

**DOCKET NO. 2007-1524-IWD  
GENERAL PERMIT NO. WQG200000**

**IN THE MATTER OF THE RENEWAL  
OF THE GENERAL PERMIT WITH  
CHANGES TO AUTHORIZE  
DISCHARGES FROM MANURE  
COMPOST FACILITIES  
WITHIN THE STATE OF TEXAS**

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**BEFORE THE TEXAS  
COMMISSION ON  
ENVIRONMENTAL QUALITY**

CHIEF CLERK'S OFFICE

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TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

**COMMISSION RESOLUTION ISSUING THE AMENDMENT/RENEWAL  
OF THE GENERAL PERMIT**

**WHEREAS**, under Texas Water Code (TWC) Section (§) 26.121, no person may discharge waste or pollutants into or adjacent to any water in the state except as authorized by a rule, permit, or order issued by the Texas Commission on Environmental Quality (TCEQ or Commission);

**WHEREAS**, under TWC § 26.027, the TCEQ has the authority to issue permits and amendments to permits for the discharge of waste or pollutants into or adjacent to water in the state;

**WHEREAS**, under TWC § 26.040, the TCEQ has the authority to issue a general permit to authorize the discharge of waste into or adjacent to water in the state;

**WHEREAS**, the Executive Director's proposed amendment and renewal of the general permit (WQG200000) that authorizes disposal of facility wastewater from manure compost facilities in the State of Texas was drafted and proposed by the Executive Director and is attached as Exhibit A;

**WHEREAS**, the Executive Director did not make changes to the general permit since no public comments were received;

**WHEREAS**, the Executive Director prepared, made available to the public, and filed with the Office of the Chief Clerk, a written Response to Public Comments in accordance with the requirements of 30 Texas Administrative Code (30 TAC) § 205.3(e) on the proposed general permit which is attached as Exhibit B;

**WHEREAS**, the Commission has reviewed in accordance with Texas Natural Resources Code § 33.205 and 30 TAC § 205.5(f) the changes to the General Permit for consistency with the Texas Coastal Management Program (CMP) and has found that the General Permit is consistent with applicable CMP goals and policies and that the General Permit will not adversely affect any applicable coastal natural resource areas as identified in the CMP;

**WHEREAS**, the Commission has determined in accordance with TWC § 26.040(a)(1)-(4) that the General Permit would authorize dischargers who engage in the same or substantially similar types of operations, discharge the same types of waste, are subject to the same requirements regarding effluent limitations or operating conditions, and are subject to the same or similar monitoring requirements;

**WHEREAS**, the Commission finds in accordance with TWC § 26.040(a)(5) that the General Permit would apply to dischargers who are more appropriately regulated under a general permit than under individual permits and that:

(A) The General Permit has been drafted to assure that it can be readily enforced and that the Commission can adequately monitor compliance with the terms of the General Permit; and

(B) The category of discharges covered by the General Permit will not include a discharge of pollutants that will cause significant adverse effects to water quality;

**THEREFORE**, after consideration of all public comment and the responses to such comment, the Commission, by this resolution, hereby issues the general permit, attached as Exhibit A, as recommended by the Executive Director. The Commission, by this resolution, also hereby adopts the Executive Director's Response to Comments attached as Exhibit B as the Commission's Response to Public Comments.

Furthermore, the Commission directs staff to make any non-substantive changes to the General Permit and the Commission's Response to Public Comment to satisfy Texas Register format requirements and requests that the general permit and Commission's Response to Public Comment be made available to the public in accordance with the requirements of TWC § 26.040(d) and 30 TAC § 205.3(e).

It is so **RESOLVED**.

Date of Adoption:

TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

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Buddy Garcia, Chairman

# Exhibit A



TCEQ GENERAL PERMIT  
NO. WQG200000

This permit supersedes and replaces  
TCEQ General Permit No. WQG200000,  
issued on October 01, 2002.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
P.O. BOX 13087  
Austin, Texas 78711-3087

GENERAL PERMIT TO DISPOSE OF WASTES  
under provisions of  
Chapter 26 of the Texas Water Code

Wastewater generated from livestock manure compost operations

located in the state of Texas

may be disposed of by evaporation or beneficial use by irrigation adjacent to water in the state

only according to effluent limitations, monitoring requirements and other conditions set forth in this general permit, as well as the rules of the Texas Commission on Environmental Quality (TCEQ), the laws of the State of Texas, and other orders of the Commission of the TCEQ (Commission). The issuance of this general permit does not grant to the permittee the right to use private or public property for conveyance of wastewater along the disposal route. This includes property belonging to, but not limited to, any individual, partnership, corporation or other entity. Neither does this general permit authorize any invasion of personal rights nor any violation of federal, state, or local laws or regulations. It is the responsibility of the permittee to acquire property rights as may be necessary for the conveyance of wastewater.

This general permit and the authorization contained herein shall expire at midnight five years after the date of issuance.

ISSUED AND EFFECTIVE DATE:

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For the Commission

**TCEQ GENERAL PERMIT NUMBER WQG200000 RELATING TO THE DISPOSAL OF  
WASTEWATER FROM MANURE COMPOST FACILITIES**

**Table of Contents**

Part I.	Definitions .....	3
Part II.	Permit Applicability and Coverage .....	5
	Section A. Discharges Covered.....	5
	Section B. Limitations on Coverage .....	5
	Section C. Application for Coverage .....	6
	Section D. Termination of Coverage.....	7
	Section E. Authorization Under an Individual Permit.....	7
	Section F. Permit Expiration .....	8
Part III.	Permit Requirements.....	9
	Section A. General Requirements .....	9
	Section B. Specific Requirements for Evaporation and Irrigation .....	10
	Section C. Operational Requirements.....	15
Part IV.	Standard Permit Conditions .....	20
Part V.	Fees.....	22

## Part I. Definitions

All definitions in Section 26.001 of the Texas Water Code (TWC) and Title 30 Texas Administrative Code (TAC) Chapter 305 shall apply to this permit and are incorporated by reference. Some specific definitions of words or phrases used in this permit are as follows:

**Agronomic rate** - The application rate of wastewater designed to provide the amount of nutrients needed by the crop or vegetation grown on the land and to minimize the amount of a nutrient which passes below the root zone of the crop or vegetation grown on the land to the groundwater as well as to prevent nutrients in the wastewater from passing outside of the irrigation area through surface transport.

**Air contaminant** - Particulate matter, radioactive material, dust, fumes, gas, mist, smoke, vapor, or odor or any combination thereof produced by processes other than natural. Water vapor is not an air contaminant.

**Beneficial use** - Application of wastewater to land in a manner which does not exceed the agronomic need or rate for a cover crop is considered beneficial.

**Compost** - The stabilized product of the decomposition process that is used or distributed for use as a soil amendment, artificial top soil, growing medium amendment, or other similar uses.

**Control facility** - Any system used for the retention of wastes on the premises until its ultimate use or disposal. This includes any system for the collection and retention of manure, compost, liquid waste, wastewater, and rainfall runoff.

**Discharge or to discharge** - To deposit, conduct, drain, emit, throw, run, allow to seep, or otherwise release or dispose of, or to allow, permit or suffer any of these acts or omissions. For purposes of this permit, an allowable discharge of wastewater can only occur adjacent to water in the state, through disposal on land or through storage, evaporation, or irrigation.

**Exempt compost materials** - Materials identified in Title 30 Texas Administrative Code (TAC) § 332.3 as exempt from regulation under that chapter, including source-separated yard trimmings, clean wood material, paper, vegetative material, and manure.

**Facility** - Includes all contiguous land and fixtures, structures, or appurtenances used for storing, processing, treating, or disposing of wastewater. A facility may consist of several storage, processing, treatment, or disposal operation units.

**Groundwater** - Subsurface water that occurs below the water table in soils and geologic formations that are saturated, and is other than underflow of a stream or an underground stream.

**Hydrologic connection** - The interflow and exchange between control facilities or surface impoundments and water in the state through an underground corridor or connection.

**Irrigation** - The removal of wastewater from a control facility and distribution to or incorporation into the soil mantle primarily for beneficial use purposes.

**Liner** - Any barrier in the form of a layer, membrane or blanket, either naturally existing, constructed or installed, to prevent a significant hydrologic connection between liquids contained in retention facilities and water in the state.

**Livestock manure** - Manure (feces and urine), litter, bedding, or feedwaste from animal feeding operations.

**Notice of change or NOC** - A written submission to the Executive Director from a permittee authorized under a general permit, providing information on changes to information previously provided to the Commission, or any changes with respect to the nature or operations of the regulated entity or the characteristics of the discharge.

**Notice of intent or NOI** - A written submission to the Executive Director from an applicant notifying its intent to discharge or dispose of waste under the provisions of a general permit.

**Notice of termination or NOT** - A written submission to the Executive Director from a permittee authorized under a general permit requesting termination of coverage under the general permit.

**Nuisance** - Any discharge of air contaminant(s), including but not limited to odors, of sufficient concentration and duration that are or may tend to be injurious to or which adversely affects human health or welfare, animal life, vegetation, or property, or which interferes with the normal use and enjoyment of animal life, vegetation, or property.

**Operator** - The person responsible for the overall operation of a facility or part of a facility.

**Owner** - The person who owns a facility or part of a facility.

**Permittee** - Any person issued or covered by a permit.

**Process wastewater** - For the purpose of this permit, any water used and/or generated in the operation of a livestock manure composting facility, but not including domestic sewage.

**Retention facility** - A man-made excavation formed primarily of earthen materials (although it may be lined with man-made materials), for the containment, detainment, evaporation, or storage of wastewater. Except for evaporation, at the end of a temporary period, the wastewater is disposed of, recycled or stored elsewhere. Examples of retention facilities are holding and storage ponds, pits, and lagoons.

**Sodium adsorption ratio (SAR)** - A ratio of soil extracts and irrigation waters used to express the relative activity of sodium ions in exchange reactions with soils, defined by the following equation (with all ions expressed in millequivalents/liter):

$$\text{SAR} = \frac{[\text{Na}^+]}{\sqrt{\frac{1}{2}([\text{Ca}^{+2}] + [\text{Mg}^{+2}])}}$$

**Site** - The physical area where any system or activity authorized by this general permit is located. Site may include any adjacent land used in connection with the system or activity and may be an area larger than the area where compost is produced.

**Storm water associated with industrial activity** – For the purpose of this permit, rainfall runoff, snow melt runoff, and surface runoff and drainage from storage areas for raw materials, and intermediate and final products and areas where composting activity has taken place in the past and significant materials remain and are exposed to storm water. The term excludes areas located on plant lands separate from the plant's industrial activities, such as office buildings and accompanying parking lots as long as the drainage from the excluded areas is not mixed with storm water drained from the above described areas.

**Tail water control facility** - A diked or bermed area, pond, or other similar structure placed down-gradient of a wastewater irrigation area and designed to prevent off-site runoff or runoff to water in the state.

**Texas Land Application Permit (TLAP)** - A permit issued by the TCEQ for the land application and disposal of waste that does not result in a discharge to surface water in the state

**Wastewater** - Water, either containing waste or that has contacted waste, including without limitation, process wastewater and storm water.

**Water in the state** - Groundwater, percolating or otherwise, lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, wetlands, marshes, inlets, canals, the Gulf of Mexico inside the territorial limits of the state, and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, navigable or nonnavigable, and including the beds and banks of all watercourses and bodies of surface water, that are wholly or partially inside or bordering the state or inside the jurisdiction of the state.

## **Part II. Permit Applicability and Coverage**

### **Section A. Discharges Covered**

This general permit authorizes the disposal of wastewater generated from livestock manure composting operations and processes. This authorization includes any control facility, storage, or processing areas for livestock manure, compost material derived from livestock manure, livestock manure composted with exempt compost material, and storage of finished compost product.

Facilities that recycle all process water or storm water associated with industrial activities back into the composting process, and that do not discharge or dispose of wastewater by land irrigation or evaporation, are not required to be authorized by this general permit.

### **Section B. Limitations on Coverage**

1. No discharge is allowed by this general permit into any surface water in the state. Discharge adjacent to water in the state by disposal of wastewater by irrigation or evaporation is allowed only under the conditions described in this permit.
2. This general permit does not authorize the disposal of wastewater generated from livestock manure composting operations and processes which occur at a facility either permitted or otherwise authorized by the Commission as a concentrated animal feeding operation (CAFO). The discharge or disposal of wastewater occurring at these facilities must be authorized under a separate permit or authorization.

3. Additional authorization may be required for discharges into or adjacent to water in the state, located within ten stream miles upstream of the Edwards Aquifer recharge zone, as defined in 30 Texas Administrative Code (TAC), Chapter 213 (relating to Edwards Aquifer).
4. For facilities located within ten stream miles upstream of the Edwards Aquifer recharge zone, applicants must also submit a copy of the NOI to the appropriate TCEQ regional office.

Counties:  
Comal, Bexar, Medina,  
and Kinney

Contact:  
TCEQ  
Water Program Manager  
San Antonio Regional Office  
14250 Judson Rd.  
San Antonio, Texas 78233  
(210) 490-3096

Counties:  
Williamson, Travis, Hays

Contact:  
TCEQ  
Water Program Manager  
Austin Regional Office  
2800 S IH 35, Suite 100  
Austin, TX 78704-5712  
(512) 339-2929

5. This general permit does not authorize the storage, processing, or disposal of solid waste, including livestock manure, compost, or exempt compost materials. It is the responsibility of any person conducting such activities to comply with any applicable requirements of the Commission, as described in 30 TAC Chapters 312, 330, 332 and 335 (relating to Sewage Sludge Use, Disposal and Transportation, Municipal Solid Waste, Composting and Industrial Solid Waste and Municipal Hazardous Waste, respectively).
6. Disposal of wastewater shall not be authorized by this general permit where prohibited by any other state rule or law.
7. The Executive Director may cancel, revoke, or suspend authorization to discharge under this general permit based on a finding of historical and significant noncompliance with the provisions of this general permit. Suspension of a permittee's authorization under this general permit shall be done according to commission rules in 30 TAC, Chapter 205 (relating to General Permits for Waste Discharges).
8. The Executive Director may deny an application for authorization under this general permit and may require that the applicant apply for an individual Texas Land Application Permit (TLAP), for any reasons described in 30 TAC §205.4 (c)(2)(A)-(F).

### **Section C. Application for Coverage**

1. All applicants seeking authorization to discharge under this general permit must submit a completed Notice of Intent (NOI) on a form approved by the Executive Director. The NOI shall, at a minimum, include the legal name and address of the owner and operator, the facility name and address, the location of any disposal site, the type of disposal (evaporation or irrigation), description and size of the

composting control facility, retention facility size, a description of the land to be irrigated, irrigated acreage, the estimated irrigation application rate, and confirmation that an Engineering Report has been developed and implemented. Facilities authorized under the previous general permit are required to submit a new NOI within 90 days of issuance of this general permit to continue authorization.

2. Submission of an NOI is an acknowledgment that the conditions of this general permit are applicable to the proposed disposal, and that the applicant agrees to comply with the conditions of this general permit. Provisional authorization to dispose of wastewater under the terms and conditions of this general permit begins 48 hours after a completed NOI is postmarked for delivery to the TCEQ. If the TCEQ provides for electronic submission of NOIs during the term of this permit, provisional authorization begins 24 hours following confirmation of receipt of the electronic NOI form by the TCEQ. The NOI must be submitted to the address indicated on the NOI form and to mayors or county judges who have indicated to TCEQ their desire to be provided copies for facilities located within their jurisdiction. Following review of the NOI, the Executive Director shall either confirm coverage by providing a notification and an authorization number to the applicant or notify the applicant that coverage under this general permit is denied.
3. Authorization under this general permit is not transferable. If the owner or operator of the regulated entity changes, the present owner and operator must submit a Notice of Termination (NOT) and the new owner and operator must submit an NOI. Any change in a permittee's Charter Number, as registered with the Texas Secretary of State, is considered a change in ownership of the company. The NOT and NOI must be submitted no later than 10 days prior to the changes to avoid a lapse in authorization for the facility.
4. If the owner or operator becomes aware that they submitted incorrect information in an NOI or that information provided in the NOI changes (for example, phone number or P.O. Box number), the correct information must be provided to the Executive Director in a Notice of Change (NOC) within 14 days after discovery. A NOT is required for a change in the site location or changes in ownership and/or operator.

#### **Section D. Termination of Coverage**

A permittee may voluntarily terminate coverage under this general permit through submittal of a NOT, on a form approved by the Executive Director, when disposal becomes unnecessary, is delayed, or is authorized under an individual permit. Unless coverage is terminated because an individual permit has been obtained, the permittee must include with the NOT a closure plan to properly dispose of any remaining wastewater, in accordance with Part III.B.4.

Authorization to dispose of wastes terminates at midnight on the day that an NOT is postmarked for delivery. An NOT must be submitted within 10 days after the facility ceases irrigation and/or evaporation, obtains coverage under an individual permit, obtains coverage under an alternative general permit, or transfers ownership or responsibility of the facility.

#### **Section E. Authorization Under an Individual Permit**

1. Wastewater disposal eligible for authorization by this general permit may alternatively be authorized by an individual permit according to 30 TAC, Chapter 305 (relating to Consolidated Permits).

2. When an individual permit is issued for wastewater disposal that is currently authorized under this general permit, the permittee shall submit a NOT to the Executive Director. The permittee cannot hold both a general permit and an individual permit.
3. The disposal of wastewater from facilities currently authorized by an individual permit, and disposal by facilities currently authorized under another general permit, may only be authorized under this general permit if the following conditions are met:
  - a. the disposal meets the applicability and eligibility requirements for coverage under this general permit;
  - b. the current individual permit does not contain numeric water-quality based effluent limitations for the disposal (unless the disposal that resulted in the limitations have ceased and any contamination that resulted in those limitations is removed or remediated);
  - c. the Executive Director has not determined that continued coverage under an individual permit is required based on consideration of a history of substantive non-compliance or other site-specific considerations;
  - d. a previous application or permit for the disposal has not been denied, terminated, or revoked by the Executive Director as a result of enforcement or water-quality related concerns. The Executive Director may provide a waiver to this provision based on new circumstances at the facility, or if there is a new facility owner or operator; and
  - e. the applicant requests cancellation of the existing individual permit within 30 days after notice that authorization under this general permit is effective.

#### **Section F. Permit Expiration**

1. This general permit is effective for five years from the date of issuance. Authorizations for disposal under the provisions of this general permit may continue until the expiration date of the general permit. This general permit may be amended, revoked, or cancelled by the Commission or renewed by the commission for an additional term or terms not to exceed five years.
2. If the Executive Director proposes to reissue this general permit at least 90 days prior to the expiration date, the general permit shall remain in effect after the expiration date for those existing facilities covered by the permit in accordance with 30 TAC, Chapter 205. The general permit shall remain in effect for these facilities until the date on which the Commission takes final action on the proposal to reissue this general permit. No new NOIs will be accepted or new authorizations honored for authorization under the general permit after the expiration date.
3. Upon issuance of a renewed or amended general permit, all facilities, including those covered under the expired general permit, will be required to submit an NOI in accordance with the requirements of the new or amended permit within 90 days following the effective date of the renewed permit. A facility may also obtain an individual permit, or shall cease disposal of wastewater.
4. According to 30 TAC § 205.5 (d) (relating to Permit Duration, Amendment, and Renewal), if the commission has made a determination that the general permit will not be renewed at least 90 days before

the expiration date, permittees authorized under this general permit shall submit an application for an individual or alternative general permit before the expiration date. If the application for an individual or alternative general permit is submitted before the general permit expiration date, authorization under this expiring general permit remains in effect until the issuance or denial of an individual or alternative general permit.

### **Part III. Permit Requirements**

#### **Section A. General Requirements**

All facilities authorized by this general permit must comply with the following general requirements.

1. The permittee shall notify the appropriate TCEQ regional office at least 48 hours before putting into operation any new or replacement retention facility. For purposes of this general permit, "putting into operation" means the retention facility commences the receipt of wastewater from a control facility.
2. The permittee shall notify the appropriate TCEQ regional office at least 48 hours before the initial operation of any irrigation system.
3. Facilities which generate industrial solid wastes, as defined in 30 TAC §335.1, shall comply with the provisions of 30 TAC Chapter 335 (relating to Industrial Solid Waste and Municipal Hazardous Waste). If the requirements of 30 TAC Chapter 335 do not apply, the solid wastes shall be disposed of in accordance with the Texas Health and Safety Code, Chapter 361.
4. The wastewater disposal system shall be designed and operated to prevent the occurrence of a nuisance condition.
5. The permittee shall take reasonable steps necessary to prevent adverse effects to human health or safety, or to the environment. The permittee shall immediately cease disposal upon becoming aware that the disposal method may endanger human health or safety, or the environment and to provide notification to TCEQ as required in Part III, Section A.6.(a).
6. The permittee shall provide the following noncompliance notifications.
  - a. Any noncompliance which may endanger human health or safety, or the environment shall be reported by the permittee to the TCEQ. Report of such information shall be provided orally or by facsimile transmission (FAX) to the TCEQ regional office within 24 hours of becoming aware of the noncompliance. A written submission of such information shall also be provided by the permittee to the TCEQ regional office and the Enforcement Division (MC 224) within five working days of becoming aware of the noncompliance. The written submission shall contain a description of the noncompliance and its cause; the potential danger to human health or safety, or the environment; the period of noncompliance, including exact dates and times. If the noncompliance has not been corrected, the anticipated time it is expected to continue, and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance and to mitigate its adverse effects.

- b. In the event the permittee disposes of wastewater other than as authorized in the permit, the permittee shall give 24-hour oral or fax notice and 5-day written notice to TCEQ as required by paragraph (a) above.
7. All records, reports, drawings, certifications, and other documentation required by this general permit must be maintained for a minimum period of three years from the date of the record and either be kept on-site or made readily available for review by an authorized representative of the Commission upon request. This period may be extended at the request of the Executive Director.

#### **Section B. Specific Requirements for Evaporation and Irrigation**

1. Engineering Report. An applicant seeking authorization under this general permit must develop and implement an Engineering Report before submitting an NOI for coverage under this general permit. The Engineering Report must be maintained onsite and be made readily available for review by authorized TCEQ personnel upon request and must be updated if changes occur at the facility. The Engineering Report must contain the following:
  - a. Technical report. The permittee shall develop a technical report outlining the design of the wastewater disposal system. The report shall include maps, diagrams, basis of design, calculations, and other pertinent data.
  - b. Site drawing. A scale drawing and legal description of all land which is to be a part of the site and the wastewater disposal system shall be included in the technical report and the drawing must be certified by a Texas licensed professional engineer. The drawing shall show the location of all existing and proposed structures and areas of the facility to include: buildings, composting areas, wastewater treatment facilities, wastewater retention facilities, irrigated land application areas, tail water control facilities, buffer zones, and water wells. A United States Geological Survey topographic map (7½ minute series if available) of the area should be used to plot the exact boundaries of the disposal operation and to evaluate site slope and tail water control needs. This drawing should have an index of wells, adjacent property, and other prominent features. Ownership of land tracts adjacent to the irrigated land shall be shown on the site drawing and identified by listing legal ownership.
  - c. Geology. The existence of any unusual geological formations such as faults or sink holes on the wastewater retention and application site, which may provide a hydrologic connection for surface water to recharge groundwater, shall be noted in the technical report and identified on the site map. The design of the wastewater irrigation system shall include appropriate engineering considerations with respect to limitations presented by the geological features, including a design that will prevent discharge of wastewater onto such areas.
  - d. Soils. A general survey of soils with regard to standard classifications shall be compiled for all areas of wastewater irrigation. Soil surveys compiled by the United States Department of Agriculture's Natural Resources Conservation Service (NRCS) shall be utilized where available. Design aspects related to wastewater application rates, annual crop systems, seepage, and runoff controls shall be described in the technical report based upon the soil's physical and chemical properties, hydraulic characteristics, and crop use suitability for the irrigated application area(s). Soil limitations for the application of wastewater should also be addressed such as, but not limited to, rapid permeability, seasonal perched groundwater, and decreased available water capacity.

- e. Groundwater quality. The technical report shall fully assess the impact of wastewater irrigation on the uses and water quality of local groundwater resources. The design of wastewater retention facilities, irrigated application area(s), tail water control facilities, and the irrigation application rate of wastewater must preclude the migration of wastewater and recharge into the underlying groundwater and must maximize the beneficial use of the wastewater by a cover crop within the soil zone.
  - f. Closure. The technical report shall include a general description of actions to be taken to ensure that, after closure of the facility, all wastes will be removed or cleaned up such that no further regulatory control is necessary to protect human health and the environment. The description shall include methods to determine the lateral and vertical extent of any contamination and the methods to remove contaminated soil and groundwater. The description shall include methods to remove remaining product and waste materials, including water and accumulated solids within any pit, tank, lagoon, or surface impoundment from the site.
2. Design Analysis. The permittee shall utilize a detailed engineering design analysis of limiting hydraulic and nutrient application rates and wastewater storage needs as the basis for retention and irrigation system design. Written documentation shall include the justifications developed for evapotranspiration rates, including the reference sources for rainfall and evaporation data, irrigation efficiency, electrical conductivity of wastewater which is used in irrigation, crop salt tolerances, and runoff curve numbers. The design analysis shall be included in the technical report and must be certified by a Texas licensed professional engineer. The permittee shall incorporate the following detailed analysis into any land application system designed:
- a. Irrigation System Design.
    - (1) A water balance study shall be developed as a part of a detailed application rate analysis in order to determine the irrigation water requirement, including a leaching requirement if needed, for the crop system on the wastewater irrigation areas.
    - (2) The water balance study must generally follow the example shown in Table 1 of 30 TAC §309.20 or may be obtained by contacting the TCEQ's Industrial Permits Team. The water balance study may also consider return flows of wastewater back to the composting operation.
    - (3) Precipitation inputs to the water balance shall utilize the average annual rainfall and the monthly precipitation distribution based on past rainfall records. The consumptive use requirements (evapotranspiration losses) of the crop system shall be developed on a monthly basis. The method of determining the consumptive use requirement shall be documented as a part of the water balance study.
    - (4) A leaching requirement shall be included in the water balance study when the irrigated wastewater will have a total dissolved solids concentration which presents the potential for developing excessive soil salinity buildup due to the long term operation of the wastewater irrigation system. Excess soil salinity must be considered in the design analysis to prevent groundwater contamination and to ensure cover crop salt tolerance. The total dissolved solids or conductivity must be analyzed at least once per year to support this design.

- (5) The wastewater irrigation system must be designed and operated to utilize wastewater to supply the growth needs of the annual cover crops. Application rates shall be consistent with the agronomic uptake rate of the cover crops. Cover crop water needs that are satisfied by expected precipitation must be accounted for in the water balance study.
  - (6) The wastewater irrigation system shall be designed and operated to prevent a discharge from entering surface water and to achieve use of the wastewater without adversely affecting the agricultural productivity of the land application area. Discharge (run-off) of waste from the application site is prohibited. Timing and rate of applications shall be in response to crop needs, assuming usual nutrient losses, expected precipitation, and soil conditions. No land application under this permit shall cause or contribute to a violation of surface water quality standards, contaminate groundwater or create a nuisance condition.
  - (7) Edge-of-field, vegetative strips no less than 100 feet wide shall be used to separate water courses from all irrigation areas. Land subject to excessive erosion shall be avoided. Irrigation of wastewater on the vegetative strips is prohibited.
  - (8) The wastewater irrigation system must be designed and operated in a manner not to exceed an irrigation application rate as determined by a water balance or 3.2 acre-feet wastewater/acre/year, which ever is more stringent.
  - (9) The wastewater irrigation system must be designed and operated in a manner not to exceed an irrigation application rate of 100 pounds organic material/acre/day, in order to prevent the occurrence of anaerobic conditions on an irrigation area. Organic loading estimates for this purpose shall be established through periodic analysis of 5-day biochemical oxygen demand, according to Part III, Section C.2. of this general permit.
- b. Retention Facility Design for Irrigation Systems
- (1) Retention facilities must be designed and maintained to prevent any discharge to surface waters from the facility. The minimum designed capacity of the retention facilities must be the larger of the following:
    - (i) Retention facilities designed to retain the runoff from the 25-year/24-hour storm event in addition to other non-storm water flows generated over a 30 day period into the retention facility ; or
    - (ii) Retention facilities designed may follow the example shown in Table 2 of 30 TAC §309.20 or an example may be obtained by contacting the TCEQ's Industrial Permits Team. This storage requirement calculation shall be based on the highest annual rainfall amount and the lowest annual evaporation from a meteorological record of at least 25 years, distributed over a 12-month period in proportion to the average monthly percentages for each of the months.

- (2) Design of the retention facility shall include a top freeboard of not less than two feet. Freeboard shall account for settlement and slope stability of the materials used at the time of design and construction.
  - (3) Wastewater retention facilities may not be located in the 100-year flood plain, as defined in 30 TAC Chapter 301 (relating to Levee Improvement Districts, District Plans of Reclamation, and Levees and Other Improvements), unless the facility is protected from inundation and damage that may occur during that flood event.
- c. Evaporation System Design
- (1) Evaporation systems (wastewater disposal without irrigation) shall be designed based upon two evaluations. An example of an evaporation pond evaluation is available upon request from the TCEQ's Industrial Permits Team.
    - (i) Average Conditions: The pond(s) must have enough surface area to evaporate the design flow to the pond(s) under average rainfall conditions.
    - (ii) Critical Conditions: The pond's storage capacity must be enough to hold the accumulated wastewater under the lowest net evaporation conditions in the last 25 years.
  - (2) Design of the retention facility shall include a top freeboard of not less than two feet. Freeboard shall account for settlement and slope stability of the materials used at the time of design and construction.
  - (3) Wastewater retention facilities may not be located in the 100-year flood plain, as defined in 30 TAC Chapter 301 (relating to Levee Improvement Districts, District Plans of Reclamation, and Levees and Other Improvements), unless the facility is protected from inundation and damage that may occur during that flood event.
3. Retention Facility Construction Requirements. All wastewater retention facilities shall conform to the following requirements.
- a. All retention facilities whether constructed of earthen or other impervious material shall be designed and constructed so as to prevent ground-water contamination.
    - (1) Soils used for a lining shall be free from foreign material such as paper, brush, trees, and large rocks. All soil liners must be comprised of compacted material, at least 18-inches thick, compacted in lifts not greater than six inches thick and compacted to 95% of Standard Proctor Density 1% to 3% of optimum moisture. Soil liners must meet the following particle size gradation and Atterberg limits: 30% or more passing a number 200 mesh sieve; a liquid limit of 30% or greater; a plasticity index of 15 or greater; and a permeability less than or equal to  $1 \times 10^{-7}$  cm/sec.
    - (2) Synthetic membrane linings shall have a minimum thickness of 40 mils with a leak detection system.

- (3) In-situ liners at least 18-inches thick and meeting a permeability less than or equal to  $1 \times 10^{-7}$  cm/sec are acceptable alternatives to the requirements of (1) and (2) of this section.
  - (4) In-situ, placed soil, or compacted clay liners must be proven, by laboratory or field testing, to retain their permeability characteristics when exposed to the quality of the wastewater proposed to be contained in the pond. The wastewater shall not chemically alter the liner in such a manner that the permeability is increased over the above standard.
  - (5) Certification shall be furnished by a Texas licensed professional engineer that a retention facility lining meets the appropriate criteria prior to utilization of the facility.
- b. Soils used in the construction of a retention facility's embankment walls shall be free of foreign material such as paper, brush, trees, and large rocks. Soil embankment walls shall have a top width of at least five feet. The interior and exterior slopes of soil embankment walls shall be no steeper than one foot vertical to three feet horizontal unless alternate methods of slope stabilization are utilized. Soil embankment walls must be constructed of material compacted in lifts no greater than six inches to 95% of Standard Proctor Density at 1% to 3% of optimum moisture. All soil embankment walls shall be protected by a vegetative cover or other stabilizing material, excluding brush and trees, to prevent erosion. Erosion stops and water seals shall be installed on all piping penetrating the embankments.
4. Closure. Closure activities include the discontinued use of any pit, tank, pond, lagoon, or surface impoundment regulated by this general permit. Pursuant to the requirements of 30 TAC §335.8(b)(1), a permittee operating a wastewater retention facility, shall notify the Environmental Cleanup Section (MC-127) of the Remediation Division, in writing, of any closure activity at least 90 days prior to commencing such an activity, pursuant to the requirements of 30 TAC § 335.8 (b)(1). This notification must include a closure plan. At a minimum the closure plan shall be consistent with the United States Department of Agriculture, Natural Resources Conservation Service Conservation Practice Standard, "Closure of Waste Impoundments" (Code 360) and shall include procedures to make the following determinations:
- a. The lateral and vertical extent of contamination by soil sampling;
  - b. The quantity of solid and liquid waste, including compost product, to be removed, as well as a methodology for management, handling, and disposal of the waste. This should include detailed information on disposal or treatment of all wastes generated, including information on location and quantity of wastes to be disposed off-site;
  - c. Specification of the sampling protocol, sample handling, hold times, preservation, quality assurance and quality control, and chain of custody information for the collection of soil and water samples; and
  - d. A closure schedule which includes such milestones as 1) initiation of closure, 2) removal, treatment or disposal of waste and product inventory, 3) completion of closure activities (should not be more than 180 days), and 4) submission of a final report (within 90 days of completion of closure activities).

A final report of closure activities shall be submitted to the Environmental Cleanup Section (MC-127) of the Remediation Division within 90 days of completion of closure and provide detailed information on: 1) laboratory analysis conducted regarding investigation of the lateral and vertical extent of contamination; 2) description of removal or decontamination activities; 3) laboratory analysis conducted regarding verification sampling (verification of samples are confirmatory samples of media which documents the removal and decontamination of all waste or waste materials); 4) waste disposal activities and 5) closure certification. The closure certification shall indicate that closure activities were conducted according to an approved closure plan, must be certified by a Texas Licensed Professional Engineer and must be signed by the owner and operator.

### **Section C. Operational Requirements**

1. Soil Testing. Prior to commencing wastewater irrigation on land owned or operated by the permittee, and annually thereafter, representative soil samples of the wastewater irrigation area(s) shall be collected and analyzed according to the following procedures:
  - a. For composting facilities located in Erath, Hamilton, and Bosque Counties soil testing shall be conducted by the NRSC, a nutrient management specialist certified by the NRCS, the State Soil and Water Conservation Board, the Texas Cooperative Extension, an agronomist or soil scientist on the full-time staff of an accredited university located in Texas, or a professional agronomist or soil scientist certified by the American Society of Agronomy.
  - b. Representative soil samples shall be taken from the root zones of wastewater irrigation area(s) to establish pre-operational soil concentrations of the parameters listed below. The soil samples must be taken at a spatial distribution of one composite sample per every 40 acres of each proposed irrigation field, but at least one composite sample must be obtained from every irrigation field. Soil samples from separate irrigation fields may not be composited together. Sampling procedures shall employ accepted techniques of soil science for obtaining representative analytical results. Soil samples should be taken within the same 45-day time frame during each calendar year and compiled by December 31. Baseline values of the parameters shall be determined and described in the technical report.
  - c. Composite soil samples shall be comprised of no less than 15 randomly sampled cores obtained from each of the following soil depth zones:
    - (1) Zone 1: 0-6 inches; and
    - (2) Zone 2: 6-24 inches
  - d. Soil samples shall be submitted to a soil testing laboratory along with a previous crop history of the site, intended crop use, and yield goal. Soil test reports shall include nutrient recommendations for the crop yield goal.
  - e. Chemical and nutrient parameters and analytical procedures for laboratory analysis of soil samples from wastewater irrigation areas shall include the following:
    - (1) nitrate (extractable reported as nitrogen in parts per million (mg/kg) as dry weight);

- (2) phosphorus (extractable, parts per million (mg/kg) as dry weight) – using Mehlich III with Inductively Coupled Plasma (ICP);
  - (3) soluble salts/electrical conductivity (decisiemens per metre ( dS/m)) - determined from extract of 2:1 (volume to volume (v/v)) water/soil mixture;
  - (4) soil water pH (standard pH units) - determined from extract of 2:1 (v/v) water/soil mixture; and
  - (5) sodium adsorption ratio (SAR).
- f. Reporting Requirements. The permittee shall submit soil sample results by March 20 of the next year for each irrigation field to the TCEQ's Enforcement Division (MC 224), to the appropriate TCEQ regional office, and to the TCEQ's Industrial Permits Team (MC-148) using an approved self-reporting form that is signed and certified as required by Part IV. 8. of this permit. If soil samples are not collected for an irrigation field, a self-reporting form must still be submitted for that field indicating no samples were collected. The permittee shall maintain soil sample analytical records and copies of self-reporting forms in accordance with the requirements in Part III. A. 7. of this permit.
2. Wastewater Testing. Representative wastewater samples shall be taken at the time irrigations is initiated and at a frequency of at least once every three months during the time that irrigation is occurring. Wastewater shall be collected from the irrigation system at a point after discharge from the retention facility. The wastewater samples shall be handled using acceptable procedures, conveyed to a laboratory, and analyzed for the parameters listed below. The permittee shall maintain wastewater analytical records in accordance with the requirements in Part III. A. 7 of this permit.
- a. 5-day biochemical oxygen demand.
  - b. Total nitrogen
  - c. Total phosphorus
3. Excessive Phosphorus Soil Loading.
- a. When results of the annual soil analysis for extractable phosphorus indicate a level greater than 200 mg/kg of extractable phosphorus (reported as P) in Zone 1 for a particular wastewater irrigation area(s), then the permittee shall not apply any wastewater to the affected area.
  - b. Within 30 days of receipt of the results identified in Section C.3.(a) of this general permit, the permittee shall provide a written notification to the appropriate TCEQ regional office and to the TCEQ Industrial Permits Team (MC-148). The notifications must include a description of all of the wastewater irrigation areas being utilized under this general permit and the submittal of all soil testing results collected according to Part III.C.1. of this general permit, since the NOI for this general permit was filed.
  - c. The permittee shall evaluate the ability to comply with all conditions of this general permit, without the use of wastewater irrigation in the affected area. The permittee is responsible for

changing or terminating the authorization with a NOC or NOT to utilize other land for wastewater irrigation. The permittee may submit an application for an individual permit, if necessary, in order to obtain any required authorization for the discharge of waste adjacent to water in the state. Based upon adequate information substantiating a reduction of the affected area's soil phosphorus levels, the Executive Director may provide a written approval to allow resumption of wastewater irrigation in the affected area.

4. Irrigation Records. The permittee shall maintain records of all wastewater that is beneficially used by land application or that is used in the production of compost. The records shall be updated each time wastewater is removed from the retention facility and whenever wastewater is directly conveyed for irrigation without retention. Irrigation records must be compiled by December 31 of each year and kept on site.
  - a. When wastewater is land applied via irrigation, records shall include the following information:
    - (1) date of wastewater irrigation;
    - (2) location of wastewater irrigation area(s) and the number of acres utilized during each irrigation event;
    - (3) acreage of each individual crop on which wastewater is applied;
    - (4) application rate and volume of wastewater used during the irrigation event;
    - (5) yields harvested of a cover crop; and
    - (6) results of the analysis of samples of the wastewater required under Section C above.
  - b. Where wastewater is used to assist in the production of compost, such records shall include the following information:
    - (1) date of wastewater application or use; and
    - (2) application rate and volume of water used.
5. Liner Maintenance and Repair.
  - a. The permittee must maintain any wastewater retention facility liner to inhibit infiltration of wastewater.
  - b. The wastewater retention facility and liner shall be restricted from access by domestic and wild animals by fences or other protective devices.
  - c. Earthen levees and embankments shall be vegetated or stabilized in a manner to control erosion. Vegetation, when utilized, shall be maintained at all times through mowing, watering, or other suitable maintenance practices. All trees or woody vegetation shall be removed and not allowed to grow within a wastewater retention facility or on an earthen levee or embankment.

- d. Any mechanical or structural damage to the liner shall be evaluated by a NRCS engineer or a Texas licensed professional engineer within 30 days of the damage.
- e. Documentation of liner maintenance shall be kept on site.
- f. The permittee shall have a NRCS engineer or a Texas licensed professional engineer review the documentation and complete an on-site evaluation of each retention facility every five years.
- g. If notified by the Executive Director that significant potential exists for the contamination of ground or surface water, the permittee shall install a leak detection system or monitoring well(s) in accordance with that notice.
- h. In the event monitoring wells are required, the permittee must sample each monitoring well annually for nitrate as nitrogen, chloride, and total dissolved solids using methods approved by the Executive Director.
- i. The permittee shall compare the analytical results to the baseline data. The first year's sampling shall be considered the baseline data and must be retained on site for the life of the facility unless otherwise provided by the Executive Director. If a ten percent (10%) increase in concentration of any of the sampled constituents is found, the permittee must notify the Executive Director (c/o Wastewater Permitting Section, MC-148) within 30 days of receiving the analytical results. In response, the Executive Director may suspend the authorization, may require the operator to cease further disposal and operation of a retention facility, and may require facility closure in accordance with Permit provision III.B.4.
- j. The permittee shall notify the appropriate TCEQ Regional Office in writing two weeks prior to the time any wastewater retention facility is cleaned out by means other than pumping. If the facility is cleaned using a dragline or if the liner is disturbed, the permittee shall have the pond liner re-certified by a Texas licensed professional engineer. The liner certification should be sent to the appropriate TCEQ Regional Office.
- k. All solid waste resulting from cleaning operations and the sludge deposited in wastewater retention facilities and associated control facilities should be incorporated into compost in accordance with the conditions of this permit. Solids shall be removed in accordance with a predetermined schedule for cleanout of all retention facilities and retention structures to prevent the accumulation of solids from exceeding fifty percent (50%) of the original storage volume.
- l. Removal of solids shall be conducted during favorable wind conditions that carry odors away from nearby receptors. The permittee shall notify the appropriate TCEQ regional office as soon as the cleaning is scheduled (but not less than 10 days prior to cleaning) and verification shall be reported to the same regional office within 5 days after the cleaning has been completed. At no time shall emissions from any activity create a nuisance. Any increase in odors associated with a properly managed cleanout under this subsection will be taken into consideration by the Executive Director when determining compliance with the provisions of this permit.

## 6. Other Operational Requirements.

- a. The permittee shall maintain direct responsibility and control over all aspects of the wastewater retention and land application operations, as well as all aspects of any agricultural activities carried out on the wastewater irrigation area(s).
- b. When manure is stockpiled, it shall be stored in a well drained area with no ponding of water, and the top and sides of stockpiles shall be adequately sloped to ensure proper drainage. Runoff from manure storage piles must be retained on site and routed to a retention facility or utilized for irrigation.
- c. Storm water drainage shall be designed to prevent or minimize run-on, commingling, or contact with wastewater, the control facility, retention facilities, and wastewater irrigation areas.
- d. Nighttime application of wastewater shall be allowed only in areas with no occupied residence(s) within 0.25 mile from the outer boundary of the actual area receiving wastewater application.
- e. There shall be no water quality impairment to public and neighboring private drinking water wells or to surface water or watercourses, due to wastewater handling at the facility. Additionally, nuisance abatement must be accomplished through required setbacks of wastewater retention facilities and irrigation land application areas. The following requirements must be met at the time: 1) a facility obtains authorization under this general permit; or 2) a facility which is currently authorized by this general permit begins construction for expansion. For this subsection, expansion means construction of new wastewater retention facilities or use of new wastewater land application areas. The minimum buffers for compliance with these requirements are:
  - (1) No less than a 100 foot wide vegetative strip must be maintained between wastewater application areas or tail water control structures and any surface water or watercourse.
  - (2) Wastewater retention facilities, wastewater land application areas, and tail water control structures shall not be located closer than 500 feet from a public water supply well.
  - (3) Wastewater retention facilities, wastewater land application areas, and tail water control structures shall not be located closer than 150 feet from a private water well.
  - (4) Wastewater retention facilities must be located more than 150 feet from the nearest property line and more than 1/4 mile from the nearest edge of any occupied residence or business structure, school (including associated recreational areas), permanent structure containing a place of worship, or public park, if present unless:
    - (i) The affected landowner within the buffer zone provides written consent and approval of the retention facility. The written consent must include the following: Name, physical address, mailing address, and phone number of the affected landowner; a description of the retention facility within the buffer zone for which the landowner is giving consent; an acknowledgement that consent by the affected landowner excuses the operator of the compost facility from otherwise applicable legal requirements; and the signature of the affected landowner. In addition to the

consent of the owner of the land, written consent from the governmental entity responsible for operating a school or public park, if the governmental entity is not the owner of the land is required.

- (ii) An odor control plan, prepared by a licensed professional engineer, is developed and implemented to control odors at the facility and reduce the quantity of air contaminants emitted from the facility. At a minimum, the plan shall address existing climatological conditions such as wind velocity and atmospheric stability, wastewater characteristics in affected units pertaining to the area of the buffer zone, proposed solutions to prevent nuisance conditions at the edge of the buffer zone and beyond, and identify all structural and management practices that the owner/operator must employ to minimize odor and control air contaminants at the facility. The plan must also address manure and wastewater storage, the compost processing, land application, and dust control measures. If the Executive Director determines that the implementation and employment of these practices is not effective in controlling air contaminants, the operator shall include any necessary additional abatement measures in the odor control plan and implement those measures to control and reduce these contaminants within the time period specified by the Executive Director.
- (5) Wastewater application areas and tail water control structures may not be located closer than 50 feet to the nearest property line.
- f. Appropriate measures necessary to prevent spills and to clean up spills shall be taken. Where potential spills can occur, materials handling procedures and storage shall be specified. Procedures for cleaning up spills shall be identified and the necessary equipment to implement a clean up shall be available to personnel.
  - g. A rain gauge shall be kept on site and properly maintained. A written log of all daily measurable rainfall events shall be maintained on site and made available for inspection by TCEQ.
  - h. Wastewater shall not be irrigated when the ground is frozen or saturated or within 24 hours of a rainfall event of 0.5 inches or greater.
  - i. Irrigation practices shall be managed so as to reduce or minimize ponding or puddling of wastewater on the site and pollution of water in the state and to prevent the occurrence of nuisance conditions.
  - j. Facilities including ponds, pipes, ditches, pumps, diversion and irrigation equipment shall be maintained to insure ability to fully comply with the terms of this general permit.

#### **Part IV. Standard Permit Conditions.**

1. The permittee has a duty to comply with all conditions in this general permit. Failure to comply with any condition is a violation of the general permit and the statutes under which the general permit was issued. Any violation may be grounds for enforcement action, for terminating coverage under this general permit, or for requiring a permittee to apply for and obtain an individual permit.

2. It is not a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted disposal to maintain compliance with the permit conditions.
3. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) installed or used by the permittee to achieve compliance with the permit conditions. Proper operation and maintenance also includes adequate laboratory and process controls, and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems only when necessary to achieve compliance with the permit conditions.
4. The permittee shall furnish any information, at the request of the Executive Director, that is necessary to determine whether cause exists for revoking, suspending, or terminating authorization under this permit. The requested information must be provided within a reasonable time frame and in no case later than 30 days from the date of the request.
5. Inspection and entry shall be allowed under TWC, Chapters 26 through 28 and Texas Health and Safety Code §§361.032-361.033 and 361.037. The statement in TWC §26.014 that Commission entry of a regulated entity shall occur in accordance with an establishment's rules and regulations concerning safety, internal security, and fire protection is not grounds for denial or restriction of entry to any part of the regulated entity, but merely describes the Commission's duty to observe appropriate rules and regulations during an inspection.
6. Standard monitoring requirements.
  - a. Samples shall be collected and measurements shall be taken at times and in a manner so as to be representative of the monitored discharge or activity. Samples shall be delivered to the laboratory immediately upon collection, in accordance with any applicable analytical method and required maximum holding time. Unless otherwise specified in this permit, test procedures for the analysis of pollutants shall comply with procedures specified in 30 TAC §§319.11 - 319.12. Measurements, tests and calculations shall be accurately accomplished in a representative manner.
  - b. Records of monitoring activities must include:
    - (1) the date, time, and place of sample or measurement;
    - (2) the identity of any individual who collected the sample or made the measurement;
    - (3) the chain-of-custody procedures used to maintained sample integrity from sample collection to laboratory delivery;
    - (4) the date and time of laboratory analysis;
    - (5) the identity of the individual and laboratory who performed the analysis;
    - (6) the technique or method of analysis; and
    - (7) the results of the analysis or measurement and quality assurance/quality control records.

- c. The permittee shall ensure that properly trained and authorized personnel monitor and sample the soil or wastewater related to any permitted activity.
7. NOIs, NOTs, and NOCs shall be signed in accordance with the requirements of 30 TAC §305.44(a) (relating to Signatories to Applications). Reports and other information requested or required by the Executive Director shall be signed in accordance with the requirements of 30 TAC §305.128 (relating to Signatories to Reports).
8. Authorization under this permit may be suspended or revoked for the reasons stated in 30 TAC § 205.4 (relating to Authorizations and Notices of Intent). Notifying the TCEQ of planned changes or an anticipated noncompliance, does not stay any permit condition.
9. This permit does not convey any property rights of any sort or any exclusive privilege.
10. The permittee is subject to administrative, civil, and criminal penalties, as applicable, under Chapter 7 of the TWC for violations including but not limited to the following:
  - a. negligently or knowingly violating the TWC, Chapter 26;
  - b. falsifying, tampering with, or knowingly rendering inaccurate any monitoring device or method required to be maintained under a permit; and
  - c. knowingly making any false statement, representation, or certification in any record or other document submitted or required to be maintained under a permit, including monitoring reports or reports of compliance or noncompliance.

**Part V. Fees**

1. Application Fee - An application fee of \$100 must be submitted with each NOI. A fee is not required for submission of an NOT or NOC.
2. Annual Water Quality Fee – Facilities having an active authorization on September 1 of each year (have not submitted an NOT prior to this date) will be billed \$100 for the following fiscal year.

**FACT SHEET AND EXECUTIVE DIRECTOR'S PRELIMINARY DECISION  
GENERAL PERMIT NO. WQG200000**

For proposed Texas Commission on Environmental Quality (TCEQ) General Permit No. WQG200000, to dispose of wastewater by evaporation or irrigation adjacent to water in the state.

Issuing Office: Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, TX 78711

Prepared by: Yvonna Miramontes  
Wastewater Permitting Section  
Water Quality Division  
(512) 239-6922

Date: January 23, 2008

Permit Action: Amendment with Renewal of General Permit WQG200000

**I. Summary**

The Texas Commission on Environmental Quality (TCEQ) is proposing to amend and reissue General Permit WQG200000, issued October 1, 2002, which authorizes the disposal of wastewater by evaporation or beneficial irrigation adjacent to water in the state from livestock manure compost operations. This general permit does not authorize discharge of waste into surface waters. The general permit specifies which facilities must obtain permit coverage, which are eligible for exclusion from permit requirements, and which may be required to obtain individual permit coverage.

**II. Executive Director's Recommendation**

The Executive Director has made a preliminary decision that this permit, if issued, meets all statutory and regulatory requirements. It is proposed that the permit be issued to expire five years from date of issuance following the requirements of 30 Texas Administrative Code (TAC) §205.5 (a).

**III. Permit Applicability**

- A. This general permit authorizes the disposal of wastewater generated from livestock manure composting operations and processes, including livestock manure composted with exempt compost materials as defined in 30 TAC §332.3. Livestock manure is defined in the draft permit as manure (feces and urine), litter, bedding, or feed waste from animal feeding operations. This authorization is inclusive of any control facility, storage, or processing areas for livestock manure, compost material derived from livestock manure, livestock manure composted with exempt compost material, and storage of finished compost product.

**Fact Sheet and Executive Director's Preliminary Decision  
TCEQ General Permit No. WQG200000**

- B. The following are not eligible for general permit coverage.
- (1) No discharge is allowed into any surface water in the state. Discharge adjacent to water in the state by disposal of wastewater by irrigation or evaporation is allowed only under the conditions described in this permit.
  - (2) This general permit does not authorize the disposal of wastewater generated from livestock manure composting operations and processes which occur at a facility either permitted or otherwise authorized by the Commission as a concentrated animal feeding operation (CAFO). The discharge or disposal of wastewater occurring at these facilities must be authorized under a separate permit or authorization.
- C. Separate authorization may be required for discharges into or adjacent to water in the state, located within ten stream miles upstream of the Edwards Aquifer recharge zone, as defined in 30 Texas Administrative Code (TAC), Chapter 213 (relating to Edwards Aquifer).
- D. Facilities that recycle all wastewater, including storm water associated with industrial activities, back into the composting process, and that do not dispose of wastewater by land irrigation or evaporation, are not required to be authorized by this general permit.
- E. This general permit does not authorize the storage, processing, or disposal of solid waste, including livestock manure, compost, or exempt compost materials. It is the responsibility of any person conducting such activities to comply with any applicable requirements of the Commission, as described in 30 TAC Chapters 312, 330, 332, and 335 (relating to Sewage Sludge Use, Disposal, and Transportation, Municipal Solid Waste, Composting, and Industrial Solid Waste and Municipal Hazardous Waste, respectively).

**IV. Permit Limitations**

- A. Eligible facilities must develop and implement an Engineering Report that shall include the design of the wastewater disposal system, site drawings, information regarding any unusual geological formations, a soil survey, information regarding the ground water quality, and a closure plan.
- B. Permittees shall utilize a detailed engineering design analysis of limiting hydraulic and nutrient application rates and wastewater storage needs as the basis for retention and irrigation system design.
- C. All retention facilities shall be designed and constructed so as to prevent ground-water contamination.
- D. Soil samples shall be collected prior to commencing wastewater irrigation and annually thereafter. Wastewater shall not be applied to an area with an extractable phosphorus level of greater than 200 mg/kg.
- E. The wastewater shall be tested at the time irrigation is initiated and at a frequency of once every three months for 5-day biochemical oxygen demand, total nitrogen, and total phosphorus.

**Fact Sheet and Executive Director's Preliminary Decision  
TCEQ General Permit No. WQG200000**

**V. Changes From Existing General Permit**

- A. Corrected the sodium adsorption ratio (SAR) equation in the definition section. The revised equation is consistent with the SAR equation used in Texas Land Application Permits (TLAP).
- B. Provided addition requirements in Part II.E.3. for obtaining coverage under this general permit when the facility is authorized by an individual permit. These requirements are consistent for other wastewater general permits.
- C. Required the Engineering Report to be completed prior to the submission of the NOI and kept on site rather than submitted to the TCEQ 90 days after NOI submittal. This change is made for consistency with other general permits in that wastewater general permits have not required a technical review prior to issuance of authorization.
- D. Incorporated language throughout the general permit to notify applicants that examples of a water balance for irrigation and water storage for retention are available upon request. The existing Appendix I, a table from 30 TAC Chapter 309, was removed from the permit although the reference to TAC 30 §309.20 was continued. This change was made to provide the most current information to applicants.
- E. Revised the criteria for evaporation system design in Part III.B.2.(c) to be consistent with TLAPs.
- F. Changed test method for measuring phosphorus in soils to be consistent with the current test method widely accepted for soil testing in Texas.
- G. Defined the term expansion as relating to buffer zones in Part III. Section C.6.(e).
- H. Included language in Part III. Section C.6.(e)(4) stating that there must be at least a ¼ of a mile buffer between a wastewater retention facility and any occupied residence or business structure, school (including recreational areas), permanent structure containing a place of worship, or public parks unless the facility receives written consent from the affected landowner or an odor control plan is developed and implemented. This change was included to offer flexibility to facilities which may have storm water retention ponds near property boundaries.

**VI. Addresses**

Questions concerning this draft general permit by rule should be directed to:

Ms. Yvonna Miramontes  
Wastewater Permitting Section (MC-148)  
TCEQ  
P.O. Box 13087  
Austin, TX 78711-3087  
(512) 239- 6922

**Fact Sheet and Executive Director's Preliminary Decision  
TCEQ General Permit No. WQG200000**

Comments regarding this proposed draft general permit should be sent to:

Chief Clerk's Office (MC-105)  
TCEQ  
P.O. Box 13087  
Austin, TX 78711-3087

Supplementary information on this Fact Sheet is organized as follows:

- VII. Legal Basis
- VIII. Regulatory Background
- IX. Permit Coverage
- X. Technology-based Requirements
- XI. Water Quality-based Requirements
- XII. Requirements for the Protection of Groundwater and Monitoring
- XIII. Procedures for Final Decision
- XIV. Administrative Record

**VII. Legal Basis**

Section 26.121 of the Texas Water Code (TWC) makes it unlawful to discharge pollutants into or adjacent to water in the state except as authorized by a rule, permit, or order issued by the commission. TWC §26.027 authorizes the commission to issue permits and amendments to permits, for the discharge of waste or pollutants into or adjacent to water in the state, and §26.040 provides the Commission with authority to develop and issue general permits.

The TCEQ developed regulations in 30 TAC Chapter 205, which form the basis for development of general permits. Chapter 205 describes when it is permissible to issue a general permit, the procedural requirements for the involvement of the public in the permitting process, how qualified dischargers can obtain authorization under a general permit, the manner in which permit terms are developed, how general permits are amended or renewed, and the fees that are assessed on dischargers authorized under the permit.

This permit is proposed under state authority and is not a Texas Pollutant Discharge Elimination System (TPDES) permit, since the permit would not authorize any discharge into waters of the United States as defined under the federal Clean Water Act (CWA) and National Pollutant Discharge Elimination System (NPDES) requirements.

Neither national nor state guidelines establishing technology-based effluent limits have been promulgated for composting operations which dispose of waste adjacent to water in the state. Due to the lack of federal guidelines, the requirements for these discharges have, therefore, been established using best professional judgment.

**Fact Sheet and Executive Director's Preliminary Decision  
TCEQ General Permit No. WQG200000**

**VIII. Regulatory Background**

The TCEQ adopted a general permit for disposal of wastewater from manure compost facilities that expired on October 1, 2007. The executive director now proposes, with the reissuance of this proposed general permit, to continue to authorize these eligible discharges under TCEQ General Permit No. WQG200000.

Consistent with 30 TAC §205.2, issuance of this permit is allowable, since qualifying composting operations engage in substantially similar operations and would discharge the same type of waste. The general permit, if issued, would establish the same operating conditions and similar monitoring requirements for these facilities. These types of discharges are more appropriately regulated under a general permit based upon the requirements of §205.2(a)(5), inasmuch as the TCEQ can readily enforce the general permit and can monitor compliance of the terms of the permit. The permit would establish monitoring, record keeping, and reporting requirements. The permit also establishes requirements for the protection of underlying groundwater, prohibits any discharge into surface water, and thus, is not expected to result in an adverse effect on the quality of either resource.

**IX. Permit Coverage**

- A. All applicants seeking authorization to dispose of wastewater under this general permit must submit a completed Notice of Intent (NOI) on a form approved by the Executive Director. Existing discharges authorized under the expiring general permit are required to submit a new NOI within 90 days of issuance of the general permit to continue authorization. The NOI shall include at a minimum the legal name and address of the owner and operator, the facility name and address, the location of any disposal site, the type of disposal (evaporation or irrigation), description and size of the composting control facility, retention facility size, a description of the land to be irrigated, irrigated acreage, and the estimated irrigation application rate.
- B. Submission of an NOI is an acknowledgment that the conditions of this general permit are applicable to the proposed discharge, and that the applicant agrees to comply with the conditions of this general permit. Provisional authorization to dispose of wastewater under the terms and conditions of this general permit begins 48 hours after a completed NOI is postmarked for delivery to the TCEQ. If the TCEQ provides for electronic submission of NOIs during the term of this permit, provisional authorization begins 24 hours following confirmation of receipt of the electronic NOI form by the TCEQ.
- C. Authorization under this general permit is not transferable. If the owner or operator of the regulated entity changes, the present owner and operator must submit a Notice of Termination (NOT) and the new owner and operator must submit an NOI. Any change in a permittee's Charter Number, as registered with the Texas Secretary of State, is considered a change in ownership of the company. The NOT and NOI must be submitted no later than 10 days prior to the changes to avoid a lapse in authorization for the facility.
- D. If the owner or operator becomes aware that they submitted incorrect information in an NOI or that information provided in the NOI changes (for example, phone number or P.O. Box number), the

**Fact Sheet and Executive Director's Preliminary Decision  
TCEQ General Permit No. WQG200000**

correct information must be provided to the Executive Director in a Notice of Change (NOC) within 14 days after discovery. An NOC is not applicable for changes in ownership, operator, or a change in the site location. For these types of changes, a NOT and a new NOI must be submitted.

- E. A permittee may voluntarily terminate coverage under this general permit through submittal of a NOT, on a form approved by the executive director, when the owner or operator of the facility changes, the site location changes, the disposal becomes unnecessary, is delayed, is authorized under an individual permit, or is completed. Authorization to dispose of wastes terminates at midnight on the day that an NOT is postmarked for delivery. An NOT must be submitted within 14 days after the facility ceases discharging, obtains coverage under an individual permit, obtains coverage under an alternative general permit, or transfers ownership or responsibility of the facility.
  
- H. The Executive Director may deny authorization under this general permit, as described under 30 TAC §205.4(c). Discharges eligible for authorization by this general permit may alternatively be authorized by an individual permit according to 30 TAC Chapter 305 (relating to Consolidated Permits). When an individual permit is issued for a discharge that is currently authorized under this general permit, the permittee shall submit a notice of termination (NOT) to the Executive Director. The authorization under this general permit will be terminated when the Executive Director receives the NOT.
  
- I. The Executive Director may cancel, revoke, or suspend authorization to discharge under this general permit based on a finding of historical and significant noncompliance with the provisions of this general permit. Suspension of a permittee's authorization under this general permit shall be done according to commission rules in 30 TAC, Chapter 205 (relating to General Permits for Waste Discharges).

**X. Technology-Based Requirements**

The regulations promulgated in Title 40 of the Code of Federal Regulations which require technology-based limitations be placed in wastewater discharge permits based on effluent limitations guidelines do not apply to this general permit which only allows for the disposal of wastewater by irrigation or evaporation.

**XI. Water Quality-Based Requirements**

The Texas Surface Water Quality Standards found at 30 TAC Chapter 307 state that "surface waters will not be toxic to man from ingestion of water, consumption of organic organisms, or contact with the skin, or to terrestrial or aquatic life". This general permit does not authorize a discharge into surface waters in the state, therefore no water quality based requirements for the protection of surface waters are proposed. The permit does however require provisions to prevent runoff of excessive concentrations of phosphorus from soils irrigated with wastewater. Phosphorus has been identified as the limiting nutrient in both the North Bosque River (Segment 1226) and the Upper North Bosque River (Segment 1255) and a Total Maximum Daily Load (TMDL) has been developed for these locations. Permit Provisions in Part III. Section C, require that the permittee conduct annual soil testing, submit the results to the TCEQ, and not apply wastewater to an irrigation area with excess phosphorus concentrations. Permit conditions also require the permittee to evaluate the ability to comply with all conditions of the general permit, without

**Fact Sheet and Executive Director's Preliminary Decision  
TCEQ General Permit No. WQG200000**

the use of wastewater irrigation in the affected area.

**XII. Requirements for the Protection of Groundwater**

- A. The permittee shall notify the appropriate TCEQ regional office at least 48 hours before putting into operation any new or replacement retention facility.
- B. The permittee shall notify the appropriate TCEQ regional office at least 48 hours before the initial operation of any irrigation system.
- C. The permittee shall develop a technical report certified by Texas licensed professional engineer, which outlines the design of the wastewater system to ensure that adequate capacity exists for the storage of wastewater and the application of wastewater via irrigation is at the appropriate agronomic rate.
- D. All retention facilities must be constructed with compacted soil or acceptable synthetic membrane linings.
- E. A closure plan must be included in the technical report which describes the actions that will be taken to ensure that all wastes will be removed or cleaned up after the closure of the facility.
- F. The wastewater irrigation system must be designed to prevent an organic material loading to the soil of greater than 100 pounds/acre/day.
- G. Annual soil testing of land application areas must be conducted to prevent undesirable buildup of nitrogen and phosphorus levels on agricultural fields while also aiding the permittee in the optimal management of a cover crop.
- H. Quarterly analysis of wastewater effluent is required for 5-day biochemical oxygen demand, total nitrogen and total phosphorus.
- I. Permittee is required to maintain records of irrigation.
- J. Permittee must maintain and repair any damage to a retention facility liner.

**XIII. Procedures for Final Decision**

30 TAC Chapter 205 requires that when a draft general permit is proposed, notice must be published in the *Texas Register* and in at least one newspaper in the state with statewide or regional circulation. The commission may also publish notice in additional newspapers of statewide or regional circulation. Notice must also be provided to the following:

- A. the county judge of the county or counties in which the discharges under the general permit could be located;

**Fact Sheet and Executive Director's Preliminary Decision  
TCEQ General Permit No. WQG200000**

- B. persons on a relevant mailing list kept under 30 TAC §39.407, relating to Mailing Lists; and
- C. any other person the executive director or chief clerk may elect to include.

The public will have 30 days to provide public comment on the proposed general permit.

Any person, agency, or association may make a request for a public meeting on the proposed general permit before the end of the public comment period. A public meeting will be granted when the executive director or commission determines, on the basis of requests, that a significant degree of public interest in the draft general permit exists. A public meeting is intended for the taking of public comment, and is not a contested case proceeding under the administrative Procedure Act.

If the executive director calls a public meeting, the commission will give notice of the date, time, and place of the meeting, as required by commission rule. The executive director shall prepare a response to all public comments on the draft general permit raised during the public comment period. The general permit will then be filed with the commission to consider final authorization of the permit. The executive director's response to public comment shall be made available to the public and filed with the chief clerk at least ten days before the commission acts on the general permit.

**XIV. Administrative Record**

The following section is a list of the fact sheet citations to applicable statutory or regulatory provisions and appropriate supporting references.

A. Permits and Authorizations

30 TAC Chapter 321, Subchapter B (relating to Concentrated Animal Feeding Operations)  
Existing General Permit No. WQG200000.

B. Rules

30 TAC Chapters 50, 205, 305, 309, 312, and 332  
TWC §§ 5.103, 5.105, 26.001, 26.027, 26.040, and 26.121  
Texas Health and Safety Code §§361.017 and 361.024

C. Miscellaneous

Status Report: Implementing Total Maximum Daily Loads in Texas; October 2006.

## Exhibit B

## Executive Director's Response to Public Comment on TCEQ General Permit No. WQG200000

The executive director of the Texas Commission on Environmental Quality (commission or TCEQ) files this Response to Public Comment Discharge from Manure Compost Facilities General Permit Number WQG2000000. As required by Texas Water Code (TWC), §26.040(d) and 30 TAC §205.3(e), before a general permit is issued, the executive director must prepare a response to all timely, relevant and material, or significant comments. The response must be made available to the public and filed with the Office of the Chief Clerk at least ten days before the commission considers the approval of the general permit. This response addresses all timely received public comments, whether or not withdrawn. As of March 7, 2008, no comments were received.

### BACKGROUND

#### Introduction

The TCEQ adopted a general permit for the disposal of wastewater from manure compost facilities that expired on October 1, 2007. The executive director now proposes, with the reissuance and amendment of this proposed general permit, to continue to authorize these eligible discharges under TCEQ General Permit No. WQG200000. Consistent with 30 TAC 205.2, issuance of this permit is allowable, since qualifying composting operations engage in substantially similar operations and would discharge the same type of waste. The general permit, if issued, would establish the same operating conditions and similar monitoring requirements for these facilities. These types of discharges are more appropriately regulated under a general permit based upon the requirements of §205.2(a)(5), insomuch as the TCEQ can readily enforce the general permit and can monitor compliance of the terms of the permit. The permit would establish monitoring, record keeping, and reporting requirements. The permit also establishes requirements for the protection of underlying groundwater, prohibits any discharge into surface water, and thus, is not expected to result in an adverse effect on the quality of either resource.

#### Procedural Background

The Office of the Chief Clerk received the permit file on August 6, 2007. In accordance with 30 TAC §205.3(a)(2), the Notice of Proposed Amendment of General Permit Authorizing the Discharge of Wastewater was published in the *Texas Register* on August 17, 2007 (32 TexReg 5207); *Dallas Morning News*, August 14, 2007; *Amarillo Globe-News*, August 14, 2007; *El Paso Times*, August 14, 2007; *Houston Chronicle*, August 14, 2007; *The Monitor*, August 14, 2007; *Stephenville Empire-Tribune*, August 14, 2007; and *San Antonio Express News*, August 14, 2007. Mailed notice was also provided in accordance with 30 TAC §205.3(b). The original comment period ended on September 17, 2007. No comments were received. Subsequently, the general permit was re-noticed to clarify there were additional changes being made to the 2002 version of the general permit. Notice of the general permit was published in the *Texas Register* on February 8, 2008 (33 TexReg 1172); *Dallas Morning News*, February 4, 2008; *Amarillo Globe-News*, February 4, 2008; *El Paso Times*, February 4, 2008; *Houston Chronicle*, February 4, 2008; *The Monitor*, February 4, 2008; *Stephenville Empire-Tribune*, February 4, 2008; and *San Antonio Express News*, February 4, 2008. The comment period ended on March 7, 2008. No comments were received during the second comment period.