

After consideration of public comment and further analyses based on all four factors, EPA prioritizes the categories for effluent guidelines rulemakings and publishes the rulemaking schedules in the final biennial plan issued in August of every even-numbered year. By using this multi-layered screening approach, the Agency concentrates its resources on those point source categories with the highest estimated hazard associated with toxic and non-conventional pollution (based on best available data), while assigning a lower priority to categories that the Agency believes are not good candidates for effluent guidelines or pretreatment standards revisions at that time.

Dated: December 15, 2006.

**Benjamin H. Grumbles,**

*Assistant Administrator for Water.*

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## ENVIRONMENTAL PROTECTION AGENCY

[FRL-8259-3]

### Proposed Reissuance of the NPDES General Permit for the Western Portion of the Outer Continental Shelf of the Gulf of Mexico (GMG290000)

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of Proposed NPDES General Permit Reissuance.

**SUMMARY:** The Regional Administrator of Region 6 today proposes to reissue the National Pollutant Discharge Elimination System (NPDES) general permit for the Western Portion of the Outer Continental Shelf of the Gulf of Mexico (No. GMG290000) for discharges from existing and new dischargers and New Sources in the Offshore Subcategory of the Oil and Gas Extraction Point Source Category as authorized by section 402 of the Clean Water Act. The permit, previously reissued on October 7, 2004, and published in the **Federal Register** at 69 FR 60150, authorizes discharges from exploration, development, production, and transmission facilities located in and discharging to Federal waters of the Gulf of Mexico seaward of the outer boundary of the territorial seas off Louisiana and Texas. Discharges of produced water to Federal waters from facilities located in the territorial seas are also authorized when all conditions of the permit are met. The following changes to the expiring permit are proposed to be made as a part of the

permit reissuance. Requirements to comply with new cooling water intake structure regulations are included. Sub-lethal effects are required to be measured for whole effluent toxicity testing. New test methods are allowed for monitoring cadmium and mercury in stock barite. Clarifications have been added to the permit requirements for: Types of activities covered; pit cleaning and other wash water; end of well monitoring; sediment toxicity test averaging; the drilling fluids discharge rate limitation; discharges associated with dual gradient drilling; toxicity testing for miscellaneous discharges; and calculation of the produced water critical dilution for toxicity testing. Other minor changes in wording are also proposed to clarify EPA's intent regarding the permit's requirements.

**DATES:** Comments must be received by February 20, 2007.

**ADDRESSES:** Comments should be sent to: Ms. Diane Smith, Water Quality Protection Division, 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 (6WQ-CA), 1445 Ross Avenue, Dallas, Texas 75202-2733. Telephone: (214) 665-2145.

A copy of the proposed permit, and the fact sheet more fully explaining the proposal may be obtained from Ms. Smith. 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 Outer Continental Shelf of the Western Gulf of Mexico, e.g., offshore oil and gas extraction platforms, but other types of facilities 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.

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. Specific information on the derivation of those limitations and conditions is contained in the fact sheet.

#### 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.** As explained at 69 FR 39478 (June 30, 2004), EPA previously found that reissuance of the General Permit for the Outer Continental Shelf of the Western Gulf of Mexico would not adversely affect any listed threatened or endangered species or designated critical habitat. EPA requested written concurrence on that determination from the National Marine Fisheries Service (NMFS). In a letter dated July 12, 2004, NMFS provided such concurrence on the proposed NPDES General Permit for the Western Portion of the Outer Continental Shelf of the Gulf of Mexico. No changes are proposed which would decrease the level of protection the permit affords threatened or endangered species. The main changes include new intake structure requirements and more stringent whole effluent toxicity limits based on sub-lethal effects. Since those changes increase the level of protection EPA again finds that issuance of the permit will not adversely affect any listed threatened or endangered species or their critical habitat. Concurrence with this determination will be obtained from NMFS before the final permit is issued.

**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). EPA Region 6 has previously determined that discharges in compliance with the Western Gulf of Mexico Outer Continental Shelf general permit (GMG290000) will not cause unreasonable degradation of the marine environment. Since this proposed permit contains limitations which will protect water quality and in general reduce the discharge of toxic pollutants to the marine environment, the Region finds that discharges proposed to be authorized by the reissued general permit will not cause unreasonable degradation of the marine environment.

*Coastal Zone Management Act.* When the current permit was issued, EPA determined that the activities which were authorized were consistent with the local and state Coastal Zone Management Plans. Those determinations were submitted to the appropriate State agencies for certification. Certification was received from the Coastal Management Division of the Louisiana Department of Natural Resources in a letter dated July 12, 2004 and from the Railroad Commission of Texas by a letter dated August 20, 2004. EPA has again determined that activities proposed to be authorized by this reissued 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 Louisiana and 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 certain 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, NOAA has designated the Flower Garden Banks, an area within the coverage of the OCS general permit, a marine sanctuary. The OCS general permit prohibits discharges in areas of biological concern, including marine

sanctuaries. The current permit authorizes historic discharges incidental to oil and gas production from a facility which predates designation of the Flower Garden Banks National Marine Sanctuary as a marine sanctuary. EPA has previously worked extensively with NOAA to ensure that authorized discharges are consistent with regulations governing the National Marine Sanctuary. NOAA concurred on the permit conditions when the current permit was issued.

*State Water Quality Standards and State Certification.* The permit does not authorize discharges to State Waters; therefore, the state water quality certification provisions of CWA section 401 do not apply to this proposed action.

*Executive Order 12866.* Under Executive Order 12866 (58 FR 51735 (October 4, 1993)) EPA must determine whether the regulatory action is “significant” and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Order defines “significant regulatory action” as one that is likely to result in a rule that may have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in the Executive Order. EPA has determined that this general permit is not a “significant regulatory action” under the terms of Executive Order 12866 and is therefore not subject to formal OMB review prior to proposal.

*Paperwork Reduction Act.* The information collection required by this permit has been approved by the Office of Management and Budget (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).

Since this permit reissuance will not significantly change the reporting and application requirements which are required under the previous Western Gulf of Mexico Outer Continental Shelf

(OCS) general permit (GMG290000), the paperwork burdens are expected to be nearly identical. When it issued the previous OCS general permit, EPA estimated it would take an affected facility three hours to prepare the request for coverage and 38 hours per year to prepare discharge monitoring reports. It is estimated that the time required to prepare the request for coverage and discharge monitoring reports for the reissued permit will be the same and will not be affected by this action.

However, the alternative to obtaining authorization to discharge under this general permit is to obtain an individual permit. The application and reporting burden of obtaining authorization to discharge under the general permit is expected to be significantly less than that under an individual permit.

*Regulatory Flexibility Act.* The Regulatory Flexibility Act, 5 U.S.C. 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. As indicated below, the permit reissuance proposed today is not a “rule” subject to the Regulatory Flexibility Act. EPA prepared a regulatory flexibility analysis, however, on the promulgation of the Offshore Subcategory guidelines on which many of the permit’s effluent limitations are based. That analysis shows that issuance of this permit will not have a significant impact on a substantial number of small entities.

*Unfunded Mandates Reform Act.* Section 201 of the Unfunded Mandates Reform Act (UMRA), 2 U.S.C. 1501, *et seq.*, generally requires Federal agencies to assess the effects of their “regulatory actions” on State, local, and tribal governments and the private sector. UMRA uses the term “regulatory actions” to refer to regulations. (See, e.g., UMRA section 201, “Each agency shall \* \* \* assess the effects of Federal regulatory actions \* \* \* (other than to the extent that such regulations incorporate requirements specifically set forth in law)” (emphasis added)). UMRA section 102 defines “regulation” by reference to section 658 of Title 2 of the U.S. Code, which in turn defines “regulation” and “rule” by reference to section 601(2) of the Regulatory Flexibility Act (RFA). That section of the RFA defines “rule” as “any rule for which the agency publishes a notice of proposed rulemaking pursuant to section 553(b) of [the Administrative Procedure Act (APA)], or any other law \* \* \*”.

NPDES general permits are not “rules” under the APA and thus not

subject to the APA requirement to publish a notice of proposed rulemaking. NPDES general permits are also not subject to such a requirement under the CWA. While EPA publishes a notice to solicit public comment on draft general permits, it does so pursuant to the CWA section 402(a) requirement to provide "an opportunity for a hearing." Thus, NPDES general permits are not "rules" for RFA or UMRA purposes.

EPA has determined that the proposed permit reissuance would not contain a Federal requirement that may result in expenditures of \$100 million or more for State, local and tribal governments, in the aggregate, or the private sector in any one year.

The Agency also believes that the permit would not significantly nor uniquely affect small governments. For UMRA purposes, "small governments" is defined by reference to the definition of "small governmental jurisdiction" under the RFA. (See UMRA section 102(1), referencing 2 U.S.C. 658, which references section 601(5) of the RFA.) "Small governmental jurisdiction" means governments of cities, counties, towns, etc., with a population of less than 50,000, unless the agency establishes an alternative definition.

The permit, as proposed, also would not uniquely affect small governments because compliance with the proposed permit conditions affects small governments in the same manner as any other entities seeking coverage under the permit. Additionally, EPA does not expect small governments to operate facilities authorized to discharge by this permit.

*National Environmental Policy Act.* The Minerals Management Service (MMS) examined the environmental consequences of oil and gas exploration activities in a 2002 EIS on Gulf of Mexico OCS Oil and Gas Lease Sales: 2003–2007, Central Planning Area Sales 185, 190, 194, 198, and 201 and Western Planning Area Sales 187, 192, 196, and 200. When the current permit was issued, EPA has adopted that EIS and prepared a Supplemental Environmental Assessment (SEA) to allow for additional consideration and evaluation of potential impacts on the hypoxic zone in the Gulf of Mexico. EPA also determined that the 2004 reissuance of the NPDES general permit for New and Existing Sources in the Western Portion of the Outer Continental Shelf of the Gulf of Mexico would result in no significant impacts other than those considered in the MMS EIS. MMS is currently developing the 2007–2012 Multisale EIS for the Central and Western Planning Areas of the Gulf

of Mexico. EPA Region 6 is a cooperating agency on that EIS and has signed a Memorandum of Understanding (MOU) with MMS. EPA intends to use that EIS to fulfill the National Environmental Policy Act obligations for this permit issuance.

*Magnuson-Stevens Fisheries Conservation and Management Act.* The Magnuson-Stevens Fisheries Conservation and Management Act requires federal agencies proposing to authorize actions that may adversely affect essential fish habitat to consult with NMFS. The entire Gulf of Mexico has been designated Essential Fish Habitat. EPA has adopted the essential fish habitat analysis in the 2002 MMS EIS referenced above and finds that issuance of the proposed permit will not adversely affect essential fish habitat.

Dated: December 12, 2006.

**Miguel I. Flores,**

*Director, Water Quality Protection Division, Region 6.*

[FR Doc. E6–21890 Filed 12–20–06; 8:45 am]

**BILLING CODE 6560–50–P**

## FEDERAL RESERVE SYSTEM

### Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained

from the National Information Center website at [www.ffiec.gov/nic/](http://www.ffiec.gov/nic/).

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than January 16, 2007.

**A. Federal Reserve Bank of Minneapolis** (Jacqueline G. King, Community Affairs Officer) 90 Hennepin Avenue, Minneapolis, Minnesota 55480-0291:

1. *First Sleepy Eye Bancorporation, Inc.*, Sioux Falls, South Dakota; to acquire 100 percent of the voting shares of Lake Benton Bancorporation, Inc., Sioux Falls, South Dakota, and thereby indirectly acquire voting shares of First Security Bank–Lake Benton, Lake Benton, Minnesota.

Board of Governors of the Federal Reserve System, December 18, 2006.

**Robert deV. Frierson,**

*Deputy Secretary of the Board.*

[FR Doc. E6–21844 Filed 12–20–06; 8:45 am]

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Office of the Secretary

[Document Identifier: OS–0990–0000, 60-day notice]

### Agency Information Collection Activities: Proposed Collection; Comment Request

**AGENCY:** Office of the Secretary, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed collection for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

*Type of Information Collection Request:* Existing collection in use without an OMB control number.