ENVIRONMENTAL PROTECTION AGENCY **6560–50–P**

Draft NPDES General Permit for Discharges from the Oil and Gas Extraction Point Source Category to Coastal Waters in Texas (TXG330000)

AGENCY: Environmental Protection Agency (EPA)

ACTION: Proposal of NPDES General Permit Renewal

SUMMARY: EPA Region 6 today proposes a National Pollutant Discharge Elimination System (NPDES) general permit regulating discharges from oil and gas wells in the Coastal Subcategory in Texas and in the Stripper Subcategory which discharge into coastal waters in Texas.

DATES: Comments must be received by [insert date 45 days after publication date].

ADDRESSES: Comments should be sent to:

Ms. Diane Smith (6WQ-NP)

U.S. Environmental Protection Agency, Region 6

1445 Ross Avenue, Dallas, Texas 75202-2733

Comments may also be submitted via EMAIL to the following address: smith.diane@epa.gov

PUBLIC MEETING/PUBLIC HEARING INFORMATION

A public meeting and a public hearing on the proposed permit will be held at the times and place below. The meeting will include a presentation on the proposed permit followed by the opportunity for questions and answers. The public hearing will be held in accordance with the

A public meeting and a public hearing on the proposed permit will be held at the times and place below. The meeting will include a presentation on the proposed permit followed by the opportunity for questions and answers. The public hearing will be held in accordance with the requirements of 40 CFR 124.12. At the public hearing, any person may submit oral or written statements and data concerning the proposed permit. Any person who cannot attend the public hearing may still submit written comments, which have the same weight as comments made at the public hearing, through the end of the public comment period.

Date: April 11, 2012

Time: Public meeting starts at 2:00 pm and public hearing starts at 3:30 pm

Place: Houston Marriott South Hobby Airport, Galveston Room,

9100 Gulf Freeway, Houston, TX 77017

FOR FURTHER INFORMATION CONTACT: Ms. Diane Smith, Region 6, U.S. Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas 75202-2733. Telephone: (214) 665-2145.

A complete draft permit and a fact sheet more fully explaining the proposal may be obtained online from the Web site below or 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. A copy of the proposed permit, fact sheet, and this Federal Register Notice may be found on the EPA Region 6 Web site at: *http://www.epa.gov/region6/water/npdes/genpermit/index.htm.*

SUPPLEMENTARY INFORMATION:

in the Stripper Subcategory located east of the 98th meridian whose produced water comes from the Carrizo/Wilcox, Reklaw or Bartosh formations in Texas as authorized by the expiring permit. The discharge of deck drainage, formation test fluids, sanitary waste, domestic waste and miscellaneous discharges is authorized. More stringent requirements are proposed to regulate discharges to water quality-impaired waterbodies. Pursuant to the section 316(b) of the Clean Water Act (CWA), requirements for new facilities are also proposed in this permit. Major changes also include definition of "operator", acute toxicity test for produced water, spill prevention best management practices, and electronic reporting requirements. Proposed changes and rationales for those changes are described in the fact sheet. To obtain discharge authorization, operators of such facilities must submit a new Notice of Intent (NOI). To determine whether your facility, company, business, organization, etc. is regulated by this action, you should carefully examine the applicability criteria in Part I, Section A.1 of this permit. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding "FOR FURTHER INFORMATION CONTACT" section.

OTHER LEGAL REQUIREMENTS

A. State Certification

Under section 401(a)(1) of the CWA, EPA may not issue an NPDES permit until the State in which the discharge will occur grants or waives certification to ensure compliance with appropriate requirements of the CWA and State law. EPA will seek certification from the Railroad Commission of Texas prior to issuing a final permit.

B. Coastal Zone Management Act

The Coastal Zone Management Act and its implementing regulations (15 CFR 930) require that any Federally licensed or permitted activity affecting the coastal zone of a state with an approved Coastal Zone Management Program be consistent with that Program. EPA has concluded, based on the conditions, limitations and prohibitions of this permit that the discharges associated with this permit are consistent with the Texas Coastal Management Program goals and policies. EPA previously received a consistency determination from the Texas Coastal Coordination Council on February 7, 2007. EPA is seeking a consistency determination prior to issuing this permit reissuance.

C. National Environmental Policy Act

EPA's regulations at 40 CFR Part 6, Subpart F, which implement the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C., 4331, et seq., provide the procedures for carrying out the NEPA environmental review process for the issuance of new source NPDES permits. The purpose of this review process is to determine if any significant environmental impacts are anticipated by issuance of NPDES permits authorizing discharges from new sources. EPA prepared an environmental assessment (EA) in accordance with 40 CFR 6.604 when the previous permit was drafted. EPA is working on a supplemental information report (SIR) and tentatively determines, based on information available, that there will be no significant impact as the result of reissuing this permit. EPA will make the final SIR on EPA's website http://www.epa.gov/region6/water/npdes/genpermit/index.htm when it becomes available prior to the reissuance of the final permit.

D. Endangered Species Act

When EPA issued the previous Permit TXG330000, effective October 21, 1993, covering existing sources, but not New Sources, the United States Fish and Wildlife Service (FWS) concurred with EPA's finding that the permit was unlikely to adversely affect any threatened or endangered species or their critical habitat. When EPA issued Permit TXG290000, effective February 8, 1995, the Service also concurred with EPA's finding that the permit was unlikely to adversely affect any threatened or endangered species or their critical habitat. The Region found that adding New Source coverage to the permit is also unlikely to adversely affect any threatened or endangered species or its critical habitat. EPA received written concurrence from the FWS on May 2, 2001, and from the National Marine Fisheries Service (NMFS) on May 1, 2001, on that determination. EPA proposes to add more requirements, such as characterization study for produced water, intake velocity limit for cooling water intake structures from new facilities, and etc., to the current permit. EPA has been working on a biological evaluation (BE) update to evaluate the effects of this permitting action on federally listed endangered and threatened species. .

E. Magnuson-Stevens Fishery Conservation and Management Act

The 1996 amendments to the Magnuson-Stevens Fishery Conservation and Management Act set forth a new mandate to identify and protect important marine and anadromous fisheries habitats. The purpose of addressing habitat in this act is to further the goal of maintaining sustainable fisheries. Guidance and procedures for implementing these amendments are contained in National Marine Fisheries Service regulations (50 CFR 600.805 - 600.930). These regulations specify that any Federal agency that authorizes or proposes to authorize an activity which would adversely affect an Essential Fish Habitat is subject to the consultation provisions

of the Manguson-Stevens Act. The Texas Coastal Subcategory areas covered by this general permit include Essential Fish Habitat designated under the Magnuson-Stevens Act.

The Region previously found that issuance of the general permit would be unlikely to adversely affect Essential Fish Habitat. EPA received written concurrence from NMFS on that determination by a letter dated January 10, 2007, when EPA reissued the expiring permit in 2007. Because there are no changes which make the permit less stringent through this action, EPA again finds that its issuance is unlikely to adversely affect Essential Fish Habitat. EPA is seeking concurrence with that decision from NMFS.

F. Historic Preservation Act

Facilities which adversely affect properties listed or eligible for listing in the National Register of Historical Places are not authorized to discharge under this permit.

G. Paperwork Reduction Act

The information collection required by this permit has been approved by 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). Because this permit authorizes limited discharges, the reporting time for discharges is less than that for permittees discharging under the Territorial Seas of Texas (TXG260000) or to Outer Continental Shelf (GMG290000) permits. Also, this proposed permit requires electronic reporting for discharge monitoring reports, so it will save some reporting time and paper mailing costs.

H. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 USC 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. This permit is not a "rule" subject to the Regulatory Flexibility Act. EPA prepared a regulatory flexibility analysis, however, on the promulgation of the Coastal Subcategory guidelines on which many of the permit's effluent limitations are based. That analysis shows that compliance with the permit requirements will not result in a significant impact on dischargers, including small businesses, covered by this permit. EPA Region 6, therefore, concludes that the permit being proposed today will not have a significant impact on a substantial number of small entities.

Dated MAR 19 2012

William K. Honker, P.E.

Acting Director, Water Quality Protection Division

EPA Region 6