

FACT SHEET AND SUPPLEMENTAL INFORMATION
FOR THE PROPOSED MODIFICATION OF
THE NPDES GENERAL PERMIT FOR NEW AND EXISTING SOURCES
IN THE OFFSHORE SUBCATEGORY OF
THE OIL AND GAS EXTRACTION POINT SOURCE CATEGORY FOR
THE WESTERN AND CENTRAL PORTION OF THE OUTER
CONTINENTAL SHELF OF THE GULF OF AMERICA (GMG290000)

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I. Synopsis of Permit Modification

The Environmental Protection Agency (EPA) is proposing a narrow modification to its 2023 NPDES General Permit for New and Existing Sources and New Discharges in the Offshore Subcategory of the Oil and Gas Extraction Point Source Category for The Western and Central Portion of the Outer Continental Shelf (OCS) of The Gulf of Mexico (GMG290000), to change the compliance date for acute Whole Effluent Toxicity (WET) limitations for Well Treatment Fluids, Completion Fluids, and Workover Fluids (TCW) discharges; change the name “Gulf of Mexico” to “Gulf of America”; and adds discharge duration reporting requirements for TCW fluids.

The fact sheet provides background to explain the reasons for the modification and a summary of and rationale for the specific changes to the general permit (GP). The permit fact sheet supplements the 2023 fact sheet, which can be found at

https://www.epa.gov/system/files/documents/2023-05/2023%20GM290000%20Fact%20Sheet%20for%20Final%20Permit%20Decision_508%20.pdf

II. Legal Basis

Section 301(a) of the Clean Water Act (CWA or the Act), 33 USC 1311(a), renders it unlawful to discharge pollutants to waters of the United States, unless authorized. 33 U.S.C. §§ 1311(a), 1342(a). CWA section 402, 33 U.S.C. section 1342, authorizes the Environmental Protection Agency (EPA) to issue National Pollutant Discharge Elimination System (NPDES) permits allowing discharges on the condition they will meet certain requirements, including CWA sections 301, 304, 306, 401 and 403. Those statutory provisions require NPDES permits include effluent limitations for authorized discharges that: (1) meet standards reflecting levels of technological capability; (2) comply with the EPA-approved state water quality standards; (3) comply with other state requirements adopted under authority retained by states under CWA section 510, 33 U.S.C. section 1370; and, (4) cause no unreasonable degradation to the territorial seas, waters of the contiguous zone, or the oceans.

CWA section 301 requires compliance with "best conventional pollution control technology" (BCT) and "best available pollution control technology economically achievable" (BAT) no later than March 31, 1989. CWA section 306 requires compliance with New Source Performance Standards (NSPS) no later than the effective date of such standards. Accordingly, three types of technology-based effluent limitations are included in the proposed permit. With regard to conventional pollutants, i.e., pH, BOD, oil and grease, TSS, and fecal coliform, CWA section 301(b)(1)(E) requires effluent limitations based on BCT. With regard to nonconventional and toxic pollutants, CWA sections 301(b)(2)(A), (C), and (D) require effluent limitations based on BAT. For New Sources, CWA section 306 requires effluent limitations based on New Source Performance Standards (NSPS). Final effluent guidelines specifying BCT, BAT, and NSPS for the Offshore Subcategory of the Oil and Gas Point Source Category (40 CFR 435, Subpart A) were issued January 15, 1993, and were published at 58 FR 12454 on March 4, 1993. Those guidelines were modified on January 22, 2001 (see 66 FR 6850, January 22, 2001), to include technology-based treatment standards for discharges associated with the industry's use of synthetic based drilling fluids.

Most recently, the EPA re-issued the 2023 GMG290000 on May 11, 2023. The EPA is now proposing to modify the 2023 OCS GP pursuant to the modification authorities in the applicable NPDES regulations at 40 CFR 122.62 and 40 CFR 124.5. Under the regulations, if cause exists, the EPA may modify a permit during its term following notice and an opportunity for public comment in accordance with 40 CFR 124.5(c). When a permit is modified, only the conditions

subject to modification are reopened. By letter dated February 26, 2025, the Offshore Operators Committee (OOC) provided to the EPA effluent data from TCW acute WET tests performed since the 2023 effective date of the Permit documenting a 14% failure rate for acute WET tests of TCW fluids. New data and information provided by the OOC indicates that failures have occurred despite operators' best efforts to achieve compliance with the GP's acute WET limits by the end of the two-year compliance schedule included in the GP and may be related to the short duration and transitory nature of TCW fluids. The two-year compliance schedule was included in the 2023 GP in response to a request by industry, based on its' estimate of the time needed to meet the new acute WET limits. The new data and information submitted by the OOC, which was not available at the time of permit issuance, indicates that an additional three years, beyond the two years included in the GP, is needed to meet those limits. This additional time is needed to evaluate the circumstances surrounding the continued WET test failures and examine possible avenues for compliance. Based on this new data and information, the EPA has determined that cause exists under 40 CFR 122.62(a)(2) to modify the GP to provide the permittees with additional time to come into compliance with the Permit's acute WET limits for TCW. The new information also provides grounds for such modification under the anti-backsliding exception in CWA Section 402(o)(2)(B)(i). The proposed modification changes the final date for compliance with these WET limitations to May 11, 2028, which is the end of the permit term.

III. Regulatory Background

On April 3, 1981 (see 46 FR 20284), the EPA published the final general NPDES permit, TX0085642, which authorized discharges from facilities located seaward of the outer boundary of the territorial seas off Louisiana and Texas, an area commonly known as the Outer Continental Shelf. The 1981 general permit implemented "Best Practicable Control Technology Currently Available" (BPT), as established by effluent guidelines for the Offshore Subcategory (see 40 CFR 435). The permits expired April 3, 1983.

The EPA reissued the general permit on September 15, 1983 (48 FR 41494), with an expiration date of June 30, 1984. The permit was issued for a short period of time because promulgation of National Effluent Limitations Guidelines for Best Available Technology Economically Achievable were expected by 1983 and again by 1984. The limitations contained in the permit were unchanged in the 1984 reissuance; however, some changes were made for facilities located near the Flower Garden Banks.

On July 9, 1986 (51 FR 24897), the EPA reissued the general permit. In that action the EPA Region 6 issued a joint permit with Region 4 authorizing discharges from facilities located in the OCS throughout the Gulf of America. That permit, numbered GMG280000, prohibited discharge of oil-based drilling fluids, oil contaminated drilling fluids, drilling fluids containing diesel oil, and drill cuttings generated using oil based drilling fluids. New limits were included in the permit for suspended particulate phase toxicity in drilling fluids, the drilling fluid discharge rate near areas of biological concern, and for free oil in drilling fluids and drill cuttings. The permit expired on July 1, 1991.

On November 19, 1992, the EPA Region 6 reissued the NPDES general permit for the Western Gulf of Mexico Outer Continental Shelf (57 FR 54642), GMG290000, covering operators of lease blocks in the Offshore Subcategory of the Oil and Gas Extraction Point Source Category located seaward of the outer boundary of the territorial seas of Texas and Louisiana. As a part of that reissuance, new limits for produced water toxicity were added, as well as new

limits for cadmium and mercury in stock barite, and a prohibition on the discharge of drilling fluids to which mineral oil has been added. That general permit was modified on December 3, 1993, to implement Offshore subcategory effluent limitations guidelines promulgated March 4, 1993 (58 FR 12504), and to include more accurate calculations of produced water critical dilutions. A general permit covering New Sources in that same area of coverage was issued and combined with the Western Gulf of Mexico Outer Continental Shelf general permit on August 9, 1996 (61 FR 41609). The permit expired on November 19, 1997, and was reissued in two parts on November 2, 1998 (63 FR 58722), and April 19, 1999 (64 FR 19156).

In the 1998 reissuance, the EPA Region 6 authorized new discharges of seawater and freshwater to which treatment chemicals, such as biocides and corrosion inhibitors, have been added. The maximum discharge rate limit for produced water was removed. To account for advances in drilling fluid technology, the permit was modified on December 18, 2001 (66 FR 65209), to authorize discharges associated with the use of synthetic based drilling fluids. Additional monitoring requirements were also included at that time to address hydrostatic testing of existing piping and pipelines, and those discharges were authorized. That permit expired on November 3, 2003.

The general permit was reissued on October 7, 2004 (69 FR 60150). With that reissuance, the EPA included produced water monitoring requirements for facilities located in the hypoxic zone. The permit was issued for a three-year term rather than the typical five-year term so that the results from the produced water hypoxia study could be addressed in a timely manner if additional permit conditions were found to be warranted. In the 2007 permit reissuance (72 FR 31575), requirements to comply with new cooling water intake structure regulations were included. Sub-lethal effects were required to be measured for whole effluent toxicity testing. New testing methods were allowed for monitoring cadmium and mercury in stock barite. That permit expired September 30, 2012.

The EPA reissued the permit on September 28, 2012 (77 FR 61605). Operators are required to file electronic Notice of Intent and Discharge Monitoring Reports. The permit required characterization studies for produced water and water-based drilling fluids, respectively, so the EPA could evaluate whether those discharges might contribute heavy metals at a level toxic to aquatic life. Other major changes included toxicity testing requirements for hydrate control fluids, spill prevention best management practices, and allowing the discharge of limited amount of drilling fluids with cuttings due to the testing of subsea safety valves. The permit expired September 30, 2017.

The EPA reissued the permit on September 19, 2017 (82 FR 45845). The permit removed the requirements to submit eNOIs 24 hours prior to discharging, extended Notice of Termination (NOT) deadline to within one year after termination, allowed paper NOIs when the eNOI system is unavailable, allowed the primary operator to require day-to-day vessel operators to file eNOIs for their activities, increased the time to collect a produced water oil and grease sample from 30 minutes to 2 hours after a sheen is observed, reduced the cooling water intake velocity monitoring frequency, restored the monitoring exception for properly operated Marine Sanitation Devices (MSDs), increased the deadline to submit the Industry-wide Study Plan for well treatment, completion, and workover fluids was changed from 6 months to 18 months, and allowed submittal of SEAMAP data instead of entrainment monitoring for cooling water intake. Various other changes were included to clarify permit requirements. The permit will expire on September 30, 2022.

The EPA reissued the permit on May 11, 2023 (88 FR 36316). The permit included acute toxicity limits and chronic monitoring for Well Treatment Fluids, Completion Fluids, and Workover Fluids (TCW), with a two year compliance schedule; flow rate monitoring for Well Treatment Fluids, Completion Fluids, and Workover Fluids; requirements for the permittee to develop and implement an operation and maintenance plan for cooling water intake structure(s) and report any dates and numeric discharge exceedances; reporting for cooling water intake velocity exceedances and dates on DMRs; annual monitoring requirements if operations are active for less than one year; the use of disinfection technologies, other than chlorine, in Marine Sanitation Devices (MSD); requirements for operators to flush and capture the materials contained in pipelines, umbilicals, and other equipment prior to disconnection, to authorize decommissioning discharges; prohibitions for the discharge of radioactive materials (the discharge of radioactive materials under the jurisdiction of the NRC are not independently authorized by the permit); requirements for a facility map when filing the eNOI; and once per month temperature monitoring for produced water discharge.

In this draft permit modification, EPA proposes to change the compliance date for acute WET limitations for TCW fluids from May 11, 2025 to May 11, 2028, change the name “Gulf of Mexico” to “Gulf of America”, and include additional monitoring requirements (duration of discharge) for TCW fluids.

IV. Permit Modification

Through this action, the EPA is proposing to modify only the date for compliance with the GP’s acute WET limit for TWC discharges, which went into effect on May 11, 2025, change the name “Gulf of Mexico” to “Gulf of America” and include reporting requirements for discharge duration for TCW fluids. There are no other changes proposed to the 2023 OCS GP. Publication of this proposed modification begins a 60-day comment period on the proposed modification. Pursuant to 40 CFR 122.62, only the change to the compliance date for the acute WET limit, the inclusion of discharge duration monitoring requirements for TCW fluids, and the associated environmental assessment is open for comment. The EPA is not reopening any other conditions of this permit as a part of this modification. As the 2023 OCS GP (including changes made as a result of this proposed modification) expires on May 11, 2028, the EPA plans to propose the next permit in the near term and any concerns with other aspects of the permit can be raised at that time.

V. References

1. Letter on February 26, 2025, from Offshore Operators Committee to Scott Mason requesting the TCW compliance date be extended to the end of the permit cycle.
2. Final Report TCW Fluids Aquatic Toxicity Joint Industry Project
https://www.epa.gov/system/files/documents/2023-05/2023%20GM290000%20Fact%20Sheet%20for%20Final%20Permit%20Decision_508%20.pdf
3. 40 CFR §435 Subpart A, 40 CFR §122, & 40 CFR §136
4. Biological Opinion on the Federally Regulated Oil and Gas Program Activities in the Gulf of Mexico <https://www.fisheries.noaa.gov/s3//2025-05/BOEM-BSEE-Gulf-of-America-Oil-and-Gas-Program-BiOp-5.20.25.pdf>
5. Essential Fish Habitat Assessment for Oil and Gas Activities in the Gulf of Mexico <https://www.boem.gov/sites/default/files/documents/about-boem/BOEM-2022-EFH%20Assessment.pdf>

6. Draft Environmental Assessment for the Proposed Modification of the National Pollutant Discharge Elimination System General Permit for New and Existing Sources in the Offshore Subcategory for the Western Portion of the Outer Continental Shelf in the Gulf of America

ADDENDUM TO THE FACT SHEET AND SUPPLEMENTAL INFORMATION FOR THE
PROPOSED MODIFICATION OF THE NPDES GENERAL PERMIT FOR NEW AND
EXISTING SOURCES IN THE OFFSHORE SUBCATEGORY OF THE OIL AND GAS
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(GMG290000)

SUPPLEMENTAL INFORMATION FOR OTHER STATUTORY AND REGULATORY REQUIREMENTS:

Clean Water Act. The Clean Water Act (“CWA”) establishes a comprehensive program “to restore and maintain the chemical, physical, and biological integrity of the Nation’s waters.” 33 U.S.C. § 1251(a). The CWA also includes the objective of attaining “water quality which provides for the protection and propagation of fish, shellfish and wildlife and … recreation in and on the water.” 33 U.S.C. § 1251(a)(2)). To achieve these goals, the CWA requires EPA to control point source discharges of pollutants to Waters of the United States through the issuance of National Pollutant Discharge Elimination System (“NPDES”) permits.

NPDES permits issued for oil and gas exploration, development, and production discharges are required under Section 402(a)(1) of the CWA to include conditions for meeting technology-based effluent limits established under Section 301 and, where applicable, Section 306. Once an effluent limitations guideline or new source performance standard is promulgated in accordance with these sections, NPDES permits issued by the NPDES permitting authorities must incorporate requirements based on such limitations and standards. See 40 CFR 122.44(a)(1). Effluent limitation guidelines for the Offshore Subcategory of the Oil and Gas Extraction Point Source Category are found at 40 CFR 435, Subpart A.

Oil Spill Requirements. Section 311 of the Clean Water Act, (CWA or the Act), prohibits the discharge of oil and hazardous materials in harmful quantities. Discharges that are authorized by 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. This permit does not authorize spills or any uncontrolled discharges.

Ocean Discharge Criteria Evaluation. When issuing permits 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. These Ocean Discharge Criteria (40 CFR 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" (see 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 (see 57 FR 54642, November 19, 1992, 64 FR 19156, April 19, 1999, 66 FR 65209, December 18, 2001, 69 FR 60150, October 7, 2004, 72 FR 31575, June 7, 2007, 77 FR 61605, October 10, 2012, and 82 FR 45845, October 2, 2017). EPA had also completed a study of the effects of produced water discharges on hypoxia in the northern Gulf of America and found that these discharges would not have a significant impact. (See Predicted Impacts from Offshore Produced Water Discharges on Hypoxia in the Gulf of Mexico, Limno-Tech, Inc., 2006). Since this draft permit modification contains limitations that will protect water quality and in general reduce the discharge of toxic pollutants to the marine environment, by allowing industry additional time to come into compliance with acute WET testing limitations for TCW fluids, the Region finds that discharges authorized by the modified general permit will not likely cause unreasonable degradation of the marine environment.

Marine Protection, Research, and Sanctuaries Act. The Marine Protection, Research and Sanctuaries Act (MPRSA) of 1972 regulates the transportation for dumping of materials into ocean waters and establishes permit programs for ocean dumping. The NPDES permit EPA modifies today does not authorize dumping under MPRSA.

In addition to the MPRSA establishes the Marine Sanctuaries Program, implemented by the National Oceanographic and Atmospheric Administration (NOAA), which requires NOAA to designate certain 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, NOAA 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. The permit authorizes discharges incidental to oil and gas production from a facility which predates designation of the Flower Garden Banks National Marine Sanctuary as a marine sanctuary. EPA has previously worked extensively with NOAA to ensure that authorized discharges are consistent with regulations governing the National Marine Sanctuary.

National Environmental Policy Act. EPA has prepared a preliminary finding of no significant impact and draft environmental assessment and is noticing the document with the draft permit for comment.

Magnuson-Stevens Fisheries Conservation and Management Act. The Magnuson-Stevens Fisheries Conservation and Management Act requires that federal agencies proposing to authorize actions that may adversely affect essential fish habitat (EFH) consult with NMFS. The entire Gulf of America has been designated EFH. EPA intends to adopt the EFH analysis BOEM prepared in in the 2022 Essential Fish Habitat Assessment for Oil and Gas Activities in the Gulf of Mexico (GOM), and separately consult with NMFS with a supplemental EFH Assessment. BOEM concludes that “the incremental contributions of the routine activities and reasonable foreseeable accidental events associated with the proposed activities are not expected to contribute appreciably to overall impacts on water quality in the GOM; reasonably foreseeable spills of contaminants and associated response activities as a result of the proposed activities could result in minor to moderate cumulative impacts to localized areas of estuarine habitats; the incremental contributions of the activities resulting from the proposed action are expected to be minor to submerged aquatic vegetation (Seagrass and Macro-Algae); the incremental contributions associated with the proposed action to the cumulative impacts affecting live bottom habitats in the GOM are expected to be negligible; the incremental impacts resulting from past BOEM-regulated activities and future activities resulting from the proposed action to Sargassum in the GOM are expected to be short-term, localized, and primarily sublethal, affecting only small portions of the overall Sargassum habitat present in the GOM; if a catastrophic oil spill occurred in the future it would have the potential to adversely impact deepwater benthic communities in localized areas, however, these events are statistically rare, not reasonably foreseeable, and may affect only a small portion of such communities present throughout the GOM; and the cumulative effects associated with the proposed activity are not expected to result in population-level impacts because these activities are spatially and temporally limited and would affect only a small portion of any population, resulting at times in minimal decreases in fish resources and/or standing stocks”.

This 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. This permit also does not authorize spills or any uncontrolled discharges.

Endangered Species Act (ESA). On May 20, 2025 National Marine Fisheries Service issued an Endangered Species Act Section 7 Biological Opinion on the Federally Regulated Oil and Gas Program Activities in the Gulf of America. At the time of public notice, EPA will initiate a review with National Marine Fisheries Service to ensure that all activities are consistent with those described in the Biological Opinion.

EPA is evaluating the effects caused by this permit modification upon the baseline conditions considered in the Biological Opinion. EPA will meet its responsibility to fulfill the requirements of ESA section 7(a)(2) prior to finalization of the modification.

National Historic Preservation Act. Facilities which adversely affect properties listed or eligible for listing in the National Register of Historic Places are not authorized to discharge under this permit. EPA has determined that activities proposed do not have the potential to cause effects on historic properties.

Coastal Zone Management Act. EPA determined that activities proposed to be authorized by this modified permit 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.

Paperwork Reduction Act. The information collection required by this permit will reduce paperwork significantly by implementation of electronic reporting requirements. EPA estimates that it takes 10 to 15 minutes to fill up all information required by eNOI for each facility. And it takes much less time to add, delete, or modify eNOI. EPA also requires an electronic discharge monitoring report (NetDMR) requirement in the permit. The time for NetDMR preparation will be much less than that for paper DMR. The electronic filing systems will also significantly reduce the mailing cost.

The information collection activities in this permit are authorized by OMB, see “ICR Supporting Statement Information Collection Request for National Pollutant Discharge Elimination System (NPDES) Program (Renewal)” (EPA ICR No. 0229.25, OMB Control No. 2040-0004). EPA has requested extension of the ICR, which was approved through March 31, 2022.

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 the modification of this permit will not have a significant impact on a substantial number of small entities.

State Water Quality Standards and State Certification. The permit 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.

Impact on Small Businesses. EPA analyzed the potential impact of today’s permit on small entities and concludes that this permit modification will not have a significant impact on a

substantial number of small entities. The modification results in no operational and/or economical burdens. In addition, there are not a substantial number of small entities affected by this permit as EPA understands that there are few, if any, small businesses that are owners or operators of facilities subject to this permit. EPA did not conduct a quantitative analysis of impacts for this permit, as that would only be appropriate if the permit may affect a substantial number of small entities.

Additionally, EPA previously found that the promulgation of the Offshore Subcategory guidelines on which many of the permit's effluent limitations are based did not have a significant impact on a substantial number of small entities. The permit also contains limits based on CWA 403(c) Ocean Discharge Criteria evaluation.

Anti-backsliding. In the case of effluent limitations established on the basis of section 1311(b)(1)(C) or section 1313(d) or (e) of this title, a permit may not be renewed, reissued, or modified to contain effluent limitations which are less stringent than the comparable effluent limitations in the previous permit except in compliance with section 1313(d)(4) of this title. EPA received new information which suggested that additional time is needed to ensure all applicable TCW fluids are in compliance with the acute WET limit that went into effect on May 11, 2025. Data also demonstrated that discharges are passing the associated acute WET tests 86% of the time. The proposed permit changes the compliance date to May 11, 2028, maintains the acute WET testing requirements, and adds an additional monitoring requirement for discharge duration for TCW fluids. As a result, the proposed permit is consistent with the requirements and exemption to meet Anti-backsliding provisions of the Clean Water Act, Section 402(o) and 40 CFR Part 122.44(i)(B), which state in part that interim or final effluent limitations must be as stringent as those in the previous permit, unless information is available which was not available at the time of permit issuance.

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 and the Draft EA received within the 30-day comment period will be considered in the formulation of final determination regarding the National Environmental Policy Act (NEPA) review and the permit modification. 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 Final EA, Finding of No Significant Impact, and permit modification. 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 and 124.19, except for a general permit, as provided at 40 CFR 124.19(o). 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 authorized at 40 CFR 122.28, in accordance with the application requirements set forth at 40 CFR 122.21, and then request a formal hearing on the issuance or denial of an individual permit.