ENVIRONMENTAL PROTECTION AGENCY

[FRL–9094–7]

Notice of Draft National Pollutant Discharge Elimination System (NPDES) General Permit for the Eastern Portion of Outer Continental Shelf (OCS) of the Gulf of Mexico (GEG460000); Availability of Preliminary Finding of No Significant Impact (FNSI) and Environmental Assessment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Proposed Reissuance of NPDES General Permit, Notice to States of Mississippi, Alabama and Florida for Consistency Review with approved Coastal Management Programs.

SUMMARY: The Regional Administrator of EPA Region 4 (the ''Region'') is today proposing to reissue the National Pollutant Discharge Elimination System (NPDES) general permit for the Outer Continental Shelf (OCS) of the Gulf of Mexico (General Permit No. GMG460000) for discharges in the Offshore Subcategory of the Oil and Gas Extraction Point Source Category (40 Code of Federal Regulations (CFR) Part 435, subpart A). The existing permit, issued by EPA Region 4 and published at 69 FR 76740 on December 22, 2004, authorizes discharges from exploration, development, and production facilities located in and discharging, to all Federal waters of the eastern portion of the Gulf of Mexico seaward of the outer boundary of the territorial seas. Today's draft NPDES permit covers existing and new source facilities with operations located on Federal leases occurring in water depths seaward of 200 meters, occurring offshore the coasts of Alabama and Florida. The western boundary of the coverage area is demarcated by Mobile and Visoca Knoll lease blocks located seaward of the outer boundary of the territorial seas from the coasts of Mississippi and Alabama. Individual permits will be issued for operating facilities on lease blocks traversed by and shoreward of the 200 meter water depth.

DATES: Comments on this proposed action must be received by January 29, 2010.

ADDRESSES: Comments should be sent the Water Protection Division, U.S. EPA- Region 4, Municipal and Industrial NPDES Section, Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, GA 30303–8960, Attention: Ms. Karrie-Jo Robinson-Shell.

FOR FURTHER INFORMATION CONTACT: Ms. Karrie-Jo Robinson-Shell, Offshore Oil and Gas Contact, at telephone (404) 562–9308 or at the following address: Water Protection Division, Municipal and Industrial NPDES Section, U.S. EPA, Region 4, Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, GA 30303–8960.

SUPPLEMENTARY INFORMATION: As proposed, this draft NPDES general permit includes, best conventional pollutant control technology (BCT), and best available technology economically achievable (BAT) limitations for existing sources and new source performance standards (NSPS) limitations for new sources as promulgated in the effluent guidelines for the offshore subcategory at 58 FR 12454 and amended at 66 FR 6850 (March 4, 1993 and January 22, 2001, respectively). The draft permit also includes the following changes to the expiring permit: (1) Requirements were included to permittees to comply with cooling water intake structure regulations per 40 CFR Part 125-subpart N (Requirements Applicable to Cooling Water Intake Structures for New Offshore Oil and Gas Extraction Facilities Under Section 316(b) of the Clean Water Act); (2) Best Management Practices (BMP) Plan requirements were changed to incorporate measures to address discharges of debris from blasting and painting activities; (3) Modified ISO Test Method 11734, Protocol For The Determination of Degradation of Non-Aqueous Base Fluids in a Marine Closed Bottle Biodegradation Test System, was included in order to clarify testing procedures; (4) rounding procedures were included to clarify reporting requirements for ratio values used to report compliance with the sediment toxicity and biodegradation tests; and (5) the requirement to perform a Seabed Survey was deleted since the industry completed this study during the term of the existing permit. Other minor changes in wording were made to clarify EPA's intent regarding the permit's requirements.

Under 40 CFR Part 6, EPA Region 4 is also making available a Preliminary Finding of No Significant Impact (FNSI) and an Environmental Assessment (EA) for review during the 30 day public comment period for this general permit. The EA addresses potential impacts from proposed changes to the general permit and it considers recent technical studies.

I. Procedures for Reaching a Final Permit Decision

Pursuant to 40 CFR 124.13, any person who believes any condition of the permit is inappropriate must raise all reasonably ascertainable issues and submit all reasonably available arguments in full, supporting their position, by the close of the comment period. All comments on the draft NPDES general permit, the preliminary FNSI and the EA received within the 30-day comment period will be considered in the formulation of final determination regarding the National Environmental Pollution Act (NEPA) review and the permit reissuance. After consideration of all written comments and the requirements and policies in the CWA and appropriate regulations, the EPA Regional Administrator will make a determination regarding the EA/FNSI and permit reissuance. If the determination results in a permit that is substantially unchanged from the draft permit announced by this notice, the Regional Administrator will so notify all persons submitting written comments. If the determination results in a permit that is substantially changed, the Regional Administrator will issue a public notice indicating the revised determination.

A formal hearing is available to challenge any NPDES permit issued according to the regulations at 40 CFR 124.15, except for a general permit as cited at 40 CFR 124.71. Persons affected by a general permit may not challenge the conditions of a general permit as a right in further Agency proceedings. They may instead either challenge the general permit in court, or apply for an individual permit as specified at 40 CFR 122.21 as authorized at 40 CFR 122.28, and then request a formal hearing on the issuance or denial of an individual permit. Additional information regarding these procedures is available by contacting Mr. Paul Schwartz, Associate Regional Counsel Office of Environmental Accountability, at (404) 562–9576.

II. Procedures for Obtaining General Permit Coverage

Notice of Intent requirements for obtaining coverage for operating facilities are stated in Part I Section A.4 of the general permit. Coverage under the reissued general permit is effective upon receipt of notification of coverage with an assignment of an NPDES general permit number from the EPA-Region 4, Director of the Water Protection Division. EPA will act on the Notice of Intent (NOI) within a reasonable period of time.

III. Exclusion of Non-Operational Leases

This permit does not apply to non-operational leases, *i.e.,* those on which no discharge has taken place in the two (2) years prior to the effective date of the reissued general permit. EPA will not accept NOIs for such leases, and the general permit will not cover such leases. Non-operational leases will lose coverage under the previous general permit on the effective date of the reissued general permit. No subsequent exploration, development or production activities may take place on these leases until and unless the lessee has obtained coverage under the new general permit or an individual permit. EPA will not accept an NOI or individual permit application for non-operational or new acquired leases until such time as an Exploration Plan Document or the Development Operations Coordination Document has been prepared and submitted to Minerals Management Service.

IV. State Water Quality Certification

Because State waters are not included in the area covered by the OCS general permit, its effluent limitations and monitoring requirements are not subject to State water quality certification under CWA Section 401. However, the States of Alabama, Florida and Mississippi have been provided a copy of this draft general permit, Preliminary FNSI and EA to review and submit comments. Copies of these documents have also been provided to EPA Headquarters for their review.

V. State Consistency Determination

This Notice will also serve as Region 4's requirement under the Coastal Zone Management Act (CZMA) to provide all necessary information for the States of Mississippi, Alabama and Florida to review this action for consistency with their approved Coastal Management Programs. A copy of the consistency determination on the proposed activities is being sent to each affected State, along with a letter of this FR notice, which provides the EPA Web site where electronic copies can be obtained of the draft NPDES general permit, permit fact sheet, preliminary Ocean Discharge Criteria Evaluation, a Preliminary FNSI, and EA. Other relevant information for their review is available upon request from each State. Comments regarding State Consistency are invited in writing within 30 days of this notice to the Water Protection Division, U.S. EPA-Region 4, Municipal and Industrial NPDES Permits Section, Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, GA 30303–8960, Attention: Ms. Karrie-Jo Robinson-Shell.

VI. Public Comment Period and Public Hearings

The public comment period for the draft NPDES permit, preliminary FNSI and EA will begin on the date of publication of this notice and end 30 calendar days later.

VII. Administrative Record

The draft NPDES general permit, permit fact sheet, Preliminary FNSI, EA and other relevant documents are on file and may be inspected any time between 8:15 a.m. and 4:30 p.m., Monday through Friday at the address shown below. Copies of the draft NPDES general permit, permit fact sheet, Preliminary FNSI, EA and other relevant documents may be obtained by writing the U.S. EPA–Region 4, Water Protection Division, Municipal and Industrial NPDES Section, Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960, Attention: Ms. Karrie-Jo Robinson-Shell, or by calling (404) 562–9308. A hard copy of the Preliminary FNSI and EA may be obtained by calling Traci Buskey at (404) 562–8284. Alternatively, copies of the draft NPDES general permit, permit fact sheet, Preliminary FNSI and EA may be downloaded at *http://www.epa.gov/region4/water/permits.*

VIII. Executive Order 12866

Under Executive Order 12866 (58 FR 51735 (October 4, 1993)) the Agency must determine whether the regulatory action is ''significant'' and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health, or safety, or State, local, or Tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order. OMB has exempted review of NPDES general permits under the terms of Executive Order 12866.

IX. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rule making requirements under the Administrative Procedures Act (APA) or any other statute, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

Issuance of an NPDES general permit is not subject to rule making requirements, including the requirement for a general notice of proposed rule making, under APA Section 533 or any other law, and is thus not subject to the RFA requirements.

The APA defines two broad, mutually exclusive categories of agency action—''rules'' and ''orders.'' APA Section 551(4) defines rule as ''an agency statement of general or particular applicability and future effect designed to implement, interpret or prescribe law or policy or describing the organization, procedure, or practice or requirements of an agency . . .'' APA Section 551(6) defines orders as ''a final disposition . . . of an agency in a matter other than rule making but including licensing.'' APA Section 551(8) defines ''license'' to ''include . . . an agency permit . . .'' The APA thus categorizes a permit as an order, which by the APA's definition is not a rule. Section 553 of the APA establishes ''rule making'' requirements. APA Section 551(5) defines ''rule making'' as ''the agency process for formulating, amending, or repealing a rule.'' By its terms, Section 553 applies only to rules and not to orders, exempting by definition permits.

X. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their ''regulatory actions'' to refer to regulations. (*See, e.g.,* UMRA Section 401, ''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 2 U.S.C. 658 which in turn defines ''regulation'' and ''rule'' by reference to Section 601(2) of the RFA. That section of the RFA defines ''rule'' as ''any rule for which the agency publishes a notice of proposed rule making pursuant to Section 553(b) of the APA, or any other law.''

As discussed in the RFA section of this notice, NPDES general permits are not ''rules'' by definition under the APA and thus not subject to the APA requirement to publish a notice of proposed rule making. NPDES general permits are also not subject to such a requirement under the CWA. While EPA publishes a notice to solicit public comment on draft general permits, it does so pursuant to the CWA Section 402(a) requirement to provide an opportunity for a hearing. Therefore, NPDES general permits are not ''rules'' for RFA or UMRA purposes.

XI. Paperwork Reduction Act

The information collection required by this permit has been approved by OMB under the provisions of the Paperwork Reduction Act, 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 [(NPDES Discharge Monitoring Reports (DMRs)].

Since this permit is very similar in reporting and application requirements and in discharges which are required to be monitored as the previous Eastern Gulf of Mexico OCS general permit (GMG460000) the paperwork burdens are expected to be nearly identical. When it issued the previous OCS general permit, EPA estimated it would take an affected facility three hours to prepare the request for coverage and 38 hours per year to prepare DMRs. It is estimated that the time required to prepare the request for coverage and DMRs for the reissued permit will be approximately the same.

Dated: December 11, 2009.

James D. Giattina,

Director, Water Protection Division.

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ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2009–0901; FRL–8804–6]

Notice of Receipt of Requests to Voluntarily Cancel Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of requests by registrants to voluntarily cancel certain pesticide registrations.

DATES: Unless a request is withdrawn by June 28, 2010, orders will be issued canceling these registrations. The Agency will consider withdrawal requests postmarked no later than June 28, 2010. Comments must be received on or before June 28, 2010 for these registrations.

ADDRESSES: Submit your comments and your withdrawal request, identified by docket identification (ID) number EPA–HQ–OPP–2009–0901, by one of the following methods:

• *Federal eRulemaking Portal*: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.

• *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001. Written Withdrawal Request, Attention : Barbara Briscoe, Pesticide Re-evaluation Division (7508P).

• *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket Facility's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2009–0901. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the docket index available at *http://www.regulations.gov*. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Barbara Briscoe, Pesticide Re-evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–8177; e-mail address: *Briscoe.Barbara@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply to Me?

This action is directed to the public in general. Although this action may be of particular interest to persons who produce or use pesticides, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the information in this notice, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI*. Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that