

ENVIRONMENTAL PROTECTION AGENCY

[FLR-]

**Proposed Reissuance of NPDES General Permit for Groundwater Remediation
Discharge Facilities in Idaho (Permit Number IDG911000)**

AGENCY: Environmental Protection Agency (EPA)

ACTION: Notice of proposed reissuance of NPDES General Permit and request for public comment.

SUMMARY: EPA Region 10 proposes to reissue a National Pollutant Discharge Elimination System (NPDES) General Permit for Groundwater Remediation Discharge Facilities in Idaho (GWGP). As proposed, the GWGP authorizes the discharge of groundwater from remediation sites to Waters of the U.S. within the State of Idaho from both facilities with existing coverage and new facilities interested in seeking coverage. The draft GWGP contains technology-based and water quality-based effluent limitations for conventional and toxic water quality pollutants, along with administrative reporting and monitoring requirements, as well as standard conditions, prohibitions, and management practices. A fact sheet is available that explains the draft GWGP in detail. Section 401 of the Clean Water Act, 33 U.S.C. 1341, requires EPA to seek a certification from the State of Idaho that the conditions of the GWGP are stringent enough to comply with State water quality standards. The Idaho Department of Environmental Quality (IDEQ) has provided a draft certification that the draft GWGP complies with State of Idaho Water Quality Standards (IDAPA 58.01.02), including the State's antidegradation

policy. EPA intends to seek a final certification from IDEQ prior to issuing the final GWGP. This is also notice of the draft § 401 certification provided by IDEQ. Persons wishing to comment on the draft State certification should send written comments to Ms. Miranda Adams; Idaho Department of Environmental Quality, State Office, Surface Water Program; 1410 North Hilton Street; Boise, Idaho 83706 or via e-mail to Miranda.Adams@deq.idaho.gov

DATES: The public comment period for the draft GWGP will be from the date of publication of this Notice until [PUBLICATION DATE + 45 DAYS], 2014. Comments must be received or postmarked by no later than midnight Pacific Standard Time on [PUBLICATION DATE + 45 DAYS], 2014. All comments related to the draft GWGP and Fact Sheet received by EPA Region 10 by the comment deadline will be considered prior to issuing the final GWGP.

SUBMITTING COMMENTS: You may submit comments by any of the following methods. All comments must include the name, address, and telephone number of the commenter.

Mail: Send paper comments to Ms. Jill Nogi, Office of Water and Watersheds; USEPA Region 10; 1200 6th Ave, Suite 900, OWW-130; Seattle, Washington 98101.

E-mail: Send electronic comments to nogijill@epa.gov. Make sure to write "Comments on the Draft Idaho Groundwater Remediation General Permit" in the subject line.

Fax: Fax comments to the attention of Jill Nogi at (206) 553-0155.

Hand Delivery/Courier: Deliver comments to Jill Nogi, EPA Region 10, Office of Water and Watersheds, Mail Stop OWW-130, 1200 6th Avenue, Suite 900, Seattle, WA 98101-

3140. Call (206) 553-0523 before delivery to verify business hours.

Viewing and/or Obtaining Copies of Documents. A copy of the draft GWGP and the Fact Sheet, which explains the proposal in detail, may be obtained by contacting EPA at 1 (800) 424-4372. Copies of the documents are also available for viewing and downloading at:

http://yosemite.epa.gov/r10/water.nsf/NPDES+Public+Notices/id_gwgp_pn_2014.

Requests may also be made to Audrey Washington at (206) 553-0523 or washington.audrey@epa.gov.

Public Informational Meeting: May 1, 2014; 11:00 A.M. - 1:00 P.M.; in Boise, Idaho; at the Banner Building, 950 W. Bannock Street, 2nd Floor Conference Room. Presentation on the Draft GWGP from 11:00 A.M. -11:30 A.M, Q & A from 11:30 A.M.-12:30 P.M. Conference Call-In Number from 11:30 A.M.-12:30 P.M.; 1-866-299-3188; conference code 2065530775#. Open House from 12:30 P.M. -1:00 P.M.

Public Hearing: Persons wishing to request a public hearing should submit their written request by (PUBLICATION DATE + 45 DAYS) stating the nature of the issues to be raised as well as the requester's name, address, and telephone number to Jill Nogi at the address above. If a public hearing is scheduled, notice will be published in the Federal Register. Notice will also be posted on the Region 10 web site, and will be mailed to all interested persons receiving letters of the availability of the Draft GWGP.

FOR FURTHER INFORMATION CONTACT: Additional information can be obtained by contacting Jill Nogi, Office of Water and Watersheds, U.S. Environmental Protection Agency, Region 10. Contact information included above in the "Submitting

Comments” Section.

SUPPLEMENTAL INFORMATION: The currently expired Groundwater General Permit NPDES General Permit, No. IDG910000 (2007 Permit), was issued by EPA on July 1, 2007. The 2007 Permit expired on June 30, 2012. The 2007 Permit remains in effect for those Permittees who obtained an administrative extension of the authorization to discharge before the permit expired. The current draft GWGP does not provide coverage for the discharge from mining operations. Those existing mining operations with an EPA administrative extension of coverage under the 2007 Permit may continue to operate under the limitations and conditions of the 2007 Permit until such time as a new permit is issued for those facilities.

In addition, EPA proposes to make the following major changes with the reissued permit:

- Revised effluent limitations based on:
 1. Idaho’s newer (2006) WQS. (The 2007 GWGP used Idaho’s 2005 WQS.) EPA calculated different water-quality based effluent limits (WQBELs) for receiving waters designated as a Domestic Water Supply (DWS) in accordance with the State of Idaho Surface Water Quality Standards at IDAPA 58.01.02;
 2. Minimum hardness values for hardness-dependent metals of 25 mg/L and 10 mg/L for cadmium; and,
 3. Requiring average monthly and maximum daily effluent limits for continuous dischargers, and daily maximum effluent limits for non-continuous dischargers.
- A provision requiring a BMP Plan, which is standard for industrial permittees. The last GWGP required an Operation & Maintenance (O&M) Plan. Those requirements

have now been incorporated into the BMP Plan provision;

- Requirements for more frequent monitoring and an expanded list of COCs to monitor;
- A requirement to use NetDMR, which enables the electronic submission of monitoring data and monthly discharge monitoring reports to EPA and IDEQ.

OTHER LEGAL REQUIREMENTS:

Endangered Species Act [16 USC § 1531 et al.]. Section 7 of the Endangered Species Act (ESA) requires Federal agencies to consult with NOAA Fisheries (NMFS) and the U.S. Fish and Wildlife Service (USFWS) (the Services) if their actions have the potential to either beneficially or adversely affect any threatened or endangered species. The Draft GWGP does not authorize discharges from groundwater remediation facilities in Idaho to any receiving waters where federally listed threatened, endangered, or candidate species, or designated or proposed critical habitat, pursuant to the ESA, are present. ESA consultation will be required for individual situations where an applicant requests a waiver to discharge to a receiving water excluded from coverage for ESA reasons. Therefore, the EPA has evaluated the Draft GWGP and has made the determination that issuance of the GWGP will have no effect on any threatened, endangered, or candidate species; designated critical habitat, or essential fish habitat; and therefore, ESA consultation is not required.

National Environmental Policy Act (NEPA) [42 USC § 4321 et.seq.] and Other Federal Requirements. Regulations at 40 CFR 122.49, list the federal laws that may apply to the issuance of permits i.e., ESA, National Historic Preservation Act, the Coastal Zone Act Reauthorization Amendments (CZARA), NEPA, and Executive Orders, among others.

The NEPA compliance program requires analysis of information regarding potential impacts, development and analysis of options to avoid or minimize impacts; and development and analysis of measures to mitigate adverse impacts.

Due to the fact that groundwater remediation facilities do not have any EPA-promulgated effluent limitation guidelines (ELGs) under CWA § 304 or new source performance standards (NSPS) specific to their operation, EPA determined that no Environmental Assessments (EAs) or Environmental Impact Statements (EISs) are required under NEPA. Idaho is not located in the U.S. coastal zone, so CZARA does not apply. In addition, the GWGP will not authorize the construction of any water resources facility or the impoundment of any water body or have any effect on historical property, and does not exclude receiving waters with ESA species present or with Wild and Scenic River designations. Therefore, EPA has determined that the Fish and Wildlife Coordination Act, 16 USC § 661 et seq., and the Wild and Scenic Rivers Act, 16 USC § 470 et seq., also do not apply to the issuance of the GWGP.

Essential Fish Habitat (EFH). The Magnuson-Stevens Fishery Management and Conservation Act requires EPA to consult with NOAA-NMFS when a proposed discharge has the potential to adversely affect a designated EFH. The EFH regulations define an adverse effect as “any impact which reduces quality and/or quantity of EFH...[and] may include direct (e.g. contamination or physical disruption), indirect (e.g. loss of prey, reduction in species’ fecundity), site-specific or habitat-wide impacts, including individual, cumulative, or synergistic consequences of actions.” NMFS may recommend measures for attachment to the federal action to protect EFH; however, such

recommendations are advisory, and not prescriptive in nature.

EPA has determined that the issuance of this Draft GWGP has no effect on EFH. The Draft GWGP does not authorize discharges from groundwater remediation facilities in Idaho to any receiving waters where EFH has been designated. Coordination with NMFS will be required for individual situations where an applicant requests a waiver to discharge to a receiving water excluded from coverage for EFH reasons. Therefore, the EPA has evaluated the Draft GWGP and has made the determination that issuance of the GWGP will have no effect on EFH. If, during the course of the process it is determined that the discharge may need “extensive conservation requirements necessary to protect” EFH, the facility may need to apply for an individual permit.

Executive Order 12866: The Office of Management and Budget (OMB) exempts this action from the review requirements of Executive Order 12866 pursuant to Section 6 of that order.

Economic Impact [Executive Order 12291]: The EPA has reviewed the effect of Executive Order 12291 on this Draft GWGP and has determined that it is not a major rule pursuant to that Order.

Paperwork Reduction Act [44 USC § 3501 et seq.] The EPA has reviewed the requirements imposed on regulated facilities in the Draft GWGP and finds them consistent with the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq.

Regulatory Flexibility Act [5 U.S.C. § 601 et seq.] The Regulatory Flexibility Act (RFA) requires that EPA prepare an initial regulatory flexibility analysis for rules subject to the requirements of the Administrative Procedures Act [APA, 5 U.S.C. § 553] that have a

significant impact on a substantial number of small entities. However, EPA has concluded that NPDES General Permits are not rulemakings under the APA, and thus not subject to APA rulemaking requirements or the RFA.

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 (defined to be the same as rules subject to the RFA) on tribal, state, and local governments, and the private sector. However, General NPDES Permits are not rules subject to the requirements of the APA, and are, therefore, not subject to the UMRA.

Authority: This action is taken under the authority of Section 402 of the Clean Water Act as amended, 42 U.S.C. 1342. I hereby provide public notice of the Draft Idaho GWGP in accordance with 40 CFR 124.10.

21 March 2014

Dated:



Daniel D. Opalski, Director

Office of Water and Watersheds, Region 10

U.S. Environmental Protection Agency