

address: <http://www.epa.gov/ttn/amtic/visinfo.html>.

**FOR FURTHER INFORMATION CONTACT:** Neil Frank, U.S. Environmental Protection Agency (C304-01), Research Triangle Park, NC 27711; e-mail [frank.neil@epa.gov](mailto:frank.neil@epa.gov).

**SUPPLEMENTARY INFORMATION:** In section 169A of the 1977 Amendments to the Clean Air Act, Congress established a national visibility goal as the “prevention of any future, and the remedying of any existing, impairment of visibility in mandatory Federal Class I areas which impairment results from manmade air pollution” (42 U.S.C. 7491). These provisions were further supplemented by section 169B of the Clean Air Act Amendments of 1990 (42 U.S.C. 7492). States are required to develop implementation plans that make “reasonable progress” toward this goal.

The EPA issued initial visibility regulations in 1980<sup>1</sup> that addressed visibility impairment in a specific mandatory Federal Class I area that is determined to be “reasonably attributable” to a single source or small group of sources. Regulations to address regional haze were deferred until improved techniques could be developed in monitoring, modeling, and in understanding the effects of specific pollutants on visibility impairment. The EPA issued regional haze regulations in 1999.<sup>2</sup>

The overall framework of the regional haze rule requires States to develop a State Implementation Plan that includes: (1) Reasonable progress goals for improving visibility in each mandatory Federal Class I area and (2) set of emission reduction measures to meet these goals. Specifically, States will set progress goals for each mandatory Federal Class I area to:

- Provide for an improvement in visibility for the 20 percent most impaired (*i.e.*, worst visibility) days over the period of the implementation plan, and
- Ensure no degradation in visibility for the 20 percent least impaired (*i.e.*, best visibility) days over the same period.

Baseline visibility conditions for the 20 percent worst and 20 percent best days are to be determined using monitoring data collected during calendar years 2000–2004. Baseline conditions for 2000–2004, progress goals, and tracking

changes over time are to be expressed in terms of the deciview index.<sup>3</sup>

Most States (and Tribes as appropriate<sup>4</sup>) participating in regional planning organizations will submit regional haze implementation plans, including estimates of natural conditions and proposed progress goals in the 2007–2008 time frame. In developing any progress goal, the State will need to analyze and consider in its set of options the rate of improvement between 2004 (when 2000–2004 baseline conditions are set) and 2018 that, if maintained in subsequent implementation periods, would result in achieving estimated natural conditions in 2064.

The purpose of the documents announced in today’s notice is to provide guidance to the States and Tribes in implementing the regional haze program and to explain how EPA intends to exercise its discretion in implementing Clean Air Act provisions and EPA regulations concerning the estimation of natural visibility and tracking progress under the Regional Haze program. The guidance documents are designed to implement national policy on these issues. The guidance documents are designed to assist States and Tribes in implementing national policy on these issues. Sections 169A and 169B of the Clean Air Act and implementing regulations at 40 CFR 51.308 and 51.309 contain legally binding requirements. These guidance documents will not substitute for those provisions or regulations, nor will they constitute regulations themselves. Thus, they will not impose binding, enforceable requirements on any party, and may not apply to a particular situation based upon the circumstances. We and State decision makers retain the discretion to adopt approaches on a case-by-case basis that differ from this guidance where appropriate. Any decisions by us regarding a particular SIP demonstration will only be made based on the statute and regulations. Therefore, you are free to raise questions and objections about the appropriateness of the application of this guidance to a particular situation; we will, and States should, consider whether or not the recommendations in this guidance are appropriate in that

<sup>3</sup> The deciview is a haze index derived from calculated light extinction, such that uniform changes in haziness correspond to uniform incremental changes in visual perception across the entire range of conditions, from pristine to highly impaired. Deciview =  $10 \ln(b_{ext}/10)$ .

<sup>4</sup> Under the Tribal Air Rule (63 FR 7254; February 12, 1998; 40 CFR part 49), Tribal governments may elect to implement air programs in much the same way as States, including development of Tribal implementation plans.

situation. These guidance documents will be living documents and may be revised periodically without public notice. We welcome public comments on these documents at any time and will consider those comments in any future revision of these guidance documents.

Because these documents are not regulations and do not impose binding requirements, we are not required to solicit public comments on them. However, we chose to do so as a matter of discretion in order to improve the quality and responsiveness of the documents to the needs of the State and Tribal air quality management agencies. A summary of the comments we received and our responses to them will be available at the Web site identified above.

Dated: October 31, 2003.

**Henry C. Thomas, Jr.,**

*Acting Director, Office of Air Quality Planning and Standards.*

[FR Doc. 03–28649 Filed 11–14–03; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

[FRL–7585–9]

### Proposed Reissuance of the NPDES General Permit for the Territorial Seas of Texas (TXG260000)

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

**ACTION:** Notice of proposed NPDES general permit reissuance.

**SUMMARY:** The Regional Administrator of EPA Region 6 today proposes to issue the National Pollutant Discharge Elimination System (NPDES) general permit for the Territorial Seas of Texas (No. TXG260000) 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 will supersede the previous general permit (TX0085651) issued on September 15, 1983 and published in the **Federal Register** at 48 FR 41494. That permit authorized discharges from exploration, development, and production facilities located in and discharging to the territorial seas off Texas. Through this reissuance, EPA proposes to include current technology and water quality based effluent limitations consistent with National Effluent Limitations Guidelines, Federal Ocean Discharge Criteria, and State Water Quality Standards.

<sup>1</sup> See 45 FR 80084 (December 2, 1980).

<sup>2</sup> See 64 FR 35713 (July 1, 1999). See also 40 CFR 51.300–51.309.

**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.*

**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

compliance with appropriate requirements of the Act and State law. Section 301(b)(1)(C) of the Act requires that NPDES permits contain conditions that ensure compliance with applicable state water quality standards or limitations. The proposed permit contains limitations intended to ensure compliance with state water quality standards and has been determined by EPA Region 6 to be consistent with Texas Water Quality Standards and the corresponding implementation guidance. The Region has solicited certification from the Texas Railroad Commission.

**Executive Order 12866.** The Office of Management and Budget (OMB) has exempted this action from the review requirements of Executive Order 12291 pursuant to section 8(b) of that order. Guidance on Executive Order 12866 contain the same exemptions on OMB review as existed under Executive Order 12291. In fact, however, EPA prepared a regulatory impact analysis in connection with its promulgation of guidelines on which a number of the permit's provisions are based and submitted it to OMB for review. See 58 FR 12494.

**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).

This reissued permit will not significantly change the reporting and application requirements from those under the previous general permit, which authorized discharges to the territorial seas off Texas. Since this permit is very similar in reporting and application requirements and in discharges which are required to be monitored as the Western Gulf of Mexico Outer Continental Shelf (OCS) general permit (GMG290000), the paperwork burdens are expected to be nearly identical. When it issued the 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 this permit will be the same.

However, the alternative to obtaining authorization to discharge under this general permit is under an individual permit. The application and reporting

burden of obtaining authorization to discharge under the general permit is expected to be significantly less than 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 modification 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 modification 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), Public Law 104-4, 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 modification 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.** Issuance of an NPDES general permit for oil and gas extraction in the territorial seas of Texas is a major federal action significantly affecting the quality of the human environment. Thus, EPA has prepared a Draft EIS to evaluate the potential environmental consequences of its Federal (general permit) action, pursuant to its responsibilities under the National Environmental Policy Act of 1969 (NEPA).

EPA issued a Notice of Intent (NOI) on February 12, 1993, to prepare an Environmental Impact Statement (EIS) on new source NPDES General Permits for the Offshore Subcategory of the Oil & Gas Extraction Category proposed for the territorial seas of both Texas and Louisiana. Scoping issues were considered through the NOI and other informal procedures, including interagency meetings conducted in July, 1993. The Draft EIS was issued in January 1994, for review and comment from interested agencies, officials, groups and individuals. EPA's public hearing to receive comments on the Draft EIS was held on March 16, 1994. The Final EIS issued in June 1996, however, covered only EPA's proposed general permit action for Louisiana, recognizing that a separate Final EIS would be prepared prior to its decision on the NPDES general permit for the territorial seas of Texas.

EPA intends to rely on its original Draft EIS (which is available for review at the EPA Region 6 Office) in this continued NEPA review process for the current proposal to issue the oil and gas NPDES general permit for the territorial seas of Texas. In addition EPA will

undertake consultations with the Advisory Council on Historic Preservation, National Marine Fisheries Service, the U.S. Fish and Wildlife Service, the Texas General Land Office, and the Texas Railroad Commission. EPA invites comment on the Draft EIS, particularly on whether there are significant new circumstances or information relevant to environmental concerns that bear on the proposed action or its impacts. EPA will review all comments made on the Draft EIS and draft NPDES general permit, and, unless EPA learns of significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts, EPA will issue the Final EIS for the territorial seas of Texas, followed by a Record of Decision and final NPDES general permit.

**Miguel I. Flores,**

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

[FR Doc. 03-28421 Filed 11-14-03; 8:45 am]

BILLING CODE 6560-50-P

## FEDERAL COMMUNICATIONS COMMISSION

### Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission

November 7, 2003.

**SUMMARY:** The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law No. 104-13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated

collection techniques or other forms of information technology.

**DATES:** Written Paperwork Reduction Act (PRA) comments should be submitted on or before December 17, 2003. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

**ADDRESSES:** Direct all comments regarding this Paperwork Reduction Act submission to Judith B. Herman, Federal Communications Commission, Room 1-C804, 445 12th Street, SW., Washington, DC 20554 or via the Internet to [Judith-B.Herman@fcc.gov](mailto:Judith-B.Herman@fcc.gov).

**FOR FURTHER INFORMATION CONTACT:** For additional information or copies of the information collection(s), contact Judith B. Herman at 202-418-0214 or via the Internet at [Judith-B.Herman@fcc.gov](mailto:Judith-B.Herman@fcc.gov).

#### SUPPLEMENTARY INFORMATION:

*OMB Control No.:* 3060-0994.

*Title:* Flexibility for Delivery of Communications by Mobile Satellite Service Providers in the 2 GHz Band, the L-Band, and the 1.6/2.4 GHz Band.

*Form No.:* N/A.

*Type of Review:* Revision of a currently approved collection.

*Respondents:* Business or other for-profit.

*Number of Respondents:* 161.

*Estimated Time Per Response:* .5 hours—50 hours.

*Frequency of Response:* On occasion, annual and one-time reporting requirements, recordkeeping requirement, and third party disclosure requirement.

*Total Annual Burden:* 1,326 hours.

*Total Annual Cost:* \$158,000.

*Needs and Uses:* On July 3, 2003, the Commission adopted and released an Order on Reconsideration in IB Docket 01-185, FCC 03-162. In this Order, the Commission reconsidered in part its January 29, 2003 decision in this proceeding. The purposes of the Order are to clarify certain issues relating to the time for filing applications to provide ancillary terrestrial components (ATCs), the time in which the Commission may grant such applications, the time in which Mobile Satellite Service (MSS) ATC licenses may construct, test, and commence commercial ATC operations, and the Commission's process for placing applications on public notice for comment. Without this collection of information the Commission would not have the necessary information to grant entities the authority to operate or provide their services to consumers.

*OMB Control No.:* 3060-1007.

*Title:* Streamlining and Other Revisions of Part 25 of the Commission's Rules.

*Form No.:* N/A.

*Type of Review:* Revision of a currently approved collection.

*Respondents:* Business or other for-profit.

*Number of Respondents:* 180 respondents; 1,001 responses.

*Estimated Time Per Response:* 2 hours.

*Frequency of Response:* On occasion, annually, and other reporting requirements, and third party disclosure requirements.

*Total Annual Burden:* 9,746 hours.

*Total Annual Cost:* \$95,206,000.

*Needs and Uses:* On June 20, 2003, the Commission adopted and released a Second Report and Order in IB Docket No. 00-248, a Second Report and Order in IB Docket No. 02-34, and a Declaratory Order in IB Docket No. 96.111. Among other decisions, the Commission adopted a procedure that gives operators the flexibility to operate satellites in their fleets at any one of their orbit locations assigned to their fleet without individual prior Commission approval. The collections of information are used by Commission staff in carrying out its duties concerning satellite communications as required by various sections of the Communications Act. This information is also used by the Commission staff in carrying out its duties under the World Trade Organization (WTO) Basic Telecom Agreement.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

[FR Doc. 03-28614 Filed 11-14-03; 8:45 am]

BILLING CODE 6712-01-M

## FEDERAL COMMUNICATIONS COMMISSION

[DA 03-3310]

### Wireless Telecommunications Bureau Confirms Certain 220 MHz Phase I Licenses Cancelled as a Result of Spectrum Audit

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice.

**SUMMARY:** As a result of certain licensees' failure to respond to the Wireless Telecommunications Bureau (Bureau) audit inquiries, the Bureau announces that certain licenses have been presumed non-operational for one year or more and therefore have cancelled automatically. Action has