

[FRL-5133-1]

Final NPDES General Permits for Produced Water and Produced Sand Discharges From the Oil and Gas Extraction Point Source Category to Coastal Waters in Louisiana (LAG290000) and Texas (TXG290000)

AGENCY: Environmental Protection Agency, Region 6.

ACTION: Issuance of Final NPDES Permits.

SUMMARY: Region 6 of the United States Environmental Protection Agency (EPA) today issues final NPDES General Permits regulating discharges of produced water and produced sand derived from oil and gas point source facilities. The permits prohibit the discharge of produced water and produced sand derived from Coastal Subcategory (40 CFR part 435, subpart D) to any water subject to EPA jurisdiction under the Clean Water Act. Discharges to "coastal" waters of Louisiana and Texas of produced water and produced sand derived from most Stripper Subcategory (40 CFR part 435, subpart F) and all Offshore Subcategory (40 CFR part 435, subpart A) facilities covered by these permits are prohibited. Under Permit TXG290000, Stripper Subcategory facilities located east of the 98th meridian whose produced water is derived from the Carrizo/Wilcox, Reklaw or Bartosh formations in Texas and whose produced water does not exceed 3000 mg/l Total Dissolved Solids may discharge produced water subject to effluent limitations on oil and grease of 25 mg/l monthly average and 35 mg/l daily maximum. TXG290000 prohibits the discharge of produced sand derived from those facilities. Produced water derived from Stripper Subcategory and Offshore Subcategory wells which discharge to the main deltaic passes of the Mississippi River or to the Atchafalaya River below Morgan City including Wax Lake Outlet, are not covered by Permit No. LAG290000, but may be regulated in future NPDES permitting actions. Permittees include commercial disposal facilities as well as oil and gas operators generating produced water and sand.

Region 6 is also issuing an administrative order requiring permittees discharging produced water from existing Coastal, Stripper or Offshore Subcategory wells which must meet the No Discharge requirement for produced water to meet that requirement no later than January 1, 1997 unless an earlier compliance date is required by the State.

DATES: These permits will become effective on February 8, 1995.

ADDRESSES: Notifications required by these permits should be sent to the Water Management Division, Enforcement Branch (6W-EA), EPA Region 6, P.O. Box 50625, Dallas, Texas 75202.

FOR FURTHER INFORMATION: Contact Ms. Ellen Caldwell, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202; telephone: (214) 665 7513.

SUPPLEMENTARY INFORMATION: EPA issues these general permits pursuant to its authority under Section 402 of the Clean Water Act, 33 U.S.C. 1342. These permits cover discharges of produced water and produced sand derived from Oil and Gas Point Source Category Facilities to coastal waters of Louisiana and Texas. Discharges regulated by these permits include those from Coastal Subcategory (40 CFR part 435, subpart D) facilities in Louisiana and Texas, discharges from the Stripper Subcategory (40 CFR part 435, subpart F) that discharge to coastal waters of Louisiana and Texas, and discharges from some Offshore Subcategory (40 CFR part 435, subpart A) to coastal waters of Louisiana and Texas. These permits do not authorize discharges from "new sources" as defined in 40 CFR 122.2.

Public notice of the draft permits was published in the **Federal Register** on December 22, 1992 (57 FR 60926) and in the Houston Post and New Orleans Times Picayune on January 9, 1993. As then announced, the comment period was to close on February, 9, 1993, but Region 6 subsequently extended it to March 15, 1993 because of numerous telephone and written requests for additional time. (57 FR 6968, February 3, 1993). Region 6 considered all comments it received in formulating the final permits. The Region has prepared a detailed Response to Comments, but is not publishing it in this **Federal Register** notice for practical reasons. A copy may be obtained from Ms. Caldwell at the address supplied above.

EPA Region 6 made a number of changes to the permits as a result of comments. Under Permit No. TXG290000, facilities in the Stripper Subcategory located east of the 98th meridian whose produced water comes from the Carrizo/Wilcox, Reklaw or Bartosh formations in Texas and whose produced water does not exceed 3000 mg/l Total Dissolved Solids are allowed to discharge produced water subject to an effluent limitation of 3000 mg/l for Total Dissolved Solids and oil and grease limits of 25 mg/l monthly average and 35 mg/l daily maximum. Associated

changes to the wording of Part I.A and Part II of the permits reflect these produced water discharge authorization; e.g., notices of intent to be covered and Discharge Monitoring Reports are now required for facilities allowed to discharge. In response to comments on potential ambiguities, clarifying wording changes and additions are also included in the final permits. Produced water discharges derived from Stripper Subcategory and Offshore Subcategory wells into the main deltaic passes of the Mississippi River, or to the Atchafalaya River below Morgan City including Wax Lake Outlet, have been excluded from coverage under Permit No. LAG290000 and may be the subject of future regulatory actions. These changes are discussed in greater detail in the written Response to Comments.

The Region is also issuing an administrative order requiring permittees discharging produced water from existing Coastal, Stripper or Offshore Subcategory wells which must meet the No Discharge requirement for produced water, to comply with that requirement no later than January 1, 1997 unless an earlier compliance date is required by the State. Many discharges in Louisiana are required to cease sooner than January 1, 1997. As explained in the Fact Sheet for the Draft Permits, Region 6 was not required to publish its proposed administrative order nor is the final order subject to judicial review before its enforcement. Region 6 nevertheless solicited comments on a draft order and responses proved helpful in formulating the final order.

Other Legal Requirements

A. State Certification

Under Section 401(a)(1) of the Act, EPA may not issue a NPDES permit until the State in which the discharge will occur grants or waives certification to ensure compliance with appropriate requirements of the Act and State law. The State of Louisiana, after review of the permit, has certified that the Louisiana permit will comply with applicable state water quality standards or limitations. The State of Texas has waived certification.

B. The Endangered Species Act

The Endangered Species Act (ESA), 16 USC 1536, requires Federal agencies to insure that their actions, such as permit issuance, are unlikely to jeopardize the continued existence of any listed endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. In informal consultation

under ESA Section 7(a)(2), the U. S. Fish and Wildlife Service has concurred with EPA's determination that issuance of these permits is unlikely to adversely affect any federally-listed species or designated critical habitats.

C. The Coastal Zone Management Act

In accordance with Section 307(c)(3) of the Coastal Zone Management Act, the Louisiana Coastal Zone Management Division of Louisiana Department of Natural Resources has reviewed NPDES permit LAG290000 and found its issuance consistent with the Louisiana Coastal Zone Management Program.

D. The Paperwork Act

The information collection requirements of these general permits have been approved by OMB under provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq. in prior submissions made for the NPDES permit program.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act requires that federal agencies prepare a regulatory flexibility analysis for regulations that will have a significant impact on a substantial number of small entities. The impact on small entities was discussed in some detail in the Fact Sheet (57 FR 60943) for the current permits. Because certain groups of wells are now allowed by these final permits to discharge produced water and, for the Louisiana permit, compliance with produced water No Discharge limits will in many cases be required by state regulations sooner than required by this permit, the impact on small entities will be even less than anticipated for the proposed permits.

NPDES Permits LAG290000 and TXG290000 are hereby issued. In addition, the General Administrative Order which applies to those permits is hereby issued and appears following NPDES Permits LAG290000 and TXG290000.

Signed this 22nd day of December, 1994.

Myron O. Knudson,

Director, Water Management Division, EPA Region 6.

In compliance with the provisions of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq; the "Act"), these permits prohibit the discharge of produced water and produced sand derived from Oil and Gas Point Source Category facilities to "coastal" waters of Louisiana and Texas, as described below, in accordance with effluent limitations and other conditions set forth in Parts I and II. Facilities covered by these permits

include those in the Coastal Subcategory (40 CFR part 435, subpart D), the Stripper Subcategory (40 CFR part 435, subpart F) that discharge to "coastal" waters of Louisiana and Texas, and the Offshore Subcategory (40 CFR part 435, subpart A) which discharge to "coastal" waters of Louisiana and Texas.

These permits do not apply to "new sources" as defined in 40 CFR 122.2.

These permits, except for certain portions listed in Part I.B., shall become effective February 8, 1995, and expire at midnight on February 8, 2000.

Part I

Section A. General Permit Coverage and Notification Requirements

1. Operations Covered

a. Facilities in the Coastal Subcategory (40 CFR part 435, subpart D) located in Louisiana and Texas. Location of a Coastal Subcategory facility is determined by the location of the wellhead associated with that facility.

b. Facilities in the Offshore Subcategory (40 CFR part 435, subpart A) and the Stripper subcategory (40 CFR part 435, subpart F) which discharge to "coastal" waters of Louisiana or Texas. Note that facilities in the Stripper Subcategory and the Offshore Subcategory that discharge directly to a major deltaic pass of the Mississippi River or to the Atchafalaya River, including Wax Lake Outlet, below Morgan City are not covered by Permit No. LAG290000.

c. Facilities which dispose of produced water or produced sand derived from Coastal Subcategory facilities located in Louisiana or Texas.

d. Facilities which dispose of produced water or produced sand derived from Stripper or Offshore Subcategory facilities by discharge to coastal waters of Louisiana or Texas.

2. Permittees Covered

Operators of facilities listed in Part I.A.1 of these permits.

3. Notification Requirements

a. Operators of facilities whose discharge of produced water and produced sand is prohibited by these permits are automatically covered; a written notification of intent to be covered by these permits is not required.

b. Operators of facilities whose produced water discharge is allowed (See Part I.B.2.a of these permits) are required to submit a written notification of intent to be covered by these permits.

Written notification of intent to be covered, including the legal name and address of the operator, the lease (or

lease block) number assigned by the Railroad Commission of Texas or, if none, the name commonly assigned to the lease area, the type of facilities located within the lease (or lease block), the name of the formation from which the produced water originates and the Total Dissolved Solids concentration of the produce water shall be submitted:

(1) For existing discharges of produced water, within 45 days of the effective date of this permit.

(2) For new discharges of produced water, within fourteen days prior to the commencement of discharge.

c. Because these permits cover only produced water and produced sand, discharges of other waste waters from Coastal Subcategory wells must apply to be covered by NPDES Permits LAG330000 or TXG330000, which cover the discharge of waste discharges, other than produced water and produced sand, from Coastal Subcategory production (and drilling) facilities.

4. Termination of Operations

Lease (or lease block) operators shall notify the Regional Administrator within 60 days after the permanent termination of discharges from their facilities. In addition, lease (or lease block) operators shall notify the Regional Administrator within 30 days of any transfer of ownership.

Section B. Application for NPDES Individual Permit

1. Any operator authorized by this permit may request to be excluded from the coverage of this general permit by applying for an individual permit. The operator shall submit an application together with the reasons supporting the request to the Regional Administrator.

2. When an individual NPDES permit is issued to an operator otherwise subject to this general permit, the applicability of this permit to the owner or operator is automatically terminated on the effective date of the individual permit.

Section C. General Permit Limits

1. Permit Conditions Applicable to LAG290000

a. Prohibitions

Permittees shall not discharge nor shall they cause or allow the discharge of produced water and produced sand. Operators of facilities generating pollutants regulated under this permit shall take reasonable positive steps to assure said pollutants are not unlawfully discharged to waters of the United States by third parties and shall maintain documentation of those steps for no less than three years.

b. Other Requirements

All dischargers must comply with any more stringent requirements contained in Louisiana Water Quality Regulations, LAC: 33,IX,7.708.

2. Permit Conditions Applicable to TXG290000

a. Prohibitions

Permittees shall not discharge nor shall they cause or allow the discharge of produced water or produced sand. Operators of facilities generating pollutants regulated under this permit shall take reasonable positive steps to assure said pollutants are not unlawfully discharged to waters of the United States by third parties and shall maintain documentation of those steps for no less than three years.

Exception to prohibition on discharge of produced water: Facilities in the Stripper Subcategory located east of the 98th meridian whose produced water comes from the Carrizo/Wilcox, Reklaw or Bartosh formations in Texas and whose produced water does not exceed 3000 mg/l Total Dissolved Solids shall meet the following limits and monitoring requirements:

(1) Produced water discharges must meet both a daily maximum of 35 mg/l and a monthly average of 25 mg/l for oil and grease.

(2) Monitoring for oil and grease shall be performed once per month. The sample type may be a grab, or a 24-hour composite consisting of the arithmetic average of the results of 4 grab samples taken over a 24-hour period.

(3) Produced water flow monitoring requirement: Once per month, an estimate of the flow in MGD (million gallons per day) must be made and recorded.

Part II

(Applicable to LAG290000 and TXG290000)

Section A. General Conditions

1. Introduction

In accordance with the provisions of 40 CFR 122.41 et. seq., this permit incorporates by reference ALL conditions and requirements applicable to NPDES permits set forth in the Clean Water Act, as amended (hereinafter known as the "Act") as well as all applicable EPA regulations.

2. Duty To Comply

The permittee must comply with all conditions of this permit. Any permit non-compliance constitutes a violation of the Clean Water Act and is grounds for enforcement action and/or for

requiring a permittee to apply for and obtain an individual NPDES permit.

3. Permit Flexibility

This permit may be modified, revoked and reissued, or terminated for cause, in accordance with 40 CFR 122.62-122.64. The filing for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

4. Property Rights

This permit does not convey any property rights of any sort, or any exclusive privileges nor does it authorize any injury to private property or any invasion of personal rights, or any infringement of Federal, State or local laws or regulations.

5. Duty To Provide Information

The permittee shall furnish to the Regional Administrator, within a reasonable time, any information which the Regional Administrator may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish the Regional Administrator, upon request, copies of records required to be kept by this permit.

6. Criminal and Civil Liability

Except as provided in permit conditions on "Bypassing" and "Upsets", nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance. Any false or materially misleading representation or concealment of information required to be reported by the provisions of the permit, the Act or applicable CFR regulations which avoids or effectively defeats the regulatory purpose of the Permit may subject the permittee to criminal enforcement pursuant to 18 USC Section 1001.

7. Oil and Hazardous Substance Liability

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee may be subject under Section 311 of the Clean Water Act.

8. State Laws

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any

applicable State law or regulation under authority preserved by Section 510 of the Clean Water Act.

9. Severability

The provisions of this permit are severable, and if any provision of this permit or the application of any provision of this permit to any circumstance is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

Section B. Proper Operation and Maintenance

1. Need To Halt or Reduce Not a Defense

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

2. Duty To Mitigate

The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

3. Proper Operation and Maintenance

The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed and used by the permittee to achieve compliance with the conditions of this permit. This provision requires the operation of backup or auxiliary facilities of similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

4. Bypass of Facilities

a. Definitions

(1) "Bypass" means the intentional diversion of waste streams from any portion of a facility.

(2) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities that causes them to be inoperable, or substantial and permanent loss of natural resources than can reasonably be expected to occur in the absence of bypass. Severe property damage does not mean economic loss caused by delays in production.

b. Notice

(1) Anticipated bypass. If the permittee knows in advance of the need

for a bypass, it shall submit prior notice, if possible at least ten days before the date of the bypass.

(2) Unanticipated bypass. The permittee shall, within 24 hours, submit notice of an unanticipated bypass as required in Part II.D.2.

c. Prohibition of Bypass

(1) Bypass is prohibited, and the Regional Administrator may take enforcement action against a permittee for bypass, unless:

(a) Bypass was unavoidable to prevent loss of life, personal injury or severe property damage;

(b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgement to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(c) The permittee submitted notices as required by Part II.B.4.b.

(2) The Regional Administrator may approve an anticipated bypass, after considering its adverse effects, if the Regional Administrator determines that it will meet the conditions listed at Part II.B.4.c.(1).

5. Upset Conditions

a. Definition

"Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based 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 facilities, inadequate facilities, lack of preventive maintenance, or careless or improper operation.

b. Effects of an Upset. An upset constitutes an affirmative defense of an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of Part II.B.5.c. are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

c. Conditions necessary for a demonstration of upset. The permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous logs, or other relevant evidence that:

(1) An upset occurred and that the permittee can identify the cause(s) of the upset;

(2) The permitted facility was at the time being properly operated;

(3) The permittee submitted notice of the upset as required by Part II.D.2; and

(4) The permittee complied with Part II.B.2.

d. Burden of Proof. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

6. Removed Substances

Solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of waste waters shall be disposed of in a manner such as to prevent any pollution from such materials from entering waters of the United States.

Section C. Monitoring and Records

1. Inspection and Entry

The permittee shall allow the Regional Administrator or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to:

(a) Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;

(b) Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

(c) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and

(d) Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act, any substances or parameters at any location.

2. Representative Sampling

Samples and measurements taken as required herein shall be representative of the volume and nature of the monitored discharge.

3. Retention of Records

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, and copies of all reports required by this permit, for a period of at least 3 years from the date of the sampling, measurement, or reporting. This period may be extended by request of the Regional Administrator at any time.

The operator shall maintain records at development and production facilities for 3 years, wherever practicable and at a specific shore-based site whenever not practicable. The operator is responsible for maintaining records at exploratory facilities while they are discharging under the operator's control and at a specified shore-based site for the remainder of the 3-year retention period.

4. Record Contents

Records of monitoring information shall include:

- (a) The date, exact place, and time of sampling or measurements,
- (b) The individual(s) who performed the sampling or measurements,
- (c) The date(s) analyses were performed,
- (d) The individual(s) who performed the analyses,
- (e) The analytical techniques or methods used, and
- (f) The results of such analyses.

5. Monitoring Procedures

Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in this permit.

6. Discharge Rate/Flow Measurements

Appropriate flow measurement devices consistent with accepted practices shall be selected, maintained, and used to ensure the accuracy and reliability of measurements of the volume of monitored discharges. The devices shall be installed, calibrated, and maintained to insure that the accuracy of the measurements are consistent with the accepted capability of that type of device. Devices selected shall be capable of measuring flows with a maximum deviation of less than $\pm 10\%$ from true discharge rates throughout the range of expected discharge volumes.

Section D. Reporting Requirements

1. Anticipated Noncompliance

The permittee shall give advance notice to the Regional Administrator of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

2. Discharge Monitoring Reports

For facilities which are allowed to discharge and for which monitoring is required by Part I of these permits, the operator of each lease (or lease block) shall be responsible for submitting monitoring results for all facilities within that area (i.e., lease or lease

block). The monitoring results for the facilities within the particular lease (or lease block) shall be summarized on the annual Discharge Monitoring Report for that lease (or lease block).

Monitoring results obtained during the previous 12 months shall be summarized and reported on a Discharge Monitoring Report (DMR) Form (EPA No. 3320-1). The highest monthly average for all activity within each lease (or lease block) shall be reported. The highest daily maximum sample taken during the reporting period shall be reported as the daily maximum concentration. (See "Definitions" for more detailed explanations of these terms).

If any category of waste (discharge) is not applicable for all facilities within the lease (or lease block) due to the type of operation (e.g. drilling, production), "no discharge" must be recorded for those categories on the DMR. If all facilities within a lease block have had no activity during the reporting period, then "no activity" must be written on the DMR. All pages of the DMR must be signed and certified as required by Part II.D.9 of these permits and submitted when due.

The Permittee must complete all empty blanks in the DMR unless there has been absolutely no activity or no discharge within the lease (or lease block) for the entire reporting period. In these cases, EPA Region VI will accept a listing of leases or lease blocks with no discharges or no activity, in lieu of submitting actual DMR's for these areas. This listing must specify the permittee's NPDES General Permit Number, lease or lease block description, and EPA-assigned outfall number. The listing must also include the certification statement presented in Part II.D.9 of these permits and an original signature of the designated responsible official.

Upon receipt of a notification of intent to be covered (see Part I.A.2 of these permits for facilities requiring such notification), the permittee will be notified of its specific outfall number applicable to that lease (or lease block) and will be informed of the discharge monitoring report due date.

All notices and reports required under this permit shall be sent to EPA Region 6 at the address below:

Director, Water Management Division,
USEPA, Region 6, Enforcement
Branch (6W-EA), P.O. Box 50625,
Dallas, TX 75270

3. Additional Monitoring by the Permittee

If the permittee monitors any pollutant more frequently than required by this permit, using test procedures

approved under 40 CFR Part 136 or as specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR. Such increased monitoring frequency shall also be indicated on the DMR.

4. Averaging of Measurements

Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Regional Administrator in the permit.

5. Twenty-four Hour Reporting

a. For facilities which are allowed to discharge produced water by Part I.B.2.a of Permit No. TXG290000, the permittee shall report any noncompliance which may endanger health or the environment (including any spill that requires oral reporting to the state regulatory authority). Information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance. The Regional Administrator may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

The following shall be included as information which must be reported within 24 hours:

(1) Any unanticipated bypass which exceeds any effluent limitation in the permit;

(2) Any upset which exceeds any effluent limitation in the permit.

(3) Violations of a maximum daily discharge limitation or daily minimum toxicity limitation for any of the pollutants listed by the Regional Administrator in Part III of the permit to be reported within 24 hours.

The reports should be made to Region 6 by telephone at (214) 665-6593. The Regional Administrator may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

b. For all facilities prohibited from discharging produced water, the permittee shall report any noncompliance with these permits, bypass or upset. Any information shall

be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or plans to reduce, eliminate, and prevent reoccurrence of the noncompliance. The 24 hour oral reporting and follow up written submission requirement in Part II.D.5.b of these permits shall become effective 60 days after the effective date of these permits.

6. Other Noncompliance

For facilities which are allowed to discharge by Part I.B.2.a of Permit No. TXG290000, the permittee shall report all instances of noncompliance not reported under Part II, Section D, paragraphs 2 and 5 at the time monitoring reports are submitted. The reports shall contain the information listed in Section D, paragraph 5.

7. Other Information

Where the permittee becomes aware that it failed to submit any relevant facts in any report to the Regional Administrator, it shall promptly submit such facts or information.

8. Changes in Discharges of Toxic Substances

The permittee shall notify the Regional Administrator as soon as it knows or has reason to believe:

a. That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, or any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the "notification levels" described in 40 CFR 122.42(a)(1).

b. That any activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the "notification levels" described in 40 CFR 122.42(a)(2).

9. Signatory Requirements

All reports, or information submitted to the Regional Administrator shall be signed and certified as follows:

a. For a corporation. By a responsible corporate officer. For the purpose of this section, a responsible corporate officer means:

(1) A president, secretary, treasurer, or vice-president of the corporation in charge of a principle business function, or decision making functions for the corporation, or

(2) The manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

b. For a partnership or sole proprietorship. By a general partner or the proprietor, respectively.

c. For a municipality, State, Federal or other public agency. Either a principle executive office or ranking elected official. For purposes of this section, a principle executive officer of a Federal agency includes:

(1) The chief executive officer of the agency, or

(2) A senior executive officer having responsibility for the overall operations of a principle geographic unit of the agency.

d. Alternatively, all reports required by the permit and other information requested by the Regional Administrator may be signed by a person described above or by a duly authorized representative only if:

(1) the authorization is made in writing by a person described above;

(2) the authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or oil field, superintendent, or position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. A duly authorized representative may thus be either a individual or an individual occupying a named position; and

(3) the written authorization is submitted to the Regional Administrator.

e. Certification. Any person signing a document under this section shall make the following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for the gathering of the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there

are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

10. Availability of Reports

Except for applications, effluent data, and other data specified in 40 CFR 122.7, any information submitted pursuant to this permit may be claimed confidential by the submitter. If no claim is made at the time of submission, information may be made available to the public without further notice.

Section E. Penalties for Violations of Permit Conditions

1. Criminal

a. Negligent Violations

The Act provides that any person who negligently violates permit conditions implementing Sections 301, 302, 306, 307 or 308 of the Act is subject to a fine of not less than \$2500 nor more than \$25,000 per day of violation, or by imprisonment for not more than 1 year, or both.

b. Knowing Violations

The Act provides that any person who knowingly violates permit conditions implementing Sections 301, 302, 306, 307 or 308 of the Act is subject to a fine of not less than \$5,000 per day of violation nor more than \$50,000 per day of violation, or by imprisonment for not more than 3 years, or both.

c. Knowing Endangerment

The Act provides that any person who knowingly violates permit conditions implementing Sections 301, 302, 306, 307 or 308 of the Act and who knows at the time that he is placing another person in imminent danger of death or serious bodily injury is subject to a fine of not more than \$250,000, or by imprisonment for not more than 15 years, or both.

d. False Statements

The Act provides that any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under the Act or who knowingly falsifies, tampers with, or renders inaccurate, any monitoring device or method required to be maintained under the Act, shall upon conviction, be punished by a fine of not more than \$10,000 per day, or by imprisonment for not more than 2 years, or by both. If a conviction of a person is for a violation committed after a first conviction of such a person under this paragraph, punishment shall be by a fine of not more than \$20,000 per day of violation, or by imprisonment of not

more than 4 years, or by both (See Section 309(c)(4) of the Clean Water Act).

2. Civil Penalties

The Act provides that any person who violates a permit condition implementing Sections 301, 302, 306, 307 or 308 of the Act is subject to a civil penalty not to exceed \$25,000 per day for each violation.

3. Administrative Penalties

The Act provides that any person who violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a civil penalty not to exceed \$25,000 per day for each violation.

a. Class I Penalty

Not to exceed \$10,000 per violation nor shall the maximum amount exceed \$25,000.

b. Class II Penalty

Not to exceed \$10,000 per day for each day during which the violations continues nor shall the maximum amount exceed \$125,000.

Section F. Definitions

All definitions in Section 502 of the Act shall apply to this permit and are incorporated herein by reference. Unless otherwise specified in this permit, additional definitions words or phrases used in this permit are as follows:

1. *Act* means the Clean Water Act (33 U.S.C. 1251 et. seq.) as amended.

2. *Applicable effluent standards and limitations* means all state and Federal effluent standards and limitations to which a discharge is subject under the Act, including, but not limited to, effluent limitations, standards of performance, toxic effluent standards and prohibitions, and pretreatment standards.

3. *Applicable water quality standards* means all water quality standards to which a discharge is subject under the Act and which have been (a) approved or permitted to remain in effect by the Administrator following submission to him/her, pursuant to Section 303(a) of the Act, or (b) promulgated by the Administrator pursuant to Section 303(b) or 303(c) of the Act.

4. *Bypass* means the intentional diversion of waste streams from any portion of a treatment facility.

5. *Coastal waters* are defined as waters of the United States (as defined at 40 CFR 122.2) located landward of the territorial seas.

6. *Daily Discharge* means the discharge of a pollutant measured during a calendar day or any 24-hour

period that reasonably represents the calendar day for purposes of sampling. For pollutants with limits expressed in units of measurement other than mass, the "daily discharge" is calculated as the average measurement of the pollutant over the sampling day. "Daily discharge" determination of concentration made using a composite sample shall be the concentration of the composite sample. When grab samples are used, the "daily discharge" determination of concentration shall be arithmetic average (weighted by flow value) of all samples collected during that sampling day.

7. *Daily Maximum discharge limitation* means the highest allowable "daily discharge" during the calendar month.

8. *Environmental Protection Agency* means the U.S. Environmental Protection Agency.

9. *Monthly Average* (also known as daily average) discharge limitations means the highest allowable average of "daily discharge(s)" over a calendar month, calculated as the sum of all "daily discharge(s)" measured during a calendar month divided by the number of "daily discharge(s)" during that month. When the permit establishes monthly average concentration effluent limitations or conditions, the monthly average concentration means the arithmetic average (weighted by flow) of all "daily discharge(s)" of concentration determined during the calendar month.

10. *National Pollutant Discharge Elimination System* means the national program for issuing, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under Sections 307, 318, 402 and 405 of the Act.

11. *Produced sand* means sand and other particulate matter from the producing formation and production piping (including corrosion products), as well as source sand and hydrofrac sand. Produced sand also includes sludges generated by any chemical polymer used in a produced water treatment system.

12. *Produced water* means water (brine) brought up from the hydrocarbon-bearing strata during the extraction of oil and gas, and can include formation water, injection water, and any chemicals added down hole or during the oil/water separation process.

13. *Regional Administrator* means the Administrator of the U.S. Environmental Protection Agency, Region 6.

14. *Severe property damage* means substantial physical damage to property,

damage to treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of bypass. Severe property damage does not mean economic loss caused by delays in production.

15. *Territorial seas* refers to "the belt of the seas measured from the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters, and extending seaward a distance of three miles."

16. *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.

Section C. Monitoring and Records

United States Environmental Protection Agency, Region 6, In Re: NPDES Permit Nos. LAG290000 and TXG290000, General Administrative Compliance Order

The following Findings are made and Order issued pursuant to the authority vested in the Administrator of the Environmental Protection Agency (EPA) by Section 309(a)(3) of the Clean Water Act (hereinafter "the Act"), 33 U.S.C. 1319(a)(3), and duly delegated to the Regional Administrator, Region 6, and duly redelegated to the undersigned Director, Water Management Division, Region 6. Failure to comply with the interim requirements established in this Order constitutes a violation of this Order and the NPDES permits.

Findings

I

The term "waters of the United States" is defined at 40 C.F.R. 122.2. The term "coastal" is defined in NPDES Permits LAG290000 and TXG290000 and includes facilities which would be considered "Onshore" but for the decision in *API v. EPA* 661 F.2 340 (5th Cir. 1981). The term "existing" means spudded prior to the effective date of NPDES Permits LAG290000 and TXG290000.

II

Pursuant to the authority of Section 402(a)(1) of the Act, 33 U.S.C. § 1342,

Region 6 issued National Pollutant Discharge Elimination System (NPDES) Permits No. LAG290000 and TXG290000 with an effective date of February 8, 1995. These permits prohibit the discharge of produced water and produced sand derived from Oil and Gas Point Source Category facilities to "coastal" waters of Louisiana and Texas in accordance with effluent limitations and other conditions set forth in Parts I and II of these permits. Facilities covered by these permits include those in the Coastal Subcategory (40 CFR 435, Subpart D), the Stripper Subcategory (40 CFR 435, Subpart F) that discharge to "coastal" waters of Louisiana and Texas, and the Offshore Subcategory (40 CFR 435, Subpart A) which discharge to "coastal" waters of Louisiana and Texas.

III

Respondents herein are permittees subject to General NPDES Permit Nos. LAG290000 and/or TXG290000 and who:

A. Discharge produced water derived from an existing Coastal, Stripper or Offshore Subcategory well or wells to "coastal" waters of Texas or Louisiana on the effective date of LAG290000 or TXG290000.

B. Discharge produced water derived from an existing Coastal Subcategory well or wells located in Louisiana or Texas to waters of the United States outside Louisiana or Texas "coastal" waters on the effective date of LAG290000 or TXG290000.

C. Are required by Permits No. LAG290000 or TXG290000 to meet the requirement of No Discharge of produced water and are taking affirmative steps to meet that requirement.

D. Have submitted an "Administrative Order Notice". Such Notices shall be sent to: Enforcement Branch (6W-EA), Region 6, U. S. Environmental Protection Agency, P.O. Box 50625, Dallas TX 75270. Upon submission of such an Administrative Order Notice, a permittee shall be a Respondent under this General Administrative Order. The terms of each Administrative Order Notice submitted shall be considered terms of this Order and shall be enforceable against the Respondent submitting the Administrative Order Notice. Each Administrative Order Notice must include:

1. Identification of the facility by name and its location (by lease, lease block, field or prospect name), the name and address of its operator, and the name, address and telephone number of a contact person.

2. A certification signed by a person meeting the requirements of Part II, Section D.9 (Signatory Requirements) of Permits LAG290000 and TXG290000 stating that a Compliance Plan has been prepared for the facility in accordance with this Order. A copy of this plan shall not be included with the Administrative Order Notice, but shall be made available to EPA upon request.

3. A Compliance Plan shall include a description of the measures to be taken, along with a schedule, to cease discharge of produced water to waters of the United States as expeditiously as possible.

IV

To maintain oil and gas production and comply with the permits' prohibition on the discharge of produced water, a significant number of Respondents will have to reinject their produced water. A lack of access to the finite number of existing Class II disposal wells, state UIC permit writers, and drilling contractors may cause non-compliance for a significant number of Respondents. In addition, time will be required for some Respondents to reroute produced water collection lines to transport the produced water to injection wells.

V

Respondents may reasonably perform all actions necessary to cease their discharges of produced water no later than January 1, 1997.

Order

Based on the foregoing Findings, it is Ordered that Respondents:

A. Fully comply with all conditions of NPDES Permits No. LAG290000 and TXG290000 except for the prohibition on the discharge of produced water and except for the requirement that all discharges of produced water be reported within twenty-four hours.

B. Complete all activities necessary to attain full and continuance compliance with NPDES Permits No. LAG290000 and TXG290000 as soon as possible, but in no case later than January 1, 1997.

C. Operate and maintain all existing pollution control equipment, including existing oil/water separation equipment, in such a manner as to minimize the discharge of pollutants contained in produced water at all times until such time as respondents cease their discharges of produced water.

D. Submit notice to the Water Enforcement Branch of EPA Region 6 when produced water discharges subject to this Order have ceased.

E. Subject to NPDES Permit LAG290000 comply at all times with

Part I. Section B.1.b of said permit, requiring that Respondents meet any more stringent requirements contained in Louisiana Water Quality Regulation, LAC: 33,IX,7.708.

Nothing herein shall preclude additional enforcement action.

The effective date of this Order shall be the effective date of NPDES Permits No. LAG290000 and TXG290000.

[FR Doc. 95-416 Filed 1-6-95; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Approved by Office of Management and Budget

December 30, 1994.

The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collection pursuant to the Paperwork Reduction Act of 1980, Pub. L. 96-511. For further information contact Shoko B. Hair, Federal Communications Commission, (202) 418-1379.

Federal Communications Commission

OMB Control No.: 3060-0626.

Title: Implementation of Sections 3(n) and 332 of the Communications Act—Third Report and Order, Gen. Docket No. 93-252.

Expiration Date: 11/30/97.

Estimated Annual Burden: 6923 total annual hours; .50 - 10 hours per response.

Description: In the Third Report and Order in Gen. Docket No. 93-252, the Commission adopted changes to its technical, operational, and licensing rules for private mobile radio service licensees to implement Sections 3(n) and 332 of the Communications Act of 1934, as amended. These rules are necessary to implement the statute and to establish regulatory symmetry among similar mobile services.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95-373 Filed 1-6-95; 8:45 am]

BILLING CODE 6712-01-F

Public Information Collection Approved by Office of Management and Budget

December 30, 1994.

The Federal Communications Commission (FCC) has received Office