drilling Fluids to Which Diesel Oil has been Added.	No discharge			
	Mercury and Cadmium in Barite.	No discharge of drilling fluids if added barite contains Hg in excess of 1.0 mg/kg or Cd in excess of 3.0 mg/kg (dry wt).	Once per new source of barite used.	Flame and flameless AAS.	mg Hg and mg Cd/kg in stock barite.
	Toxicity [a]	30,000 ppm daily minimum. 30,000 ppm monthly average minimum.	Once/month Once/end of well [b] Once/month	Grab/96-hr LC50 using Mysidopsis bahia; Method at 58 FR 12507.	Minimum LC50 of tests performed and monthly average LC50.
	Free Oil	No free oil	Once/day prior to discharge.	Static sheen; Method at 58 FR 12506.	Number of days sheen observed.
	Maximum Discharge Rate.	1,000 barrels/hr	Once/hour	Estimate	Max. hourly rate in bbl/hr.
	Mineral Oil	Mineral oil may be used only as a carrier fluid, lubricity additive, or pill.			
	Drilling Fluids Inventory	Record	Once/well	Inventory	Chemical constituents.
	Volume	Report	Once/month	Estimate	Monthly total in bbl/month.
	Within 1000 Meters of an Area of Biological Concern (ABC).	No discharge			
Drill Cuttings	**Note:** Drill cuttings are subject to the same limitations/prohibitions as drilling fluids except Maximum Discharge Rate.				
	Free Oil	No Free oil	Once/day prior to discharge.	Static sheen; Method at 58 FR 12506.	Number of days sheen observed.
	Volume	Report	Once/month	Estimate	Monthly total in bbl/month.
Produced Water	Oil and Grease	42 mg/l daily maximum and 29 mg/l monthly average.	Once/month [c]	Grab/Gravimetric	Daily max. and monthly avg.
	Toxicity	Acute toxicity (LC50); critical dilution as specified by requirements at Part I.B.3(b).	Once/2 months	Grab/96-hour LC50 using Mysidopsis bahia and inland silverside minnow (Method in EPA/600/4–90/027F).	Minimum LC50 and LPC for both species and full laboratory report.
	Flow (MGD)		Once/month	Estimate	Monthly rate.
	Within 1000 meters of an Area of Biological Concern (ABC).	No Discharge.			
Deck Drainage	Free Oil	No free oil	Once/day when discharging [d].	Visual sheen	Number of days sheen observed.
	Volume (bbl/month)		Once/month	Estimate	Monthly total.
Produced Sand	No Discharge.				
Well Treatment, Completion, and Workover Fluids (includes packer fluids) [e].	Free oil	No free oil	Once/day when discharging.	Static sheen	Number of days sheen observed.
	Oil and Grease	42 mg/l daily maximum and 29 mg/l monthly average.	Once/month	Grab/Gravimetric	Daily max. and monthly avg.
	Priority Pollutants	No priority pollutants		Monitor added materials.	
	Volume (bbl/month)		Once/month	Estimate	Monthly total.
Sanitary Waste (Continuously manned by 10 or more persons) [f].	Solids	No floating solids	Once/day, in daylight	Observation	Number of days solids observed.
	Residential Chlorine	At least (but as close to 1 mg/l.	Once/month	Grab/Hach CN–66–DPD	Concentration.
	Flow (MGD)		Once/month	Estimate	Monthly ave.
Sanitary Waste (Continuously manned by 9 or fewer persons or intermittently by any).	Solids	No Floating solids	Once/day, in daylight	Observation	Number of days solids observed.
Domestic Waste	Solids	No floating solids; no food waste within 12 miles of land; comminuted food waste smaller than 25-mm beyond 12 miles.	Once/day following morning or midday meal at time of maximum expected discharge.	Observation	Number of days solids observed.

TABLE 2.—EFFLUENT LIMITATIONS, PROHIBITIONS, AND MONITORING REQUIREMENTS—Continued

Discharge	Regulated & monitored discharge parameter	Discharge limitation/prohibition	Monitoring requirement		
			Measurement frequency	Sample type/method	Recorded/reported value
Miscellaneous Discharges—Desalination Unit; Blowout Preventer Fluid; Uncontaminated Ballast/Bilge Water; Mud, Cuttings, and Cement at the Seafloor; Uncontaminated Seawater; Boiler Blowdown; Source Water and Sand; Uncontaminated Fresh Water; Excess Cement Slurry; Diatomaceous Earth; Filter Media; Condensation water.	Free Oil Treatment Chemicals	No Free Oil Most Stringent of: EPA label registration, maximum manufacturer's recommended dose, or 500 mg/l.	Once/day when discharging.	Visual sheen	Number of days sheen observed.
Miscellaneous discharges of seawater and freshwater to which treatment chemicals have been added.	Free Oil Toxicity	No Free Oil 48-hour ave. minimum NOEC and monthly ave. minimum NOEC.	1/week Rate Dependent	Visual Sheen Grab	Number of days sheen observed. Lowest NOEC observed for either of the two species.

[a] Toxicity test to be conducted using suspended particulate phase (SPP) of a 9:1 seawater: mud dilution. The sample shall be taken beneath the shale shaker, or if there are no returns across the shaker, the sample must be taken from a location that is characteristic of the overall mud system to be discharged.
[b] Sample shall be taken after the final log run is completed and prior to bulk discharge.
[c] The daily maximum concentration may be based on the average of up to four grab sample results in the 24 hour period.
[d] When discharging and facility is manned. Monitoring shall be accomplished during times when observation of a visual sheen on the surface of the receiving water is possible in the vicinity of the discharge.
[e] No discharge of priority pollutants except in trace amounts. Information on the specific chemical composition shall be recorded but not reported unless requested by EPA.
[f] Any facility that properly operates and maintains a marine sanitation device (MSD) that complies with pollution control standards and regulations under Section 312 of the Act shall be deemed to be in compliance with permit limitations for sanitary waste. The MSD shall be tested yearly for proper operation and test results maintained at the facility.

New Sources

TABLE 3.—EFFLUENT LIMITATIONS, PROHIBITIONS, AND MONITORING REQUIREMENTS

Discharge	Regulated & monitored discharge parameter	Discharge limitation/prohibition	Monitoring requirement		
			Measurement frequency	Sample type/method	Recorded/reported value
Drilling Fluids	Oil-based Drilling Fluids	No discharge			
	Oil-contaminated Drilling Fluids.	No discharge			
	Drilling Fluids to Which Diesel Oil has been Added.	No discharge			
	Mercury and Cadmium in Barite.	No discharge of drilling fluids if added barite contains Hg in excess of 1.0 mg/kg or Cd in excess of 3.0 mg/kg (dry wt).	Once per new source of barite used.	Flame and flameless AAS.	mg Hg and mg Cd/kg in stock barite.
	Toxicity[a]	30,000 ppm daily minimum. 30,000 ppm monthly average minimum.	Once/month Once/end of well[b]. Once/month	Grab/96-hr LC50 using Mysidopsis bahia; Method at 58 FR 12507.	Minimum LC50 of tests performed and monthly average LC50.
	Free Oil	No free oil	Once/day prior to discharge.	Static sheen; Method at 58 FR 12506.	Number of days sheen observed.
	Maximum Discharge Rate.	1,000 barrels/hr	Once/hour	Estimate	Max. hourly rate in bbl/hr.
	Mineral Oil	Mineral oil may be used only as a carrier fluid, lubricity additive, or pill.			
	Drilling Fluids Inventory	Record	Once/well	Inventory	Chemical constituents.
	Volume	Report	Once/month	Estimate	Monthly total in bbl/month.
	Within 1000 Meters an Areas of Biological Concern (ABC).	No discharge.			
Drill Cuttings	(4) **Note:** Drill cuttings are subject to the same limitations/prohibitions as drilling fluids except Maximum Discharge Rate.				
	Free Oil	No free oil	Once/day prior to discharge.	Static sheen; Method at 58 FR 12506.	Number of days sheen observed.
	Volume	Report	Once/month	Estimate	Monthly total in bbl/month.

TABLE 3.—EFFLUENT LIMITATIONS, PROHIBITIONS, AND MONITORING REQUIREMENTS—Continued

Discharge	Regulated & monitored discharge parameter	Discharge limitation/prohibition	Monitoring requirement		
			Measurement frequency	Sample type/method	Recorded/reported value
Produced Water	Oil and Grease	42 mg/l daily maximum and 29 mg/l monthly average.	Once/month [c]	Grab/Gravimetric	Daily max. and monthly avg.
	Toxicity	Acute toxicity (LC50); critical dilution as specified by the requirements at Part I.B.3(b).	Once/2 months	Grab/96-hour LC50 using Mysidopsis bahia and inland silverside minnow (Method in EPA/600/4–90/027F).	Minimum LC50 and LPC for both species and full laboratory report.
	Flow (MGD)		Once/month	Estimate	Monthly rate.
	Within 1000 meters of an Area of Biological Concern (ABC).	No discharge.			
Deck Drainage	Free Oil	No free oil	Once/day when discharging [d].	Visual sheen	Number of days sheen observed.
	Volume (bbl/month)		Once/month	Estimate	Monthly total.
Produced Sand	No Discharge.				
Well Treatment, Completion, and Workover Fluids (includes packer fluids) [c].	Free Oil	No free oil	Once/day when discharging.	Static sheen	Number of days sheen observed.
	Oil and Grease	42 mg/l daily maximum and 29 mg/l monthly average.	Once/month	Grab/Gravimetric	Daily max. and monthly avg.
	Priority Pollutants	No priority pollutants		Monitor added materials.	
	Volume (bbl/month)		Once/month	Estimate	Monthly total.
Sanitary Waste (Continuously manned by 10 or more persons) [f].	Solids	No floating solids	Once/day, in daylight	Observation	Number of days solids observed.
	Residential Chlorine	At least (but as close to 1 mg/l.	Once/month	Grab/Hach CN–66–DPD	Concentration.
	Flow (MGD)		Once/month	Estimate	Monthly ave.
Sanitary Waste (Continously manned by 9 or fewer persons or intermittently by any) [f].	Solids	No floating solids	Once/day, in daylight	Observation	Number of days solids observed.
Domestic Waste	Solids	No floating solids; no food waste within 12 miles of land; commminuted food waste smaller than 25-mm beyond 12 miles.	Once/day following morning or midday meal at time of maximum expected discharge.	Observation	Number of days solids observed.
Miscellaneous Discharges—Desalination Unit; Blowout Preventer Fluid; Uncontaminated Ballast/Bilge Water; Mud, Cuttings, and Cement at the Seafloor; Uncontaminated Seawater; Boiler Blowdown; Source Water and Sand; Uncontaminated Freshwater; Excess Cement Slurry; Diatomaceous Earth Filter Media; Condensation water.	Free Oil	No free oil	Once/day when discharging.	Visual sheen	Number of days sheen observed.
	Treatment Chemicals	Most Stringent of: EPA label registration, maximum manufacturer's recommended dose, or 500 mg/l.			
Miscellaneous discharges of seawater and freshwater to which treatment chemicals have been added.	Free Oil	No Free Oil	1/week	Visual Sheen	Number of days sheen observed.
	Toxicity	48-hour ave. minimum NOEC and monthly ave. minimum NOEC.	Rate Dependent	Grab	Lowest NOEC observed for either of the two species.

[a] Toxicity test to be conducted using suspended particulate phase (SPP) of a 9:1 seawater:mud dilution. The sample shall be taken beneath the shale shaker, or if there are no returns across the shaker, the sample must be taken from a location that is characteristic of the overall mud system to be discharged.

[b] Sample shall be taken after the final log run is completed and prior to bulk discharge.

[c] The daily maximum concentration may be based on the average of up to four grab sample results in the 24 hour period.

[d] When discharging and facility is manned. Monitoring shall be accomplished during times when observation of a visual sheen on the surface of the receiving water is possible in the vicinity of the discharge.

[e] No discharge of priority pollutants except in trace amounts. Information on the specific chemical composition shall be recorded but not reported unless requested by EPA.

[f] Any facility that properly operates and maintains a marine sanitation device (MSD) that complies with pollution control standards and regulations under Section 312 of the Act shall be deemed to be in compliance with permit limitations for sanitary waste. The MSD shall be tested yearly for proper operation and test results maintained at the facility.

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