

PART II.**SECTION A. GENERAL CONDITIONS****1. INTRODUCTION**

In accordance with the provisions of 40 CFR Part 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 regulations.

2. DUTY TO COMPLY

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action, for terminating coverage under this permit, or for requiring a permittee to apply for and obtain an individual NPDES permit.

3. TOXIC POLLUTANTS

- a. Notwithstanding Part II.A.4, if any toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is promulgated under Section 307(a) of the Act for a toxic pollutant which is present in the discharge and that standard or prohibition is more stringent than any limitation on the pollutant in this permit, this permit may be modified or revoked and reissued to conform to the toxic effluent standard or prohibition.
- b. The permittee shall comply with effluent standards or prohibitions established under Section 307(a) of the Act for toxic pollutants within the time provided in the regulations that established those standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

4. PERMIT FLEXIBILITY

This permit may be modified, revoked and reissued, or terminated for cause in accordance with 40 CFR 122.62-64. The filing of a request for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

5. PROPERTY RIGHTS

This permit does not convey any property rights of any sort, or any exclusive privilege.

6. DUTY TO PROVIDE INFORMATION

The permittee shall furnish to the Director, within a reasonable time, any information

which the Director 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 to the Director, upon request, copies of records required to be kept by this permit.

7. 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 regulations, which avoids or effectively defeats the regulatory purpose of the Permit may subject the Permittee to criminal enforcement pursuant to 18 U.S.C. Section 1001.

8. 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 is or may be subject under Section 311 of the Act.

9. 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 Act.

10. 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. The permittee is responsible for maintaining adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failure either by means of alternate power sources, standby generators or retention of inadequately treated effluent.

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

- a. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by permittee as efficiently as possible and in a manner which will minimize upsets and discharges of excessive pollutants and will achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of backup or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of this permit.
- b. The permittee shall provide an adequate operating staff which is duly qualified to carry out operation, maintenance and testing functions required to insure compliance with the conditions of this permit.

4. BYPASS OF TREATMENT FACILITIES**a. BYPASS NOT EXCEEDING LIMITATIONS**

The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of Parts II.B.4.b. and 4.c.

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.7.

c. PROHIBITION OF BYPASS

(1) Bypass is prohibited, and the Director 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;

(a) 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 judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and,

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

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

5. UPSET CONDITIONS

a. EFFECT OF AN UPSET

An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of Part II.B.5.b. 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.

b. CONDITIONS NECESSARY FOR A DEMONSTRATION OF UPSET

A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating 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.7; and,
- (4) The permittee complied with any remedial measures required by Part II.B.2.

c. **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**

Unless otherwise authorized, solids, sewage sludges, filter backwash, or other pollutants removed in the course of treatment or waste water control shall be disposed of in a manner such as to prevent any pollutant from such materials from entering navigable waters, and in accordance with other applicable laws or regulations.

7. **SPILL PREVENTION BEST MANAGEMENT PRACTICES (BMPs)**

This general permit does not authorize discharges, including spills or leaks, caused by failures of equipment, blowout, damage of facility, or any form of unexpected discharge.

All permittees shall comply with requirements established in Title 16 of the Texas Administrative Code (16 TAC) by the Texas Railroad Commission regarding spill prevention. Practices must be updated as necessary to maintain consistency with any applicable revisions to these requirements.

Any facility operator which develops, implements, and maintains spill prevention Best Management Practices (BMPs) that are compliant with corresponding standards and regulations promulgated by the Texas Railroad Commission at 16 TAC, shall be deemed in compliance with the requirements of this subsection. Compliance with spill prevention requirements in this subsection are intended only to minimize the potential for uncontrolled releases of pollutants to the waters of the United States and does not convey authority for unauthorized discharges, including spills, leaks, or unexpected discharges not specifically authorized under this permit. Conditions in this section related to prevention of unauthorized discharges do not constitute an exclusion from the definition of “discharge” under CWA 311(a)(2).

SECTION C. MONITORING AND RECORDS

1. INSPECTION AND ENTRY

The permittee shall allow the Director, or an authorized representative, upon the presentation of credentials and other documents as may be required by the 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 purpose of assuring permit compliance or as otherwise authorized by the Act, any substances or parameters at any location.

2. REPRESENTATIVE SAMPLING

Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

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, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of the sample, measurement, report, or application. This period may be extended by request of the director at any time.

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) and time(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

- a. Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in this permit or approved by the Regional Administrator.
- b. The permittee shall calibrate and perform maintenance procedures on all monitoring and analytical instruments at intervals frequent enough to insure accuracy of measurements and shall maintain appropriate records of such activities.
- c. An adequate analytical quality control program, including the analyses of sufficient standards, spikes, and duplicate samples to insure the accuracy of all required analytical results shall be maintained by the permittee or designated commercial laboratory.

SECTION D. REPORTING REQUIREMENTS**1. PLANNED CHANGES**

The permittee shall give notice to the Director as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

- a. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in 40 CFR Part 122.29(b); or,
- b. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements listed at Part II.D.10.a.

2. ANTICIPATED NONCOMPLIANCE

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

3. TRANSFERS

Coverage under these permits is not transferable to any person except after notice to the Director.

4. DISCHARGE MONITORING REPORTS AND OTHER REPORTS

Monitoring results obtained during the previous month for all discharges at a facility shall be summarized and reported to EPA and the appropriate State agency on the 28th day of the month following the end of the reporting period. The reporting periods define as calendar quarters, i.e., January-March, April-June, July-September, and October-December. The permittee shall be responsible for submitting monitoring results for all facilities (platforms, drilling structures, or discharge outfalls). The permittee shall submit monitoring results electronically via Network Discharge Monitoring Report (NetDMR) tool quarterly or more frequently. For more information and training, please access the NetDMR website at <http://epa.gov/netdmr/> and email to R6NetDMR@epa.gov.

The permittee shall submit the first NetDMR for a covered facility no later than 120 days after filing NOI for that facility.

5. 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 on the NetDMR. Such increased monitoring frequency shall also be indicated on the NetDMR.

6. AVERAGING OF MEASUREMENTS

Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Director in the permit. Averaging for bacteria results shall be done by geometric mean.

7. TWENTY-FOUR HOUR REPORTING

- a. The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally to the EPA Region 6 24-hour voice mail box telephone number 214-665-6593 within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall be provided within 5 days of the time the permittee becomes aware of the circumstances. The report shall contain the following information:
 - (1) A description of the noncompliance and its cause;
 - (2) 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,
 - (3) Steps being taken to reduce, eliminate, and prevent recurrence of the noncomplying discharge.
- b. 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; and,
 - (3) Violation of a maximum daily discharge limitation for any pollutants listed by the Director in Part II of the permit to be reported within 24 hours.
- c. The Director may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

8. OTHER NONCOMPLIANCE

The permittee shall report all instances of noncompliance not reported under Parts II.D.4 and D.7 and Part I.C at the time monitoring reports are submitted. The reports shall contain the information listed at Part II.D.7.

9. OTHER INFORMATION

Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the

Director, it shall promptly submit such facts or information.

10. CHANGES IN DISCHARGES OF TOXIC SUBSTANCES

The permittee shall notify the Director 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, of any toxic pollutant listed at 40 CFR Part 122, Appendix D, Tables II and III (excluding Total Phenols) which is not limited in the permit, if that discharge will exceed any of the following "notification levels":
 - (1) One hundred micrograms per liter (100 ug/L); two hundred micrograms per liter (200 ug/L) for acrolein and acrylonitrile; five hundred micrograms per liter (500 ug/L) for 2,4-dinitro-phenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/L) for antimony;
 - (2) Five (5) times the maximum concentration value reported for that pollutant in the permit application; or
 - (3) The level established by the Director.
- 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 one of the following applicable "notification levels":
 - (1) Five hundred micrograms per liter (500 ug/L); one milligram per liter (1 mg/L) for antimony;
 - (2) Ten (10) times the maximum concentration value reported for that pollutant in the permit application; or
 - (3) The level established by the Director.

11. SIGNATORY REQUIREMENTS

All applications, reports, or information submitted to the Director shall be signed and certified. EPA Region 6 Enforcement Office may request paper signature in addition to electronic signature.

- a. ALL PERMIT APPLICATIONS (and Notices of Intent) shall be signed as follows:
 - (1) For a corporation: by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means:
 - (a) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions for the corporation; or,
 - (b) The manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management

decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

- (2) FOR A PARTNERSHIP OR SOLE PROPRIETORSHIP - by a general partner or the proprietor, respectively.
- b. ALL REPORTS required by the permit and other information requested by the Director shall be signed by a person described above or by a duly authorized representative of that person. A person is 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 a well 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 named individual or an individual occupying a named position; and,
 - (3) The written authorization is submitted to the Director.

c. 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 gathering 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."

12. EPA MAILING ADDRESS

Operators shall submit all paper documents and reports if required to the following

address:

U.S. Environmental Protection Agency
NPDES Compliance Section (6EN-WC)
1445 Ross Ave., Suite 1200
Dallas, TX 75202-2733

13.AVAILABILITY OF REPORTS

Except for applications, effluent data, permits, and other data specified in 40 CFR 122.7, any information submitted pursuant to this permit may be claimed as 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 Section 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a fine of not less than \$2,500 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, 308, 318, or 405 of the Act is subject to a fine of not less than \$5,000 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, 303, 306, 307, 308, 318, or 405 of the Act and who knows at that 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, 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 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, 308, 318, or 405 of the Act is subject to a civil penalty, as specified in 40 CFR 19.4, 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 an administrative penalty, as specified in 40 CFR 19.4, for each violation.

SECTION F. DEFINITIONS

All definitions contained 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 of 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. ADMINISTRATOR means the Administrator of the U.S. Environmental Protection Agency.
3. BLOWOUT PREVENTER FLUID is used to actuate the hydraulic equipment on the blowout preventer.
4. BOD5 means five-day biochemical oxygen demand.
5. BYPASS means the intentional diversion of waste streams from any portion of a treatment facility.
6. COD means chemical oxygen demand.
7. DAILY MAX discharge limitation means the highest allowable "daily discharge" during the calendar month.
8. DIRECTOR means the U.S. Environmental Protection Agency Regional Administrator or an authorized representative.
9. DOMESTIC WASTE is material discharged from sinks, showers, laundries, safety showers, eyewash stations, hand-wash stations, fish cleaning stations, and galleys located within facilities subject to this permit.
10. DRILLING FLUIDS is the circulating fluid (mud) used in the rotary drilling of wells to clean and condition the hole and to counterbalance formation pressure.
11. DRILL CUTTINGS are the particles generated by drilling into subsurface geologic formations including cured cement carried out from the wellbore with the drilling fluid.
12. ENVIRONMENTAL PROTECTION AGENCY means the U.S. Environmental Protection Agency.
13. FACILITY means any structure used for oil or gas extraction purpose and meets NPDES "point source" or any structure or activity that is subject to regulation under the NPDES program.
14. FORMATION TEST FLUIDS are the discharge that would occur if hydrocarbons are located during exploratory drilling and tested for formation pressure and content.

15. GRAB SAMPLE means an individual sample collected in less than 15 minutes.
16. "MGD" means million gallons per day.
17. "mg/L" means milligrams per liter or parts per million (ppm).
18. NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under Sections 307, 318, 402, and 405 of the Act.
19. OPERATOR means as defined in Part I.A.2. of this permit.
20. PRODUCED WATER is the 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 downhole or during the oil/water separation process.
21. PRODUCED SANDS are slurried particles used in hydraulic fracturing, the accumulated formation sands, and scale particles generated during production. Produced sand also includes desander discharge from produced water waste stream and blowdown of water phase from the produced water treating system.
22. SEVERE PROPERTY DAMAGE means substantial physical damage to property, damage to the 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 a bypass. Severe property damage does not mean economic loss caused by delays in production.
23. STATIC SHEEN is defined in the static sheen test in Appendix 1 to 40 CFR 435, Subpart A.
24. SANITARY WASTE is human body waste discharged from toilets and urinals.
25. TSS means total suspended solids.
26. 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.
27. VISUAL SHEEN means a "silvery" or "metallic" sheen, gloss, or increased reflectivity, visual color, or iridescence on the water surface.

28. WELL FIELD DRAINAGE is rainwater and runoff within facilities subject to this permit.
29. WELL TREATMENT, COMPLETION FLUIDS AND WORKOVER FLUIDS: well treatment fluids are any fluids used to restore or improve productivity by chemically or physically altering hydrocarbon-bearing strata after a well has been drilled, well completion fluids are salt solutions, weighted brines, polymers, and various additives used to prevent damage to the well bore during operations which prepare the drilled well for hydrocarbon production, and workover fluids are salt solutions, weighted brines, polymers, or other specialty additives used in a producing well to allow for maintenance, repair or abandonment procedures. Packer fluids, low solids fluids between the packer, production string and well casing, are considered to be workover fluids.