

**DATES:** Comments must be received by January 16, 2004.

**ADDRESSES:** Comments should be sent to: Director, Water Quality Protection Division, Region 6, U.S. Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas 75202-2733. Comments may also be submitted via e-mail to the following address:

[smith.diane@epa.gov](mailto:smith.diane@epa.gov).

**FOR FURTHER INFORMATION CONTACT:** Ms. Diane Smith, Region 6, U.S. Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas 75202-2733. Telephone: (214) 665-7191.

A complete draft permit and/or a fact sheet more fully explaining the proposal may be obtained 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. Additionally, a copy of the proposed permit, fact sheet, and this **Federal Register** notice may be obtained on the Internet at <http://www.epa.gov/earth1r6/6wq/6wq.htm>.

**SUPPLEMENTARY INFORMATION:**

*Regulated entities.* EPA intends to use the proposed reissued permit to regulate oil and gas extraction facilities located in the territorial seas off Texas. These generally include oil and gas platforms, but other types of facilities such as drill ships may also be subject to the permit. To determine whether your (facility, company, business, organization, etc.) may be affected by today's action, you should carefully examine the applicability criteria in Part I, Section A.1 of the draft permit. Questions on the permit's application to specific facilities may also be directed to Ms. Smith at the telephone number or address listed above.

*Permit Summary.* The 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. Limitations and conditions are also included to ensure compliance with State Water Quality Standards. Specific information on the derivation of those limitations and conditions is contained in the fact sheet.

Specifically, the draft permit proposes to prohibit the discharge of drilling fluids, drill cuttings and produced sand. Produced water discharges are limited for oil and grease, 48-hour acute toxicity, and 24-hour acute end-of-pipe toxicity. In addition to limits on oil and

grease, the proposed permit includes a prohibition of the discharge of priority pollutants except in trace amounts in well treatment, completion, and workover fluids. A limit of "No Free Oil" is proposed for miscellaneous discharges, such as non-contact cooling water and ballast water, and on deck drainage discharges. Discharges of seawater and freshwater which have been used to pressure test existing pipelines and piping, to which treatment chemicals have been added, are also proposed to be authorized. Those seawater and freshwater discharges are proposed to be subject to limitations on free oil, concentration of treatment chemicals, and acute toxicity.

**Other Legal Requirements**

*Oil Spill Requirements.* Section 311 of the CWA, "the Act", prohibits the discharge of oil and hazardous materials in harmful quantities. Discharges that are in compliance with 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.

*Endangered Species Act.* The Environmental Protection Agency has evaluated the potential effects of issuance of this permit modification upon listed threatened or endangered species. Based on that evaluation, EPA has determined that authorization of the new discharges is not likely to adversely affect any listed threatened or endangered species. The proposal contains extensive controls to minimize the quantity and toxicity of discharged pollutants. While including limits which will minimize the discharge of toxic pollutants such as polynuclear aromatic hydrocarbons and prohibiting the discharge of drilling fluid and drill cuttings, the proposal additionally limits the toxicity of discharged produced water and chemically treated seawater and freshwater. The proposed authorization of the new discharge of chemically treated sea water or fresh water which has been used to hydrostatically test existing piping and existing pipelines includes controls on the amount of treatment chemical used and toxicity of the discharge and prohibits the discharge of free oil. Requirements proposed for both these new discharges are consistent with Ocean Discharge Criteria (40 CFR part 125, subpart M) and ensure that sensitive marine species are protected.

Based on the available information and analysis of the discharges described

in the Fact Sheet for this proposed modification EPA Region 6 has determined that authorization of the proposed discharges is not likely to adversely affect listed threatened or endangered species. EPA is seeking written concurrence from the National Marine Fisheries Service (NMFS) and the U.S. Fish and Wildlife Service on this determination.

*Ocean Discharge Criteria Evaluation.*

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 in issuance of NPDES permits. These Ocean Discharge Criteria (40 CFR part 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" (45 FR 65942, October 3, 1980). Since this proposed permit will contain significantly more stringent limits than the previous permit, which are intended to protect water quality and reduce the discharge of toxic pollutants to the marine environment, the Region finds that discharges proposed to be authorized by the general permit reissuance will not cause unreasonable degradation of the marine environment.

*Coastal Zone Management Act.* EPA has determined that the activities which are proposed to be authorized by this 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 Texas for interagency review at the time of public notice.

*Marine Protection, Research, and Sanctuaries Act.* The Marine Protection, Research and Sanctuaries Act (MPRSA) of 1972 regulates the dumping of all types of materials into ocean waters and establishes a permit program for ocean dumping. In addition the MPRSA establishes the Marine Sanctuaries Program, implemented by the National Oceanographic and Atmospheric Administration (NOAA), which requires NOAA to designate 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, the NOAA has not designated any marine sanctuaries within the area covered under the permit.

*State Certification.* Under section 401(a)(1) of the Act, EPA may not issue an NPDES permit until the State in which the discharge will originate grants or waives certification to ensure