ATTACHMENT 3

COOLING WATER INTAKE STRUCTURE REQUIREMENTS

Attachment 3 incorporates by reference 40 CFR Part 125, Subpart N, requirements applicable to cooling water intake structures for new offshore oil and gas extraction facilities under the Clean Water Act, Section 316(b), 33 USC § 1316(b). This Attachment summarizes the Subpart N requirements. Applicants and permittees should consult 40 CFR Part 125, Subpart N, for the specific, applicable requirements. To the extent there are any inconsistencies or missing provisions in this summary Attachment, the applicant and permittee must comply with the Subpart N requirements.

Pursuant to 40 CFR § 125.134(a)(1), the owner or operator of a new offshore oil and gas extraction facility must comply with: (i) Track I in § 125.134(b) or Track II in §125.134(c) if it is a fixed facility; or (ii) Track I in 125.134(b) if it is not a fixed facility (i.e. non-fixed facility).

A. Application Requirements. A permit applicant for a new fixed facility must submit to the Director a written statement, included in the Notice of Intent, indicating its intent to comply with either the Track I requirements in 40 CFR § 125.134(b) as summarized in Paragraph B below or the Track II requirements in 40 CFR § 125.134(c) as summarized in Paragraph C below. A permit applicant must also submit the application information required in accordance with 40 CFR § 125.136(a)(2). Note: a non-fixed facility must comply with Track I requirements.

B. Track I Intake Structure Operational and Other Requirements.

1. Fixed Facilities that Do Not Employ Sea Chests as Intake Structures.

   a. The cooling water intake structure(s) must be designed and constructed so that the maximum through-screen design intake velocity is 0.5 ft/s or less;

   b. For cooling water intake structures located in an estuary or tidal river, the total design intake flow over one tidal cycle of ebb and flow must be no greater than one (1) percent of the volume of the water column within the area centered about the opening of the intake with a diameter defined by the distance of one tidal excursion at the mean low water level;

   c. The permittee shall select and implement design and construction technologies or operational measures for minimizing impingement mortality of fish and shellfish as determined by the Director in accordance with 40 CFR § 125.134(b)(4)(i-iii);

   d. The permittee shall select and implement design and construction technologies or operational measures for minimizing entrainment of entrainable life stages of fish and shellfish;

e. The applicant/permittee shall submit the applicable information specified in 40 CFR § 125.134(b)(6);

f. The permittee shall implement monitoring requirements specified in 40 CFR § 125.137 as summarized in Paragraph E below.

g. The permittee shall implement the record keeping, data recording form creation and use, and applicable annual reporting requirements specified in 40 CFR § 125.138 as summarized in Paragraph F below.

2. Fixed Facilities that Employ Sea Chests as Intake Structures.

a. The cooling water intake structure(s) must be designed and constructed so that the maximum through-screen design intake velocity is 0.5 ft/s or less;

b. For cooling water intake structures located in an estuary or tidal river, the total design intake flow over one tidal cycle of ebb and flow must be no greater than one (1) percent of the volume of the water column within the area centered about the opening of the intake with a diameter defined by the distance of one tidal excursion at the mean low water level;

c. The permittee shall select and implement design and construction technologies or operational measures for minimizing impingement mortality of fish and shellfish as determined by the Director in accordance with 40 CFR § 125.134(b)(4)(i-iii);

d. The applicant/permittee shall submit the applicable information specified in 40 CFR § 125.134(b)(6);

e. The permittee shall implement monitoring requirements specified in 40 CFR § 125.137 as summarized in Paragraph E below.

f. The permittee shall implement the record keeping, data recording form creation and use, and applicable annual reporting requirements specified in 40 CFR § 125.138 as summarized in Paragraph F below.

3. New Non-Fixed Facilities.

a. The cooling water intake structure(s) must be designed and constructed so that the maximum through-screen design intake velocity is 0.5 ft/s or less;

b. The permittee shall select and implement design and construction technologies or operational measures for minimizing impingement mortality of fish and shellfish as determined by the Director in accordance with 40 CFR § 125.134(b)(4)(i-iii);

c. The applicant/permittee shall submit the applicable information specified in 40 CFR § 125.134(b)(6);

d. The permittee shall implement monitoring requirements specified in 40 CFR § 125.137 as summarized in Paragraph E below.

e. The permittee shall implement the record keeping, data recording form creation and use, and applicable annual reporting requirements specified in 40 CFR § 125.138 as summarized in Paragraph F below .

C. Track II Intake Operational and Other Requirements.

1. Fixed Facilities With or Without Sea Chests as Intake Structures.

a. The permittee shall comply with the demonstration requirements in 40 CFR § 125.134(c)(1);

b. For cooling water intake structures located in an estuary or tidal river, the total design intake flow over one tidal cycle of ebb and flow must be no greater than one (1) percent of the volume of the water column within the area centered about the opening of the intake with a diameter defined by the distance of one tidal excursion at the mean low water level;

c. The applicant/permittee shall submit the applicable information required in 40 CFR § 122.21(r)(2) (except (r)(2)(iv)), (3) and (4) and 40 CFR § 125.136(c);

d. The operator must implement monitoring requirements specified in 40 CFR § 125.137 to demonstrate compliance with applicable requirements.

e. The operator must implement the record keeping requirements specified in 40 CFR § 125.138.

D. More Stringent Requirements. The permittee shall comply with any more stringent requirements relating to location, design, construction, and capacity of a cooling water intake structure(s) or monitoring requirements at a new offshore oil and gas extraction facility that the Director deems are reasonably necessary to comply with any provision of federal or state law, including compliance with

applicable state water quality standards (including designated uses, criteria, and antidegradation requirements).

E. Monitoring Requirements. The permittee shall perform monitoring in accordance with the applicable monitoring requirements in 40 CFR § 125.137.

a. Track I Fixed Facilities that Do Not Employ Sea Chests as Intake Structures. The permittee shall monitor for entrainment in accordance with 40 CFR § 125.137(a)(2), (a)(3) and (a)(5). The permittee shall conduct applicable velocity monitoring in accordance with 40 CFR §125.137(b) and visual or remote inspections in accordance with 40 CFR §125.137(c). The permittee is not required to monitor for impingement unless the Director determines that the information would be necessary to evaluate the need for or compliance with additional requirements in accordance with 40 CFR § 125.134(b)(4) or more stringent requirements in accordance with 40 CFR § 125.134(d).

2. Track I Fixed Facilities that Employ Sea Chests as Intake Structures. The permittee shall conduct applicable velocity monitoring in accordance with 40 CFR §125.137(b) and visual or remote inspections in accordance with 40 CFR §125.137(c). The permittee is not required to perform biological monitoring unless the Director determines that the information would be necessary to evaluate the need for or compliance with additional requirements in accordance with 40 CFR § 125.134(b)(4) or more stringent requirements in accordance with 40 CFR § 125.134(d).

3. Track II Fixed Facilities that Employ Sea Chests as Intake Structures. The permittee shall monitor for impingement in accordance with 40 CFR § 125.137(a)(2), (a)(3) and (a)(4). The permittee shall conduct applicable velocity monitoring in accordance with 40 CFR §125.137(b) and visual or remote inspections in accordance with 40 CFR §125.137(c).

4. Track II Fixed Facilities that Do Not Employ Sea Chests as Intake Structures. The permittee shall monitor for both impingement and entrainment in accordance with 40 CFR § 125.137(a)(2), (a)(3), (a)(4) and (a)(5). The permittee shall conduct applicable velocity monitoring in accordance with 40 CFR §125.137(b) and visual or remote inspections in accordance with 40 CFR §125.137(c).

5. Non-Fixed Facilities. The permittee shall conduct applicable velocity monitoring in accordance with 40 CFR §125.137(b) and visual or remote inspections in accordance with 40 CFR §125.137(c). The permittee is not required to perform biological monitoring unless the Director determines that the information would be necessary to evaluate the need for or compliance with additional requirements in accordance with 40 CFR § 125.134(b)(4) or more stringent requirements in accordance with 40 CFR § 125.134(d).

F. Record Keeping and Reporting. Every permittee shall comply with the following record retention, data recording form creation and use, and applicable annual reporting requirements.

a. Record Retention. The permittee shall keep records of all the data used to complete the permit application or NOI and to show compliance with the requirements, any supplemental information developed in accordance with 40 CFR § 125.136, and any compliance monitoring data created and/or submitted in accordance with Paragraph E above for a period of three (3) years from the date that the permittee ceased exploratory facility operations and all authorized discharges at a drilling site for which the data was created or generated. The Director may require the permittee to retain these records for a longer period of time by written notice.

b. Data Recording Forms. The permittee shall create and use written forms to record compliance monitoring data including weekly visual/remote inspection data, velocity monitoring data, and applicable impingement and entrainment sampling data.

c. Yearly Status Report. The permittee shall submit a yearly status report to the Director by March 1 of the following year that includes the biological monitoring records for each CWIS of fixed facilities, velocity and head loss monitoring records, and records of visual and/or remote inspections as required by Paragraph E above.