

Texas Commission on Environmental Quality
WATER QUALITY ADVISORY WORK GROUP (WQAWG)
Stakeholder Meeting
April 20, 2021 @ 1:30 p.m.
Virtual Meeting via MS Teams Live Event
Meeting Summary

Moderator:

Welcome and Introductions

Gregg Easley

Program Updates:

Permit Renewal Deadline

Laurie Fleet

- This topic has been discussed at previous WQAWG meetings, but it's worth repeating. Individual permits include a requirement that the renewal application must be submitted 180 days prior to the permit expiration date. TCEQ will begin enforcing this permit provision. Failure to submit the application 180 days prior to expiration may result in a violation. We will accept an application up to the expiration date, however that doesn't stop or eliminate the violation. Each facility receives a renewal reminder one year before expiration. We recommend that you begin developing your renewal application when you get this reminder, so that you have sufficient time to develop a complete application. This requirement does not apply to facilities that are authorized under a general permit.

HB2771 Implementation Activities

Mike Lindner

- For those who missed the last meeting:
 - The TCEQ got delegation for oil and gas wastewater permitting from the EPA on January 15, 2021.
 - Disposal of oil and gas wastewater by land application, e.g. irrigation or evaporation, stayed with the Railroad Commission (RRC)
 - If you have an EPA or RRC permit, whether a general permit or an individual permit, it is still good until you get your TCEQ equivalent, as long as you get your permit application in six months (or less as approved by the TCEQ) before the soonest of the two expiration dates.
 - An individual permit is an option, mainly for facilities discharging produced wastewater west of the 98th meridian, as the TCEQ anticipates potentially all other discharges otherwise allowed under federal guidelines to be covered under a general permit. Technically, anyone who qualified for a general permit could apply for an individual permit instead, but the TCEQ is not aware of any reason that someone would.
 - As part of the application for an individual permit, there is an administrative report specifically for oil and gas facilities (not for gas plants, who use the same administrative report as every other kind of industrial wastewater discharger).
 - The technical report part of the industrial wastewater application is the same for gas plants and oil and gas facilities as for other industrial permits. There is a worksheet tailored to oil and gas facilities at the end of the technical report. The link to the applications is:

https://www.tceq.texas.gov/permitting/wastewater/industrial/TPDES_industrial_wastewater_steps.html

- The TCEQ is working on drafting two general permits:
 - Chris Linendoll has completed the initial draft general permit for stripper wells, coastal facilities, and facilities in the territorial seas (out to 3 miles from shore). It is under review by management.
 - Chris is drafting a State of Texas general permit for facilities over the outer continental shelf (3-10.2 miles from shore)—it is quite complex, as the applicable regulation, Subchapter A of 40 CFR Part 435, is a maze of equations.
 - Outer Continental Shelf Facilities (3 -10.2 miles offshore) will need to have one state discharge permit and one federal discharge permit; facilities beyond 10.2 miles from shore will need a federal discharge permit only
- RRC and EPA delivered their physical permit files to the TCEQ; TCEQ Central Records is matching them up.
- The TCEQ and EPA had an online meeting to discuss the transition on March 30th.
 - The TCEQ will take over all permit applications the EPA was in the middle of processing, i.e. all applications that were pending with EPA.
 - Permittees who had/have individual EPA permits for hydrostatic test discharges should qualify under the TCEQ general permit for hydrostatic test discharges; permittees can apply through STEERS, the TCEQ online registration and reporting system.
 - Permittees seeking to cancel their individual EPA permit (like in the case of individual EPA permits for hydrostatic test discharges changing to general permits) can use the TCEQ cancellation form
- Reports due to EPA or RRC should be sent to TCEQ. TCEQ's Compliance Monitoring folks can be reached at (512) 239-2545.
- Any permittees who had pending apps with EPA need to fill out and submit a TCEQ application (there are state laws we must abide by that EPA did not have to abide by—e.g. bi-lingual notice). Most of the information should be able to be transferred from the EPA application, i.e. it should not be like starting over.

HB2771 Implementation Activities Continued

Rebecca Villalba

- Transfer of state and federal regulatory authority to TCEQ from the Texas Railroad Commission and EPA for non-exempt stormwater discharges associated with crude oil and natural gas exploration, development, and production facilities occurred on January 15, 2021, following implementation of House Bill (HB) 2771, 86th Texas Legislative Session (2019).
 - Existing permittees continue to operate under EPA's issued Construction General Permit (CGP) and Multi-Sector General Permit (MSGP).
 - New entities in Texas continue to apply to EPA under the Texas CGP TXR10F000 and MSGP TXR05F000 that are part of EPA's national permits until TCEQ issues their amended TPDES CGP and MSGP.
 - TCEQ is amending the CGP to be issued prior to EPA's CGP expiring on February 16, 2022.
 - TCEQ will amend its MSGP at a later date after the renewal permit is issued on August 14, 2021.

General Permit (GP) Updates:

Construction General Permit (TXR150000) Amendment

Rebecca Villalba

- This general permit regulates stormwater discharges from construction activities and expires on March 8, 2023.
- The current permit excludes stormwater runoff from construction activities associated with the exploration, development, or production of oil or gas or geothermal resources, including transportation of crude oil or natural gas by pipeline.
- Last month TCEQ initiated an amendment without renewal to the permit to expand the applicability for non-exempt oil and gas construction activities.
 - Please note that this permit amendment will not have any impact on existing permittees. The expiration date will not change. Permittees will continue to operate under the terms and conditions of TCEQ's 2018 CGP.
- The revision is in response to the recent transfer of state and federal regulatory authority to TCEQ for discharges associated with crude oil and natural gas exploration, development, and production facilities.
- The purpose of the amendment is to:
 - include in the general permit applicability non-exempt stormwater discharges from construction activities associated with crude oil and natural gas exploration, development, and production and
 - replace the EPA-issued NPDES Construction General Permit TXR10F000, effective June 27, 2019, an expires February 16, 2022.
- TCEQ sent the permit amendment without renewal to EPA for review on April 15, 2021.
- Proposed changes include:
 - Expansion of the applicability of the general permit to include non-exempt stormwater discharges from construction activities associated with crude oil and natural gas exploration, development, and production.
 - Operators with active authorizations under the existing general permit (effective March 5, 2018) will not be required to submit new or renewal NOIs and are authorized to continue to discharge under the terms and conditions of the existing general permit.
 - Operators authorized under the EPA-issued NPDES Construction General Permit that have ongoing construction activities will be required to obtain authorization under TCEQ's amended general permit within 90 days of the effective date of the amended general permit.
- TCEQ anticipates issuing this permit amendment without renewal prior to the expiration of the EPA-issued NPDES Construction General Permit in February of 2022.
- Exempt Oil and Gas Activities
 - The CWA § 402(l)(2) provides that construction activities related to oil and gas exploration, production, processing, or treatment, or transmission activities are exempt from regulation under this permit. The term "oil and gas exploration, production, processing, or treatment operations or transmission facilities" is defined in 33 United States Code Annotated § 1362(24).
 - The exemption in CWA § 402(l)(2) includes construction activities regardless of the amount of disturbed acreage, which are necessary to prepare a site for drilling and the movement and placement of drilling equipment, drilling waste management pits, in field treatment plants, and in field transportation infrastructure (e.g., crude oil and natural gas pipelines, natural gas treatment plants, and both natural gas transmission pipeline compressor and oil pumping stations) necessary for the operation of most producing oil and gas fields.

- The exemption does not include the construction of administrative buildings, parking lots, and roads servicing an administrative building at an oil and gas site, as these are considered traditional construction activities.
- For more information about exempt oil and gas activities, visit the following webpage:
<https://www.epa.gov/npdes/oil-and-gas-stormwater-permitting>

Multi-Sector General Permit (TXR050000) Renewal & Oil and Gas Amendment **Rebecca Villalba**

- This general permit regulates stormwater discharges from industrial activities.
- The general permit expires on August 14, 2021, and we started the renewal process on September 2019.
- The public notice for the draft general permit was published in the *Texas Register* and seven newspaper across the state on December 11, 2020, to start the formal public comment period.
- A public meeting was held on January 11, 2021, where the public could ask questions about the draft permit and provide comments. Approximately 230 people participated in the meeting and seven individuals provided formal oral comments during the meeting. The presentation is available at the following webpage:
https://www.tceq.texas.gov/permitting/stormwater/stormwater_stakeholders_group.html.
- The public comment period ended on January 14, 2021. Comments were received from approximately 22 entities and individuals.
- Currently, we are finalizing the Response to Comments document.
- Management briefings are scheduled for May for the Adoption phase of the renewal process.
- The general permit is scheduled for to go to Commissioners Agenda for adoption in July 2021.
- Facilities with an existing active MSGP authorization will need to renew their authorization when the renewed MSGP is issued and effective on August 14, 2021. Do not apply prior to this date.
 - Facilities will have up to 90 days after the issuance date of the general permit to renew their authorization.
 - Remember to terminate coverage, if it is no longer needed, prior to September 1, 2021, to avoid the annual WQ fee for FY22.
 - Only electronic applications are accepted – unless a request is made and approved for an eReporting waiver.
- Will start amendment to MSGP after it is renewed to expand the applicability for oil and gas.

Aquaculture General Permit (TXG130000) Renewal **Laurie Fleet**

- On March 31, 2021, the commission re-issued the Aquaculture General Permit TXG130000, which authorizes the discharge of wastewater from aquaculture facilities and other activities related to aquaculture into or adjacent to water in the state. Facilities that are currently authorized under the general permit are required to submit a Notice of Intent form by July 17, 2021 to continue their authorization. Failure to submit a Notice of Intent form by the deadline will result in the authorization expiring. The issued permit, fact sheet and Notice of Intent form are available on the TCEQ website at:
<https://www.tceq.texas.gov/permitting/wastewater/general/index.html>

Concrete Batch General Permit (TXG110000) Renewal **Laurie Fleet**

- TCEQ is proposing to renew and amendment the Concrete Batch General Permit TXG110000 which authorizes discharges of facility wastewater and stormwater associated with industrial activities into or adjacent to water in the state from ready-mixed concrete plants, concrete products plants, and their associated facilities (SIC 3271, 3272, and 3273). The current permit

expires on November 7, 2021. The draft permit was submitted to EPA and they provided a no objection letter. TCEQ anticipates publishing notice of the general permit in the *Texas Register* and statewide newspapers in June 2021.

Pesticide General Permit (TXG870000) Renewal

Laurie Fleet

- TCEQ is proposing to renew and amend the Pesticide General Permit TXG870000 which authorizes the application of pesticides into or over, including near waters of the United States for the control of mosquito and other insect pests, vegetation and algae pests, animal pests, area-wide pests, and forest canopy pests. The current permit expires on November 2, 2021. The draft permit was submitted to EPA and they provided a no objection letter. TCEQ anticipates publishing notice of the general permit in the *Texas Register* and statewide newspapers in June 2021.

Rule Updates:

Sand Mining Rule Petitions/Rulemaking in the San Jacinto River Watershed

Macayla Coleman

- Rule
 - The Texas Aggregates and Concrete Association (TACA) and the Lake Houston Area Grassroots Flood Prevention Initiative (FPI) filed separate but similar petitions for rulemaking on June 15, 2020, and June 23, 2020, respectively.
 - Both organizations recommended that TCEQ adopt a new rule that would establish best management practices for commercial sand mining and other lawful purposes within the San Jacinto Watershed.
 - The rulemaking would define specific areas within the watershed that would be regulated and would add a new chapter within the 30 TAC Chapter 311 Watershed Protection Rules.
 - On August 12, 2020, the commission approved the two petitions to initiate rulemaking with stakeholder involvement.
 - TCEQ held a virtual stakeholder meeting on November 10, 2020. Deadline for comments from stakeholders was December 11, 2020.
 - TCEQ received comments from 14 stakeholders, reviewed the comments, and drafted the rule. Internal rule team has reviewed the draft rule. Management briefings for the Proposal phase of the rulemaking process were completed last week.
 - The rule is moving to the next stage, to prepare for Commissioners Agenda. The draft rule is scheduled for Commissioners Agenda on June 9, 2021, to request approval to publish the public notice of the draft rule in the *Texas Register*. The public will have their first opportunity to view the proposed rule as part of the agenda filings available at least 8 days prior to the Agenda date, but typically they are posted 2-weeks before.
 - Once published, there will be a 30-day comment period and public hearing will be held in July 2021.
 - The adoption of the final rule is planned for Commissioners Agenda on November 2021.
- BMPs Guidance Document
 - The petitions and proposed rule would require the TCEQ to develop a guidance document of best management practices (BMPs), so in conjunction with the rule process, TCEQ is also preparing the accompanying guidance document of BMPs that are required by the proposed rule to be implemented by the sand mining facilities.
 - The document will include BMPs for Structural controls, Vegetative controls, and controls during the Pre-Mining, Mining, and Post-Mining stages. Many of the BMPs were presented during the stakeholder meeting held on November 2020.

- TCEQ plans to initiate additional stakeholder involvement for the BMPs guidance document following the proposal agenda in June of this year. Stakeholders will have 30-days to provide comments on the draft BMPs guidance document.
- We anticipate publishing the final BMPs guidance document concurrently with the effective date of the rule in November of this year.
- For more information about the stakeholder meeting or rulemaking petitions visit the following webpage: <https://www.tceq.texas.gov/permitting/stormwater/sand-mining-rulemaking>.

Questions & Answers

- Please refer to the TCEQ's YouTube channel to view the Virtual Meeting recording for the Question and Answer session. Follow the YouTube link here:
<https://www.youtube.com/watch/user/TCEQNews>

Announcements:

The next WQAWG Meeting will be held on Tuesday, July 20, 2021, @ 1:30 p.m.

The next HB2771 stakeholder meeting will be held on June 17, 2021, @ 1:30 p.m. To be added to the HB2771 stakeholder list for future meetings and correspondence, please email your request to HB2771@tceq.texas.gov with "HB2771" in the subject line and include your: a) First & Last Name, b.) Company Name, c.) Job Title, d.) Email address, e.) Business Affiliation, f.) Mailing Address, and g.) Phone number.

Adjournment

WQAWG website: https://www.tceq.texas.gov/permitting/wastewater/WQ_advisory_group.html

This WQAWG meeting recording will be available for viewing on the TCEQ agency YouTube channel at: <https://www.youtube.com/user/TCEQNews>

Meeting attendees:

Please answer the following questions to register your attendance to this WQAWG Stakeholder meeting: <https://forms.office.com/r/ZeKyrv1RWL>.

If you wish to join the WQAWG Stakeholder group, please submit an email to Outreach@tceq.texas.gov with "WQAWG" in the subject line and include your: a.) First & Last Name, b.) Company Name, c.) Job Title, d.) Email address, e.) Business affiliation, f.) Mailing Address, and g.) Phone number.

Thank you