

ADMINISTRATIVE ORDER ON CONSENT DE MINIMIS SETTLEMENT—Continued  
[EPA Docket No. CERCLA-8-2001-06]

Super Vacuum Manufacturing Company, Inc .....	8,214.10
Suss Pontiac GMC .....	8,103.84
TDY Industries, Inc .....	1,571.15
Teledyne Densco .....	
T.H. Pickens Technical Center .....	5,512.82
Team Chevrolet .....	8,820.52
Terracon, Inc .....	441.02
Empire Labs .....	
Tom's Body Shop, Inc .....	2,497.30
Turner Chevrolet .....	551.28
Weber Auto Body .....	1,929.49
Wells Fargo Bank, N.A. f/k/a First Interstate .....	3,440.00
Bank of Denver, N.A., as Trustee of the Robert A. Mitchem Testamentary Trust; and Wells Fargo Bank, N.A. f/k/a First Interstate Bank of Denver, N.A. .....	
Robert A. Mitchem Testamentary Trust .....	
Williams Chevrolet .....	6,692.56
<b>Total Amount for Settling Respondents .....</b>	<b>\$640,379.10</b>
<b>Settling Federal Parties</b>	
U.S. Army—Fitzsimmons Medical Center .....	\$ 8,881.15
U.S. EPA .....	13,528.45
U.S. Federal Highway Administration .....	5,882.18
U.S. Government Printing Office .....	25.00
<b>Total Amount for Settling Federal Parties .....</b>	<b>\$28,316.78</b>

By the terms of the proposed AOC for *de minimis* settlement, the settling parties will pay a combined total of \$668,695.88 to the Hazardous Substance Superfund. This payment represents approximately 9.9% of the \$6,748,001.01 in past and estimated future response costs (\$3,028,001.01 in past response costs incurred through September 30, 2000, plus \$3,720,000.00 for the estimated future work at the site). The money will be deposited into a special account which can be used to pay for future work at the Site. The settling parties manifested 121,978.059 gallons of hazardous substances to the Site. This amount represents approximately 7.81% of the 1,561,451.371 gallons of hazardous substances manifested to the Site by all generators, both *de minimis* and non-*de minimis*.

The amount that each individual PRP will pay, as shown above, was based upon the number of gallons of hazardous substances manifested to the Site. The total amount of settlement dollars owed by each party to the settlement was arrived at by adding their Base Amount to a Premium Amount. The cost per gallon of \$4.32 was derived by dividing the estimated clean-up cost at the time of calculation of \$6,748,001.01 by the 1,561,451.371 total gallons of hazardous substances manifested to the Site. The settling party's Base Amount was calculated by multiplying the cost per gallon by the number of gallons that party manifested to the Site. A fifty per cent (50%) premium on the estimated future response costs of \$3,720,000 was calculated into each settling parties' payment.

To be eligible for the *de minimis* settlement, each PRP must have submitted a response to EPA's Request for Information, and must have contributed no more than 1% of the total volume of hazardous substances manifested to the Site.

It is so Agreed:

Dated: May 17, 2001.

**Carol Rushin,**

*Assistant Regional Administrator, Office of Enforcement, Compliance, and Environmental Justice, Region VIII.*

[FR Doc. 01-13948 Filed 6-1-01; 8:45 am]

**BILLING CODE 6560-50-U**

## ENVIRONMENTAL PROTECTION AGENCY

[FRL-6990-5]

### Whalehead Beach Superfund Site; Notice of Proposed Settlement

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of Proposed Settlement.

**SUMMARY:** The United States Environmental Protection Agency is proposing to enter into a settlement with the Atlantic Research Corporation for past response costs pursuant to Section 122(h)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. 9622(h)(1) concerning the Whalehead Beach Superfund Site located in Corolla, Currituck County, North Carolina. EPA will consider public comments on the proposed settlement for thirty (30) days. EPA may withdraw from or modify the proposed settlement should such comments disclose facts or

considerations which indicate the proposed settlement is inappropriate, improper or inadequate. Copies of the proposed settlement are available from: Ms. Paula V. Batchelor, U.S. EPA, Region 4 (WMD-PSB), 61 Forsyth Street SW., Atlanta, Georgia 30303, (404) 562-8887.

Written comments may be submitted to Ms. Batchelor within 30 calendar days of the date of this publication.

Dated: May 2, 2001.

**James T. Miller,**

*Acting Chief, CERCLA Program Services Branch, Waste Management Division.*

[FR Doc. 01-13944 Filed 6-1-01; 8:45 am]

**BILLING CODE 6560-50-U**

## ENVIRONMENTAL PROTECTION AGENCY

[FRL-6985-5]

### Proposed Modification to the NPDES General Permit for the Western Portion of the Outer Continental Shelf of the Gulf of Mexico (GMG290000)

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of Proposed NPDES General Permit Reissuance.

**SUMMARY:** The Regional Administrator of Region 6 today proposes to modify the National Pollutant Discharge Elimination System (NPDES) general permit for the Western Portion of the Outer Continental Shelf of the Gulf of Mexico (No. GMG290000) for discharges from existing and new dischargers and New Sources in the Offshore Subcategory of the Oil and Gas Extraction Point Source Category as authorized by section 402 of the Clean

Water Act, 33 U.S.C. 1342. The permit, reissued on April 19, 1999 and published in the **Federal Register** at 64 FR 19156, authorizes discharges from exploration, development, and production facilities located in and discharging to Federal waters of the Gulf of Mexico seaward of the outer boundary of the territorial seas off Louisiana and Texas. Discharges of produced water to Federal waters from facilities located in the territorial seas are also authorized. Through this modification, EPA proposes to include new authorizations to discharge drill cuttings produced using synthetic and other non-aqueous based drilling fluids and waste water used to pressure test existing piping and pipelines.

Only the proposed modification to the permit is being opened for comment. Existing conditions such as those authorizing the discharge of produced water and water based drilling fluids are not open for comment.

**DATES:** Comments must be received by August 3, 2001.

**ADDRESSES:** Comments should be sent to: Regional Administrator, Region 6, U.S. Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas 75202-2733.

Comments may also be submitted via EMAIL to the following address: [smith.diane@epa.gov](mailto:smith.diane@epa.gov)

**FOR FURTHER INFORMATION CONTACT:** Ms. Diane Smith, Region 6, U.S. Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas 75202-2733. Telephone: (214) 665-7191.

A complete draft permit and/or a fact sheet more fully explaining the proposal may be obtained from Ms. Smith. In addition, the Agency's current administrative record on the proposal is available for examination at the Region's Dallas offices during normal working hours after providing Ms. Smith 24 hours advance notice. Additionally, a copy of the proposed permit, fact sheet, and this **Federal Register** Notice may be obtained on the Internet at: <http://www.epa.gov/earth1r6/6wq/6wq.htm>

#### **SUPPLEMENTARY INFORMATION:**

##### **Regulated Entities**

EPA intends to use the proposed permit modification to regulate oil and gas extraction facilities located in the Outer Continental Shelf of the Western Gulf of Mexico, e.g., offshore oil and gas extraction platforms, but other types of facilities may also be subject to the permit. To determine whether your (facility, company, business, organization, etc.) may be affected by today's action, you should carefully examine the applicability criteria in Part

I, Section A.1 of the draft permit. Questions on the permit's application to specific facilities may also be directed to Ms. Smith at the telephone number or address listed above.

The permit contains limitations conforming to EPA's Oil and Gas extraction, Offshore Subcategory Effluent Limitations Guidelines at 40 CFR part 435 and additional requirements assuring that regulated discharges will cause no unreasonable degradation of the marine environment, as required by section 403(c) of the Clean Water Act. Specific information on the derivation of those limitations and conditions is contained in the fact sheet. EPA Region 6 does not propose to change the existing limitations and conditions in the permit. It is, however, proposing minor wording changes to some of those requirements to enhance their clarity.

Region 6 proposes to authorize new discharges of drill cuttings which are generated using synthetic and other non-aqueous based drilling fluids. Those new drill cuttings discharges are proposed to be subject to limits and monitoring for: sediment toxicity, biodegradation, polynuclear aromatic hydrocarbons, formation oil contamination, and the percentage of drilling fluids retained on cuttings. In addition, the existing limits of: No free oil, cadmium and mercury in barite, no diesel, and suspended particulate phase toxicity are proposed to apply to cuttings generated using non-aqueous based drilling fluids. Discharges of seawater and freshwater which have been used to pressure test existing pipelines and piping, to which treatment chemicals have been added, are also proposed to be authorized. Those seawater and freshwater discharges are proposed to be subject to limitations on free oil, concentration of treatment chemicals, and acute toxicity. These new permit limitations will apply technology based limitations to drill cuttings discharges generated using non-aqueous based drilling fluids and miscellaneous discharges to which treatment chemicals such as biocides and corrosion inhibitors have been added. They will also ensure that those discharges meet Ocean Discharge Criteria under section 403(c) of the Clean Water Act.

##### **Other Legal Requirements**

###### *Oil Spill Requirements*

Section 311 of the CWA, "the Act," prohibits the discharge of oil and hazardous materials in harmful quantities. Discharges that are in compliance with NPDES permits are

excluded from the provisions of section 311. However, the permit does not preclude the institution of legal action or relieve permittees from any responsibilities, liabilities, or penalties for other, unauthorized discharges of oil and hazardous materials which are covered by section 311 of the Act.

###### *Endangered Species Act*

The Environmental Protection Agency has evaluated the potential effects of issuance of this permit modification upon listed threatened or endangered species. Based on that evaluation, EPA has determined that authorization of the new discharges is not likely to adversely affect any listed threatened or endangered species. The proposal contains extensive controls to minimize the quantity and toxicity of discharged pollutants. While including limits which will minimize the discharge of toxic pollutants such as polynuclear aromatic hydrocarbons, cadmium, and mercury discharged with drill cuttings, the proposal also limits both the water column and sediment toxicity of the discharges. Limits to ensure that drilling fluids which are used will degrade relatively quickly are also contained in the proposal. Likewise, the proposed authorization of the new discharge of chemically treated sea water or fresh water which has been used to hydrostatically test existing piping and existing pipelines includes controls on the amount of treatment chemical used and toxicity of the discharge and prohibits the discharge of free oil. Requirements proposed for both these new discharges are consistent with Ocean Discharge Criteria (40 CFR part 125, subpart M) and ensure that sensitive marine species are protected.

Based on the available information and analysis of the discharges described in the Fact Sheet for this proposed modification EPA Region 6 has determined that authorization of the proposed discharges is not likely to adversely affect listed threatened or endangered species. EPA is seeking written concurrence from the National Marine Fisheries Service (NMFS) on this determination.

###### *Ocean Discharge Criteria Evaluation*

For discharges into waters of the territorial sea, contiguous zone, or oceans CWA section 403 requires EPA to consider guidelines for determining potential degradation of the marine environment in issuance of NPDES permits. These Ocean Discharge Criteria (40 CFR part 125, subpart M) are intended to "prevent unreasonable degradation of the marine environment and to authorize imposition of effluent

limitations, including a prohibition of discharge, if necessary, to ensure this goal" (45 FR 65942, October 3, 1980). EPA Region 6 has previously determined that discharges in compliance with the Western Gulf of Mexico Outer Continental Shelf general permit (GMG290000) will not cause unreasonable degradation of the marine environment. Since this proposed modification contains limitations which will protect water quality and in general reduce the discharge of toxic pollutants to the marine environment, the Region finds that discharges proposed to be authorized by the modification to the general permit will not cause unreasonable degradation of the marine environment.

#### *Coastal Zone Management Act*

EPA has determined that the activities which are proposed to be authorized by this permit modification are consistent with the local and state Coastal Zone Management Plans. The proposed permit and consistency determination will be submitted to the State of Louisiana and the State of Texas for interagency review at the time of public notice.

#### *Marine Protection, Research, and Sanctuaries Act*

The Marine Protection, Research and Sanctuaries Act (MPRSA) of 1972 regulates the dumping of all types of materials into ocean waters and establishes a permit program for ocean dumping. In addition the MPRSA establishes Marine Sanctuaries Program, implemented by the National Oceanographic and Atmospheric Administration (NOAA), which requires NOAA to designate ocean waters as marine sanctuaries for the purpose of preserving or restoring their conservation, recreational, ecological or aesthetic values. Pursuant to the Marine Protection and Sanctuaries Act, the National Oceanographic and Atmospheric Administration has designated the Flower Garden Banks, an area within the coverage of the OCS general permit, a marine sanctuary. The OCS general permit prohibits discharges in areas of biological concern, including marine sanctuaries. Changes to the permit proposed today will not affect that prohibition.

#### *State Water Quality Standards and State Certification*

The permit modification does not authorize discharges to State Waters; therefore, the state water quality certification provisions of CWA section 401 do not apply to this proposed action.

#### *Executive Order 12866*

The Office of Management and Budget (OMB) has exempted this action from the review requirements of Executive Order 12291 pursuant to Section 8(b) of that order. Guidance on Executive Order 12866 contain the same exemptions on OMB review as existed under Executive Order 12291. In fact, however, EPA prepared a regulatory impact analysis in connection with its promulgation of guidelines on which a number of the permit's provisions are based and submitted it to OMB for review. See 58 FR 12494.

#### *Paperwork Reduction Act*

The information collection required by this permit has been approved by the Office of Management and Budget (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 (discharge monitoring reports).

Since this permit modification will not significantly change the reporting and application requirements which are required under the Western Gulf of Mexico Outer Continental Shelf (OCS) general permit (GMG290000), and 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 discharge monitoring reports. It is estimated that the time required to prepare the request for coverage and discharge monitoring reports for the reissued permit will be the same and will not be affected by this action.

However, the alternative to obtaining authorization to discharge under this general permit is under an individual permit. The application and reporting burden of obtaining authorization to discharge under the general permit is expected to be significantly less than under an individual permit.

#### *Regulatory Flexibility Act*

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, requires that EPA prepare a regulatory flexibility analysis for regulations that have a significant impact on a substantial number of small entities. As indicated below, the permit modification proposed today is not a "rule" subject to the Regulatory Flexibility Act. EPA prepared a regulatory flexibility analysis, however, on the promulgation of the Offshore Subcategory guidelines on which many

of the permit's effluent limitations are based. That analysis shows that issuance of this permit modification will not have a significant impact on a substantial number of small entities.

#### *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)" (emphasis added)). 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 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." Thus, NPDES general permits are not "rules" for RFA or UMRA purposes.

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 governmental 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 governments of cities, counties, towns, etc., with a population of less than 50,000, unless the agency establishes an alternative definition.

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

#### *National Environmental Policy Act*

When it was proposed, EPA determined that issuance of the now expired NPDES New Source General Permit for the Western Portion of the Outer Continental Shelf of the Gulf of Mexico was a major Federal action significantly affecting the quality of the human environment. Thus, pursuant to the National Environmental Policy Act of 1969, evaluation of the potential environmental consequences of the permit action in the form of an Environmental Impact Statement (EIS) was required. The Minerals Management Service had previously examined the environmental consequences in their final EIS which was conducted for oil and gas lease sales 142 and 143 in the OCS Region of the Gulf of Mexico. EPA adopted that EIS and prepared a Supplemental EIS (SEIS) to allow for additional consideration and evaluation of potential impacts on air quality, water quality, including radium in produced water, and cumulative effects. The Final SEIS was completed in December 1994 and the Record of Decision was prepared and dated September 28, 1995. The Minerals Management Service has also subsequently examined the effects of these activities in EIS's for additional lease sales.

Modification of the NPDES general permit for New and Existing Sources in the Western Portion of the Outer Continental Shelf of the Gulf of Mexico will not result in any new impacts which were not subjected to NEPA analysis in either Mineral Management Service's EIS or the SEIS produced by EPA Region 6. All discharges proposed to be authorized by the permit were addressed in those NEPA Reviews. Thus EPA does not propose to prepare a supplemental environmental impact statement for this action.

**Sam Becker,**

*Acting Director, Water Quality Protection Division, Region 6.*

[FR Doc. 01-13947 Filed 6-1-01; 8:45 am]

**BILLING CODE 6560-50-U**

## **ENVIRONMENTAL PROTECTION AGENCY**

[FRL-6989-7]

### **State and Tribal Water Quality Standards: Notice of EPA Approvals and Announcement of EPA Internet Repository**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** This document contains a listing of State and Tribal submissions of new or revised water quality standards that EPA approved during the period April 1, 1998 through May 30, 2000. Additionally, this notice contains a listing of Indian Tribes that obtained EPA approval to administer a water quality standards program during the same period. It also contains a list of EPA actions to promulgate or remove Federal water quality standards during the same period.

**FOR FURTHER INFORMATION CONTACT:** Cara Lalley, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, Mail Code 4305, Washington, DC 20460; (202) 260-0314; [lalley.cara@epa.gov](mailto:lalley.cara@epa.gov); or see the EPA Regional Water Quality Standards Contacts table in **SUPPLEMENTARY INFORMATION** to contact your Regional Office.

**SUPPLEMENTARY INFORMATION:** This document contains a list of State and Tribal water quality standards adoptions and revisions which EPA approved during the period beginning on April 1, 1998 and ending on May 30, 2000. The most recent list was published on October 7, 1998 (63 FR 53911), reflecting State and Tribal submissions of new or revised water quality standards that EPA approved during the period September 1, 1995 through March 31, 1998.

For each EPA approval action, this document provides a reference to the State's or Tribe's regulations that contain the State and Tribal water quality standards, followed by the date of State and Tribal adoption and/or effectiveness, the date of EPA approval, and a brief description of EPA's approval. Additionally, this notice contains a listing of Tribes that have obtained EPA approval to administer a water quality standards program. It also contains a listing of federal water quality standards rulemakings.

This document does not include the following information: (1) The actual text of the water quality standards, (2) any exceptions or conditions that apply to EPA's approval, such as portions of the State and Tribal standards

submissions on which EPA did not take action or EPA disapproved, (3) whether approvals were made subject to the results of consultation under the Endangered Species Act, (4) Tribal application materials submitted to EPA for authorization to administer the water quality standards program, or (5) the text of the federal water quality standards rulemakings. The text of a State's or Tribe's standards and copies of the approval letters may be obtained from the State's or Tribe's pollution control agency or the appropriate EPA Regional Office (See "EPA Regional Water Quality Standards Contacts" table). Proprietary publications such as those of the Bureau of National Affairs, Inc. also contain the text of State and Tribal water quality standards.

Due to recent changes in EPA's water quality standards regulations commonly referred to as the *Alaska Rule*, this will be the last list of water quality standard approvals published as a **Federal Register** notice. The *Alaska Rule* (published in the **Federal Register** on April 27, 2000 and effective as of May 30, 2000) requires that new and revised State and Tribal water quality standards be approved by EPA before they become effective for Clean Water Act purposes. Prior to the *Alaska Rule*, water quality standards were Clean Water Act-effective once they were adopted by states and authorized tribes, regardless of EPA approval. The new regulations replaced the requirement for an annual publication of EPA approvals (formerly contained at 40 CFR 131.21(d)) with the establishment of a repository of Clean Water Act-effective water quality standards (referred to as the Clean Water Act Water Quality Standards Docket in the *Alaska Rule* preamble). (See 65 FR 24641.) With this **Federal Register** notice, EPA is announcing the availability of the Internet version of this repository for all water quality standards effective under the Clean Water Act. The public may view the effective Federal, State, Territory, and Tribal water quality standards at <http://www.epa.gov/ost/wqs>. This Internet repository will be updated periodically to include new and revised water quality standards approved by EPA in the future.

In addition, EPA Regional offices continue to maintain hard copies of the effective water quality standards of the States and authorized Tribes within their jurisdiction. You may view hard copy versions of the effective water quality standards by contacting the appropriate Regional EPA Office (See "EPA Regional Water Quality Standards Contacts" table). With the availability of the effective State, Territory, and Tribal